

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Question of authority

MJM 4/27/92

RULE REVIEW CHECKLIST

File No. 1914
DATE RECEIVED 4-22-92
REVIEW DATE 5-1-92
DUE DATE 5-6-92
(~~DIS~~)APPROVED 5-4-92
WITHDRAWN

Docket No. 05 0009 0896
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 4/27/92
REVISOR (DIS)APPROVED
FILED W/SEC. OF STATE 5-4-92
RETURNED TO AGENCY 5-4-92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
August 20, 1990 Date published in State Register
Comments

~~Petition~~ for Adoption of a Rule

~~Board's Authorizing Resolution~~
Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
256B.0625 Statutory Authority & subd 24 ?
~~no statement req~~ Small Business Statement
NA Expenditure of public money statement
November 4, 1991 Signature

Read authority states not subject to 14.01 to 14.69 Is there rulemaking authority? 256B.04 subd. 4

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
November 20, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
November 25, 1991 Date 30/25 days before adoption
end of comment period January 9, 1992

✓ 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
April 20, 1992 Date no indication of any submissions to the Attorney General's Office (7)

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Hal Gibson Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Rules rev

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

OFFICE MEMORANDUM

DATE: May 4, 1992

TO: ELEANOR WEBER
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul

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

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Health Care Programs

The above-referenced rule has been approved as to its legality by the Attorney General on May 4, 1992.

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

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

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

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

MJM:jj
Enclosures
cc: Gail M. Olson
William Brown, Chief Judge
MaryAnn Hruby

Department of Human Services

Adopted Permanent Rules Relating to Health Care Programs

Rules as Adopted

9505.0445 PAYMENT RATES.

The maximum payment rates for health services established as covered services by parts 9505.0170 to 9505.0475 shall be as in items A to N.

[For text of items A to L, see M.R.]

M. For EPSDT services, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all complete EPSDT screening charges submitted for complete EPSDT screenings during the prior state fiscal year, July 1 to the following June 30. The adjustment necessary to reflect the 75th percentile shall be effective annually on October 1.

[For text of items N to U, see M.R.]

9505.1693 SCOPE AND PURPOSE.

Parts 9505.1693 to 9505.1748 govern the early and periodic screening, diagnosis, and treatment (EPSDT) program.

Parts 9505.1693 to 9505.1748 must be read in conjunction with section 1905(a)(4)(B) of the Social Security Act, as amended through December 31, 1981, and the Code of Federal Regulations, title 42, part 441, subpart B, as amended through October 1, 1987, and section 6403 of the Omnibus Budget Reconciliation Act of 1989. The purpose of the EPSDT program is to identify potentially handicapping conditions in children eligible for medical assistance, to provide diagnosis and treatment for conditions identified, and to encourage parents and their children to use health care services when necessary.

9505.1718 SCREENING STANDARDS FOR AN EPSDT CLINIC.

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

Subp. 2. **Health and developmental history.** A history of a child's health and development must be obtained from the child,

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parent of the child, or an adult who is familiar with the child's health history. The history must include information on sexual development, lead and tuberculosis exposure, nutrition intake, chemical abuse, and social, emotional, and mental health status.

[For text of subps 3 to 8, see M.R.]

Subp. 9. **Development.** A child must be screened for the following according to the screening provider's standard procedures: fine and gross motor development, speech and language development, social development, cognitive development, and self-help skills. Standardized tests that are used in screening must be culturally sensitive and have norms for the age range tested, written procedures for administration and for scoring and interpretation that are statistically reliable and valid. The provider must use a combination of the child's health and developmental history and standardized test or clinical judgment to determine the child's developmental status or need for further assessment.

[For text of subps 10 and 11, see M.R.]

Subp. 12. **Immunizations.** The immunization status of a child must be compared to the "Recommended Schedule for Active Immunization of Normal Infants and Children," current edition. Immunizations that the comparison shows are needed must be offered to the child and given to the child if the child or parent of the child accepts the offer. The "Recommended Schedule for Active Immunization of Normal Infants and Children," current edition, is developed and distributed by the Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. The "Recommended Schedule for Active Immunization of Normal Infants and Children," current edition, is incorporated by reference and is available at the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. It is subject to frequent change.

Subp. 13. **Laboratory tests.** Laboratory tests must be done according to items A to F.

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

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by Revisor _____

B. A child aged one to five years must initially be screened for lead through the use of either an erythrocyte protoporphyrin (EP) test or a direct blood lead screening test until December 31, 1992. Beginning January 1, 1993, a child age one to five must initially be screened using a direct blood lead screening test. Either capillary or venous blood may be used as the specimen for the direct blood lead test. Blood tests must be performed at a minimum of once at 12 months of age and once at 24 months of age or whenever the history indicates that there are risk factors for lead poisoning. When the result of the EP or capillary blood test is greater than the maximum allowable level set by the Centers for Disease Control of the United States Public Health Service, the child must be referred for a venous blood lead test. A child with a venous blood lead level greater than the maximum allowable level set by the Centers for Disease Control must be referred for diagnosis and treatment.

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

[For text of subp 14, see M.R.]

Subp. 14a. **Health education and health counseling.** Health education and health counseling concerning the child's health must be offered to the child who is being screened and to the child's parent or representative. The health education and health counseling are for the purposes of assisting the child or the parent or representative of the child to understand the expected growth and development of the child and of informing the child or the parent or representative of the child about the benefits of healthy lifestyles and about practices to promote accident and disease prevention.

Subp. 15. **Schedule of age related screening standards.** An early and periodic screening, diagnosis, and treatment screening for a child at a specific age must include, at a minimum, the screening requirements of subparts 2 to 14 as provided by the following schedule:

Schedule of age related screening standards

A. Infancy:

Standards	Ages

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	By 1 month	2 months	4 months	6 months	9 months	12 months
Health History	X	X	X	X	X	X
Assessment of Physical Growth:						
Height	X	X	X	X	X	X
Weight	X	X	X	X	X	X
Head Circumference	X	X	X	X	X	X
Physical Examination	X	X	X	X	X	X
Vision	X	X	X	X	X	X
Hearing	X	X	X	X	X	X
Development	X	X	X	X	X	X
Health Education/ Counseling	X	X	X	X	X	X
Sexual Development	X	X	X	X	X	X
Nutrition	X	X	X	X	X	X
Immunizations/Review		X	X	X	X	X
Laboratory Tests:						
Tuberculin		if history indicates				
Lead Absorption		if history indicates				X
Urinalysis	←	←	←	X	←	←
Hematocrit or Hemoglobin	←	←	←	←	X	X
Sickle Cell		at parent's or child's request				
Other Laboratory Tests		as indicated				
Oral Examination	X	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

B. Early Childhood:

Standards	Age				
	15 months	18 months	24 months	3 years	4 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Head Circumference	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure				X	X
Development	X	X	X	X	X
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin			if history indicates		
Lead Absorption	X	X	X	X	X

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	if history indicates			if history indicates	
Urinalysis	←	←	X	←	←
Bacteriuria (females)					X
Hematocrit or Hemoglobin	←	←	←	←	←
Sickle Cell	at parent's or child's request				
Other Laboratory Tests	as indicated				
Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

C. Late childhood:

Standards	Ages				
	5 years	6 years	8 years	10 years	12 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure	X	X	X	X	X
Development	X	X	X	X	X
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin		if history indicates			
Lead Absorption	✱	if history indicates			
Urinalysis	←	←	X	←	←
Bacteriuria (females)	←	←	X	←	←
Hemoglobin or Hematocrit	←	←	X	←	
Sickle Cell	at parent's or child's request				
Other Laboratory Tests	as indicated				
Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

D. Adolescence:

Standards	Ages			
	14 years	16 years	18 years	20 years
Health History	X	X	X	X
Assessment of Physical Growth:				
Height	X	X	X	X
Weight	X	X	X	X
Physical Examination	X	X	X	X
Vision	X	X	X	X

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Hearing	X	X	X	X
Blood Pressure	X	X	X	X
Development	X	X	X	X
Health Education/Counseling	X	X	X	X
Sexual Development	X	X	X	X
Nutrition	X	X	X	X
Immunizations/Review	X	X	X	X
Laboratory Tests:				
Tuberculin	if history indicates			
Lead Absorption	if history indicates			
Urinalysis	←		X	
Bacteriuria (females)	←		←	
Hemoglobin or Hematocrit	←		X	
Sickle Cell	at parent's or child's request			
Other Laboratory Tests	as indicated			
Oral Examination	X		X	

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

Subp. 15a. **Additional screenings.** A child may have a partial or complete screening between the ages specified in the schedule under subpart 15 if the screening is medically necessary or a concern develops about the child's health or development.

9505.1748 CONTRACTS FOR ADMINISTRATIVE SERVICES.

Subpart 1. **Authority.** A local agency may contract with a county public health nursing service, a community health clinic, a Head Start agency, a community action agency, or a school district for early and periodic screening, diagnosis, and treatment administrative services. Early and periodic screening, diagnosis, and treatment administrative services include outreach; notification; appointment scheduling and transportation; follow-up; and documentation. For purposes of this subpart, "community action agency" means an entity defined in Minnesota Statutes, section 268.53, subdivision 1, and "school district" means a school district as defined in Minnesota Statutes, section 120.02, subdivisions 13 to 15.

[For text of subps 2 and 3 , see M.R.]

Subp. 4. **Approval.** A contract for administrative services must be approved by the local agency and submitted to the

Approved
by Revisor _____

department for approval by November 1 of the year before the beginning of the calendar year in which the contract will be effective. A contract must contain items A to L to be approved by the department for reimbursement:

[For text of items A to F , see M.R.]

G. a clause that stipulates that the contracting parties will provide program and fiscal records and maintain all nonpublic data required by the contract according to the Minnesota Government Data Practices Act and will cooperate with state and federal program reviews;

H. a description of the services contracted for and the agency that will perform them;

I. methods by which the local agency will monitor and evaluate the contract;

J. signatures of the representatives of the contracting parties with the authority to obligate the parties by contract and dates of those signatures;

K. a clause that stipulates that the services provided under contract must be performed by or under the supervision of skilled medical personnel; and

L. a clause that stipulates that the contracting parties will comply with state and federal requirements for the receipt of medical assistance funds.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

May 4 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY D. D. Murray
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 14 1992 RA 11:35 Am

Joan Anderson
Secretary of State

mentary medical insurance benefits under Title XVIII of the Social Security Act. For purposes of obtaining Medicare part B, expenditures may be made even if federal funding is not available.

Subd. 16. **Abortion services.** Medical assistance covers abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion.

Subd. 17. **Transportation costs.** (a) Medical assistance covers transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Subd. 18. **Bus or taxicab transportation.** To the extent authorized by rule of the state agency, medical assistance covers costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care.

Subd. 19. **Personal care assistants.** Medical assistance covers personal care assistant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care assistants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing homes and home health agencies.

Subd. 20. **Mental illness case management.** To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness.

Subd. 21. [Repealed, 1989 c 282 art 3 s 98]

Subd. 22. **Hospice care.** Medical assistance covers hospice care services under Public Law Number 99-272, section 9505, to the extent authorized by rule.

Subd. 23. **Day treatment services.** Medical assistance covers day treatment services as specified in sections 245.462, subdivision 8, and 245.471, subdivision 3, that are provided under contract with the county board.

Subd. 24. **Other medical or remedial care.** Medical assistance covers any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under Laws 1986, chapter 394, sections 8 to 20. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes, but

payment must be made under Laws 1986, chapter 394, sections 8 to 20. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before medical assistance reimbursement, and the criteria and standards for deciding whether an elective surgery should require a second medical opinion. The list and criteria and standards are not subject to the requirements of sections 14.01 to 14.69.

Subd. 25. **Second opinion or prior authorization required.** The commissioner shall publish in the State Register a list of health services that require prior authorization, as well as the criteria and standards used to select health services on the list. The list and the criteria and standards used to formulate it are not subject to the requirements of sections 14.001 to 14.69. The commissioner's decision whether prior authorization is required for a health service or a second medical opinion is required for an elective surgery is not subject to administrative appeal.

Subd. 26. **Special education services.** Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's orders, documentation, personnel qualifications, and prior authorization requirements. Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.

Subd. 27. **Organ and tissue transplants.** Medical assistance coverage for organ and tissue transplant procedures is limited to those procedures covered by the Medicare program, provided those procedures comply with all applicable laws, rules, and regulations governing (1) coverage by the Medicare program, (2) federal financial participation by the Medicaid program, and (3) coverage by the Minnesota medical assistance program.

Subd. 28. **Certified pediatric or family nurse practitioner services.** Medical assistance covers services performed by a certified pediatric nurse practitioner or a certified family nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171.

Subd. 29. **Public health nursing clinic services.** Medical assistance covers the services of a certified public health nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171.

Subd. 30. **Other clinic services.** Medical assistance covers rural health clinic, federally qualified health center, and nonprofit community health clinic services. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

History: *Ex1967 c 16 s 2; 1969 c 395 s 1; 1973 c 717 s 17; 1975 c 247 s 9; 1975 c 384 s 1; 1975 c 437 art 2 s 3; 1976 c 173 s 56; 1976 c 236 s 1; 1976 c 312 s 1; 1978 c 508 s 2; 1978 c 560 s 10; 1981 c 360 art 2 s 26,54; 1Sp1981 c 2 s 12; 1Sp1981 c 4 art 4 s 22; 3Sp1981 c 2 art 1 s 31; 1982 c 562 s 2; 1983 c 151 s 1,2; 1983 c 312 art 1 s 27; art 5 s 10; art 9 s 4; 1984 c 654 art 5 s 58; 1985 c 21 s 52-54; 1985 c 49 s 41; 1985 c 252 s 19,20; 1Sp1985 c 3 s 19; 1986 c 394 s 17; 1986 c 444; 1987 c 370 art 1 s 3; art 2 s 4; 1987 c 374 s 1; 1987 c 309 s 24; 1987 c 403 art 2 s 73,74; art 5 s 16; 1988 c 689 art 2 s 141,268; 1989 c 282 art 3 s 54-58; 1990 c 422 s 10; 1990 c 568 art 3 s 43-50,104*

256B.0627 COVERED

Subdivision 1. Def
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reviewed and revised as
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care services which is re
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Subd. 2. Services co
(1) nursing services
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(3) home health aid
(4) personal care se
(5) nursing supervis

Subd. 3. Private dut
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Subd. 4. Personal c
qualified individual whc
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(b) The personal ca
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(2) services that are
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child;
(4) sterile procedure
(5) injections of flui

Subd. 5. Limitation
vices shall be limited acc

(a) Exemption from

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: Jim Schmidt, Rules & Bulletins Division
Department of Human Services

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Relating to Health Care Programs (Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program; Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M)

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

Official documents in this submitted material include:

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

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

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

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

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

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

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

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

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

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

11. No requests were received from the public to be notified of submittal of the rule to the attorney general.

12. 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.

If you have any questions on this submitted material, please call me at 296-7815.

Department of Human Services

Health Care Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to *Minnesota Rules* Governing Eligibility and Standards Related to Early and Periodic Screening, Diagnosis, and Treatment

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of amendments to the rules governing eligibility to receive and to provide early and periodic screening, diagnosis, and treatment under the medical assistance program. The adoption of the rule amendments is authorized by *Minnesota Statutes*, section 256B.04, subdivision 2 which requires the agency to adopt rules concerning the medical assistance program. The proposed amendments revise: 1. parts 9505.1693 to 9505.1748 for the purposes of ensuring consistency with revisions of applicable federal regulations and of removing restrictions on administrative contracts for outreach services; 2. part 9505.0445, item M related to payment rates for EPSDT services.

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

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

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

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

Dated: 13 August 1990

Eleanor Weber, Rulemaker
Rules and Bulletins Division

Department of Human Services

Long Term Care Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing the Determination of Payment Rates for Intermediate Care Facilities for Persons with Mental Retardation

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of amendments to the rule governing the determination of payment rates for intermediate care facilities for persons with mental retardation, *Minnesota Rules*, parts 9553.0010 to 9553.0080. The adoption of the rule is authorized by *Minnesota Statutes*, section 256B.501, which requires the agency to establish procedures to determine rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions.

The proposed amendments establish a new payment system which targets resources to clients based on their need for services. The rule amendments will include provisions for client assessments, client reimbursement classification and classification weights, determination of the service unit rate, determination of the program payment rate, reconsideration of client reimbursement classification, initial adjustment of program operating cost payment rates, resident access to assessments and documentation, and payment rates for new facilities. The amendments may also include other statutory changes.

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

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED
AMENDMENT OF MINNESOTA RULES,
PARTS 9505.1693 to 9505.1748
GOVERNING ADMINISTRATION OF THE
EARLY AND PERIODIC SCREENING,
DIAGNOSIS, AND TREATMENT PROGRAM
AND GOVERNING THE PAYMENT RATE
ESTABLISHED IN PART 9505.0445, ITEM M

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT) is an entitlement program of comprehensive health care for people under age 21 who are eligible for medical assistance benefits. The program informs eligible children or their parents of the availability of EPSDT; screens eligible children for health disorders; provides diagnosis and treatment indicated as needed by a screening; ensures that screening, diagnosis and treatment are available on a periodic basis; helps to make appointments for EPSDT services; and helps with transportation to EPSDT services.

The EPSDT program was established by Public Law Number 90-248, Social Security Amendments of 1967. The federal government imposed financial penalties for non-implementation of the program because states were implementing the program too slowly. Public Law Number 97-35, (the Omnibus Budget Reconciliation Act of 1981 or OBRA 1981), amending section 1902 (a) of the Social Security Act eliminated the penalty and required states to:

inform all Medicaid recipients under age 21, who are eligible for EPSDT under the plan, of EPSDT availability;

provide or arrange for requested screening services; and

arrange for corrective treatment of health problems found as a result of screening.

OBRA 1989 further amended section 1902 (a) of the Social Security Act by requiring states to include health education and counseling as an EPSDT service and to permit interperiodic visits and any medically necessary treatment for health problems found during the screenings and visits.

Federal regulations governing the EPSDT program are found in Title 42, Code of Federal Regulations, section 440.40(b) and Subpart B of section 441.

Minnesota implemented the EPSDT Program in 1974. Early and periodic screening, diagnosis, and treatment providers now serve children in every county in Minnesota.

Rules governing Minnesota's EPSDT program, parts 9505.1500 to 9505.1690, became effective June 6, 1978. Parts 9505.1500 to 9505.1690 were repealed upon the effective date of the present rules, parts 9505.1693 to 9505.1748. The present rules have been in effect since 1988.

County social service agencies manage EPSDT administrative services, such as outreach and follow-up, under state supervision. At present, some counties contract with a local public health agency to provide EPSDT administrative services. Currently, there are 50 such contracts including contracts in Hennepin, Ramsey, and St. Louis Counties.

The proposed amendments revise parts 9505.1693 to 9505.1748 for the purpose of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed amendment of part 9505.0445 revises the payment rate for EPSDT services so that all screenings will be paid without regard to the type of provider.

A notice to solicit outside opinion concerning the proposed amendments was published in the State Register on Monday, 20 August 1990.

The Department was assisted by a public advisory committee comprised of persons familiar with the EPSDT program and EPSDT providers. The committee membership is listed in Attachment A. The committee met on October 24, 1990 and discussed the amendments of the payment rate proposed in part 9505.0445 and the amendments related to program standards for developmental screenings, immunizations, health education and counseling, schedule of screenings, and contracts for administrative services. The committee agreed that it did not want to meet again unless major revisions were made to the material it discussed on October 24. No other meeting was held as the Department has made only technical revisions since the meeting on October 24.

Additionally the Department received and considered written comments that were received after the committee had met.

Part 9505.0445 Payment rates, item M.

The proposed amendment will replace the present two-tiered system, which bases payment rates on whether the services are provided in a physician-supervised or a nurse-supervised clinic. Because EPSDT is an entitlement program for eligible children, it is necessary that the payment rate be in an amount that will attract enough providers to assure service access for all eligible children. At present, 15% of the 500 agencies providing EPSDT services are nurse supervised clinics, which provide the same services as those provided in physician supervised clinics. It is reasonable to have a single method of determining the payment for the same services because a single method insures equitable treatment of the service providers.

The proposed amendment changes the period used in calculating the rate from a six month interval (November to April) to a 12 month interval, July 1 to June 30, which coincides with the state fiscal year. Expanding the interval for collecting the data to be used in calculating the payment rate to a 12 month basis is consistent with the use of a 12 month interval in determining payment rates for other medical assistance services. Furthermore, using data from the

preceding 12-month period is reasonable as this approach is consistent with data collection periods applicable to other medical assistance programs. For example, see part 9505.0445, items E to H. Allowing a three month period, July 1 to September 30 is reasonable because it provides the Department sufficient lead time to compute the 75th percentile for the payment rate adjustment and notify counties and other providers before the rate takes effect on October 1. Setting October 1 as the effective date of the adjustment also is reasonable as it balances the computation time required and the provider's timely receipt of appropriately adjusted payments.

Part 9505.1693 Scope and purpose

The proposed amendment is necessary and reasonable because it informs affected persons that requirements related to the EPSDT program were amended in section 6403 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989).

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 2, Health and developmental history.

The proposed amendment requires the child's history recorded by an ESPDT clinic to include information on the child's social, emotional, and mental health status. 42 CFR 440.40 (b) requires EPSDT to provide "screening and diagnostic services to determine physical or mental defects" in recipients and "health care treatment, and other measures to correct or ameliorate any defects and chronic conditions discovered." 42 CFR 441.56 (b) requires screening to include "regularly scheduled examinations and evaluations of the recipient's general physical and mental health..." The amendment is reasonable as it is consistent with the federal regulations establishing standards for screenings in the EPSDT program.

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 9, Development.

This amendment removes the requirement that the Denver Prescreening Developmental Questionnaire (PDQ) or the Denver Developmental Screening Test must be administered to a child under six years of age unless the use of an alternative test has been approved by the department. The advisory committee agreed with Department program staff that it is no longer necessary to specify the screening test because of the increased number of valid screening tools for younger children. Although the Denver tests are good, the Department wants to place more emphasis on the provider's judgment about selecting an acceptable measure or measures. In the case of older children, the advisory committee agreed that there is a paucity of screening tools and that the appropriate current practice is to rely on the judgment of the health professional conducting the screening about how to assess the child's developmental status. Because the purpose of the screening is to compare the child's developmental status to the normal range for the child's age, it is necessary and reasonable to require the standardized test to have norms for the age range being tested. The advisory committee expressed concern that the test be culturally appropriate and sensitive. The Department agrees with the committee that a test which is culturally appropriate to the child whose developmental status is being assessed is necessary and reasonable as there are differences in the developmental patterns of different ethnic

groups. The other requirements for the test chosen, written procedures for administration, scoring, interpretation, statistical reliability and validity are standards required to assure that test is appropriately used and interpreted.

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 12. Immunizations.

The Minnesota Department of Health issues the "Recommended Schedule for Active Immunizations of Normal Infants and Children". This schedule is updated frequently so that it remains current with federal and state laws and regulations and the recommendations of the Centers for Disease Control of the United States Public Health Service. Subpart 12 refers to the June 1988 schedule. However, the health department has replaced the 1988 schedule with one issued in 1991. The schedule is subject to frequent change, usually made on an annual basis. An amendment is necessary so that the rule requirement remains consistent with the applicable current standard. Therefore, it is reasonable to require the use of the current edition of the schedule as the health department under Minnesota Statutes, section 144.05 is responsible for "protecting, maintaining, and improving the health of the citizens." 42 CFR 441.56 (b)(2) requires screening service standards to be provided "in accordance with reasonable standards of medical ... practice ...after consultation with recognized medical ...organizations involved in child health care." See also 42 CFR 441.56 (c)(3) about appropriate immunizations. The proposed amendment also revises the rule to refer affected persons to the agency which is responsible to provide to the public copies of the immunization schedule, the Minnesota Department of Health.

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 13. Laboratory tests.

This subpart sets the standards for various laboratory tests that may be necessary to diagnose a child's health status and determine a child's need for treatment.

Item B sets the standard for lead screening to determine whether a child has a blood lead level that exceeds the maximum allowable level.

The Centers for Disease Control (CDC) of the United States Public Health Service are the federal agency responsible for the control and prevention of disease. The responsibility includes determining testing standards applicable to the level of lead in a child. The proposed amendment of item B is necessary to ensure consistency with the federal standard, which requires testing of children who are between one and five years of age. Because the allowable blood level is determined from empirical evidence, as new data are accumulated, the allowable level may be revised. Thus the proposed amendment is reasonable as it does not set a fixed level but rather relies on the standard established CDC. Thus, if the proposed rule is adopted, the standard will remain consistent with the one set by the responsible agency, CDC. An initial determination of the child's blood lead level may be done by either an erythrocyte protoporphyrin test or a blood lead screening test. Requiring a second test if the initial test shows a lead level exceeding the maximum allowable is reasonable because it provides evidence about the accuracy of the determination. A venous blood lead test is

reasonable as the follow-up test because it usually results in a more specific determination. An elevated lead level may adversely affect the child's physical and mental development. Referring the child for diagnosis and treatment is necessary and reasonable so that the child may be removed from source of the lead and receive treatment to lower the blood lead level.

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 14a. Health education and counseling.

The standards of the American Academy of Pediatrics include "anticipatory guidance" as a function of the physician who is assessing the physical and mental status of a child. (The department notes that the advisory committee interpreted the term "anticipatory guidance" very broadly but to include health counseling and education.) Health counseling and health education are health related services because they are directed toward ameliorating or maintaining the child's health status. A parent and a child cannot be expected to have the same level of knowledge about children's growth and development or about how to effectively promote a child's growth and development as a physician or other EPSDT provider. For example, a child who is failing to thrive or a child who is obese may have an underlying mental health or a physical health condition or be receiving improper nutrition. A physician through counseling and education concerning the child's health would be able to develop a plan to address the physical symptoms and recommend follow-up visits to check the child's health status. See 42 CFR 441.56 (b)(1) which requires the screening to evaluate the "general physical and mental health, growth, development, and nutritional status." See also 42 CFR 441.56 (b)(2) which requires screening services "to be provided in accordance with reasonable standards of medical..practice.... after consultations with recognized medical..organizations involved in child health care." Therefore, requiring health counseling and health education concerning the child's health as a screening standard is reasonable as this service is a standard used by a recognized medical organization and is a directed toward ameliorating or maintaining the child's health status. The OBRA '89 amendments require that health education be provided as a component of EPSDT,

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 15. Schedule of age-related screening standards.

The amendment clarifies that the frequency of the screenings components listed in subparts 2 to 14 is a minimal standard. More frequent screenings may be necessary to meet the child's needs. This is consistent with 42 CFR 441.57. The amendment of the schedule itself increases the recommended number of screenings from 14 to 20 during the years from birth up to age 21. The amendment is reasonable because the federal guidance suggests that the American Academy of Pediatrics (AAP) periodicity schedule be used. The advisory committee agreed with this guidance and that the AAP schedule is recognized as the usual standard of practice by the medical community.

Part 9505.1718 Screening standards for an EPSDT clinic; Subpart 15a. Additional screenings.

The schedule in subpart 15 is not binding on the client or the EPSDT provider. A provider may provide a service more frequently according to the client's need.

Additionally, present federal regulations at 42 CFR 441.57 require more frequent visits than indicated in present subpart 15. It has historically been Minnesota's policy to pay for more frequent screenings than the federally required minimum or the number in the schedule in subpart 15. Subpart 15 a is necessary to inform providers and clients of the federal standard and to ensure consistency between the state's practice and the rule. It is reasonable for additional screening to take place if a screening is medically necessary or a concern develops about the child's health or development as the provision is consistent with 42 CFR 441.58 (c) which permits the state to provide, through the EPSDT program, any other needed screening services. See part 9505.0210 which sets the criterion of medically necessary as a general requirement for services provided through the medical assistance program and the definition of medically necessary in part 9505.0175, subpart 25.

Part 9505.1748 Contracts for administrative services; Subpart 1. Authority .

Amendments to this subpart are necessary to enable three additional types of agencies, Head Start agencies, community action agencies, and public school districts to have administrative contracts related to EPS and EPSDT services. They are being added in an effort to increase the participation rate of eligible children. At present, 20 % of eligible children aged 0 to 5 years participate in Minnesota's EPS/EPSDT program and 10% of eligible children aged 6 up to 21 years. (The federal government estimates Minnesota's present participation rate as 34%) However, the federal government has set a standard of 80% participation of eligible children to be reached by 1995. Expansion of agencies eligible for contracts will assist Minnesota to reach the federal goal for participation as Head Start agencies, community action agencies, and public school districts have ongoing contacts with children who as medical assistance recipients are eligible for EPSDT services and their families. Additionally, public school districts in Minnesota already employ health professionals such as school nurses and therapists, who provide health services the same as or similar to EPSDT services. Therefore, contracts with Head Start agencies, school districts and community action agencies are reasonable as they are cost effective and assist the department to reach the federal goal.
It is necessary to define "community action agency" and "public school district" to clarify the meaning of these terms. The definitions rely on those given in the cited Minnesota Statutes.

Part 9505.1748 Contracts for administrative services; Subpart 4, Approval.

This amendment revises the time for submission of contracts to the department for approval from January 1 to November 1. The earlier date of November 1 will give the Department time to review the contract and approve or disapprove it before the effective date of the contract on January 1. The earlier date is reasonable because it is administratively efficient and permits providers to be notified in a timely manner before the effective date of January 1.

Item G. The amendment of item G is a technical amendment that is necessary and reasonable to include the additional agencies that will be able to obtain administrative contracts for EPS/EPSDT services.

Item I. This item is being repealed as the information is no longer required by the federal government. Thus, the item is no longer necessary.

Items K to M are customary contract provisions related to the medical assistance program. Item L also is required by the federal government as a condition of eligibility for medical assistance payment.

Small Business Considerations

This rule is exempt from small business consideration in rulemaking under Minnesota Statutes, section 14.115, subdivision 7, clause (3).

Expert Witnesses

If this rule should be heard in public hearing, the Department does not plan to have outside expert witnesses testify in its behalf.

Date: November 28, 1991

for NATALIE HAAS STEFFEN
Commissioner of Human Services

Department of Human Services

Proposed Permanent Rules Relating to Health Care Programs

Rules as Proposed

9505.0445 PAYMENT RATES.

The maximum payment rates for health services established as covered services by parts 9505.0170 to 9505.0475 shall be as in items A to N.

[For text of items A to L, see M.R.]

M. For EPSDT services ~~provided in a physician supervised clinic~~, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all complete EPSDT screening charges submitted ~~by physician supervised clinics during the previous six month period of November to April. For EPSDT services provided in a nurse supervised clinic, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all screening charges submitted by nurse supervised clinics during the previous six month period of November to April~~ for complete EPSDT screenings during the prior state fiscal year, July 1 to the following June 30. The adjustment necessary to reflect the 75th percentile shall be effective annually on ~~August~~ October 1.

[For text of items N to U, see M.R.]

9505.1693 SCOPE AND PURPOSE.

Parts 9505.1693 to 9505.1748 govern the early and periodic screening, diagnosis, and treatment (EPSDT) program.

Parts 9505.1693 to 9505.1748 must be read in conjunction with section 1905(a)(4)(B) of the Social Security Act, as amended through December 31, 1981, and the Code of Federal Regulations, title 42, part 441, subpart B, as amended through October 1, 1987, and section 6403 of the Omnibus Budget Reconciliation Act of 1989. The purpose of the EPSDT program is to identify potentially handicapping conditions in children eligible for medical assistance, to provide diagnosis and

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treatment for conditions identified, and to encourage parents and their children to use health care services when necessary.

9505.1718 SCREENING STANDARDS FOR AN EPSDT CLINIC.

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

Subp. 2. **Health and developmental history.** A history of a child's health and development must be obtained from the child, parent of the child, or an adult who is familiar with the child's health history. The history must include information on sexual development, lead and tuberculosis exposure, nutrition intake, and chemical abuse, and social, emotional, and mental health status.

[For text of subps 3 to 8, see M.R.]

Subp. 9. **Development.** ~~The Denver Prescreening Developmental Questionnaire (PDQ) or the Denver Developmental Screening Test (DDST) must be administered to a child under six years of age. The DDST must be administered to a child whose score on the PDQ is below the age norms for that test. The provider may use an alternative developmental screening test in place of the PDQ or DDST, if approval of the alternative test is given by the department in writing. The alternative test must be standardized, must have norms for the age range tested, and must have written procedures for its administration, scoring, and interpretation.~~

A child ~~six to 20 years of age~~ must be screened for the following according to the screening provider's standard procedures: fine and gross motor development, speech and language development, social development, and cognitive development, and self-help skills. Standardized tests that are used in screening must be culturally sensitive and have norms for the age range tested, written procedures for administration and for scoring and interpretation that are statistically reliable and valid. The provider must use a combination of the child's health and developmental history and standardized test or clinical judgment to determine the child's developmental status or need for further assessment.

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[For text of subps 10 and 11, see M.R.]

Subp. 12. **Immunizations.** The immunization status of a child must be compared to the "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition. Immunizations that the comparison shows are needed must be offered to the child and given to the child if the child or parent of the child accepts the offer. The "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition, is developed and distributed by the Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. The "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition, is incorporated by reference and is available at the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. It is ~~not~~ subject to frequent change.

Subp. 13. **Laboratory tests.** Laboratory tests must be done according to items A to F.

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

~~B. An erythrocyte protoporphyrin (EP) test must be done for a child whose physical examination under subpart 4 indicates possible lead toxicity, and for a child age nine months to six years whose health history indicates that the child:~~

~~(1) has lived in or frequently visited houses built before 1950;~~

~~(2) has shared the residence of a parent or other person who participates in a lead related occupation or hobby;~~

~~(3) has lived near roadways with heavy traffic, hazardous waste sites, lead smelters, or processing plants;~~

~~(4) has a sibling or playmate known to have lead toxicity; or~~

~~(5) is at risk of possible exposure to lead through the use of folk medicines.~~

~~If an EP test is elevated above the level of 35 micrograms of lead per deciliter of whole blood, the child must be referred~~

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~~for further testing.~~ A child aged one to five years must be screened for lead through the use of either an erythrocyte protoporphyrin (EP) test or a blood lead screening test. When the result of the EP or blood test is greater than the maximum allowable level set by the Centers for Disease Control of the United States Public Health Service, the child must be referred for a venous blood lead test. A child with a venous blood lead level greater than the maximum allowable level set by the Centers for Disease Control must be referred for diagnosis and treatment.

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

[For text of subp 14, see M.R.]

Subp. 14a. **Health education and health counseling.** Health education and health counseling concerning the child's health must be offered to the child who is being screened and to the child's parent or representative. The health education and health counseling are for the purposes of assisting the child or the parent or representative of the child to understand the expected growth and development of the child and of informing the child or the parent or representative of the child about the benefits of healthy lifestyles and about practices to promote accident and disease prevention.

Subp. 15. **Schedule of age related screening standards.** An early and periodic screening, diagnosis, and treatment screening for a child at a specific age must include, at a minimum, the screening requirements of subparts 2 to 14 as provided by the following schedule:

Schedule of age related screening standards

A. Infancy:

Standards	Ages By 1 month	2 months	4 months	6 months	~~7-11~~ 9 months	12 months
Health History	X	X	X	X	X	X
Assessment of Physical Growth:						
Height	X	X	X	X	X	X
Weight	X	X	X	X	X	X
Head Circumference	X	X	X	X	X	X
Physical Examination	X	X	X	X	X	X

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Vision	X	X	X	X	X	X
Hearing	X	X	X	X	X	X
Development~~:~~	X	X	X	X	X	X
~~PDQ/DDST~~			~~X~~	~~X~~	~~X~~	
Health Education/ Counseling	X	X	X	X	X	X
Sexual Development	X	X	X	X	X	X
Nutrition	X	X	X	X	X	X
Immunizations/Review		X	X	X	X	X
Laboratory Tests:						
Tuberculin		if history indicates				
Lead Absorption		if history indicates				X
~~Urine~~ Urinalysis	←	←	←	X	←	±
~~Bacteriuria (females)~~						
~~Anemia~~					~~X~~	
Hematocrit or Hemoglobin	±	±	±	±	X	X
Sickle Cell		at parent's or child's request				
Other Laboratory Tests		as indicated				
Oral Examination	X	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

B. Early Childhood:

Standards	~~12-15~~ 15 months	~~16-19~~ 18 months	~~20-35~~ 24 months	3 years	4 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Head Circumference	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure				X	X
Development~~:~~	X	X	X	X	X
~~PDQ/DDST~~	~~X~~	~~X~~	~~X~~		
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin		if history indicates			
Lead Absorption		~~if history indicates~~			
	X	X	X	X	X
~~Urine~~ Urinalysis	←	←	X	±	±
~~Anemia~~	~~X~~	~~X~~	~~X~~		
Bacteriuria (females)					X
Hematocrit or Hemoglobin	±	±	±	±	±
Sickle Cell		at parent's or child's request			
Other Laboratory Tests		as indicated			

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Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

C. Late childhood:

Standards	Ages 3-4 5 years	5-7 6 years	8-10 8 years	11-13 10 years	12 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure	X	X	X	X	X
Development~~:~~	X	X	X	X	X
~~PDQ/DDST~~	~~X~~	~~X~~			
~~Fine & Gross Motor, Speech & language, Social, Cognitive~~		~~X~~	~~X~~	~~X~~	
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin		if history indicates			
Lead Absorption	X	if history indicates			
~~Urine~~ Urinalysis	←	←	X	←	±
Bacteriuria (females)	~~X~~ ±	←	X	←	±
~~Anemia~~	~~±~~	~~±~~	~~X~~	~~±~~	
Hemoglobin or Hematocrit	±	±	X	±	
Sickle Cell	at parent's or child's request				
Other Laboratory Tests	as indicated				
Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

D. Adolescence:

Standards	14-~~17~~ years	Ages 16 years	18-~~20~~ years	20 years
Health History	X	X	X	X
Assessment of Physical Growth:				
Height	X	X	X	X
Weight	X	X	X	X
Physical Examination	X	X	X	X
Vision	X	X	X	X
Hearing	X	X	X	X
Blood Pressure	X	X	X	X

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Development~~:~~	X	X	X	X
~~PDQ/DDST~~				
~~Fine & Gross Motor, Speech & Language, Social, Cognitive~~	~~X~~	~~X~~		
Health Education/Counseling	X	X	X	X
Sexual Development	X	X	X	X
Nutrition	X	X	X	X
Immunizations/Review	X	X	X	X
Laboratory Tests:				
Tuberculin	if history indicates			
Lead Absorption	if history indicates			
~~Urine~~ Urinalysis	←		X	
Bacteriuria (females)	←		←	
~~Anemia~~	~~←~~		~~X~~	
Hemoglobin or Hematocrit	←		X	
Sickle Cell	at parent's or child's request			
Other Laboratory Tests	as indicated			
Oral Examination	X		X	

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

Subp. 15a. **Additional screenings.** A child may have a partial or complete screening between the ages specified in the schedule under subpart 15 if the screening is medically necessary or a concern develops about the child's health or development.

9505.1748 CONTRACTS FOR ADMINISTRATIVE SERVICES.

Subpart 1. **Authority.** A local agency may contract with a county public health nursing service ~~or~~, a community health clinic, a Head Start agency, a community action agency, or a school district for early and periodic screening, diagnosis, and treatment administrative services. Early and periodic screening, diagnosis, and treatment administrative services include outreach; notification; appointment scheduling and transportation; follow-up; and documentation. For purposes of this subpart, "community action agency" means an entity defined in Minnesota Statutes, section 268.53, subdivision 1, and "school district" means a school district as defined in Minnesota Statutes, section 120.02, subdivisions 13 to 15.

[For text of subps 2 and 3 , see M.R.]

Subp. 4. **Approval.** A contract for administrative services

must be approved by the local agency and submitted to the department for approval by ~~January~~ November 1 of ~~each~~ the year before the beginning of the calendar year in which the contract will be effective. A contract must contain items A to ~~K~~ L to be approved by the department for reimbursement:

[For text of items A to F , see M.R.]

G. a clause that stipulates that the ~~local public health nursing service or the community health clinic~~ contracting parties will provide program and fiscal records and maintain all nonpublic data required by the contract according to the Minnesota Government Data Practices Act and will cooperate with state and federal program reviews;

H. a description of the services contracted for and the agency that will perform them;

I. ~~names of the skilled professional medical personnel and their supporting staff;~~

~~J.~~ methods by which the local agency will monitor and evaluate the contract; ~~and~~

~~K.~~ J. signatures of the representatives of the contracting parties with the authority to obligate the parties by contract and dates of those signatures;

K. a clause that stipulates that the services provided under contract must be performed by or under the supervision of skilled medical personnel; and

L. a clause that stipulates that the contracting parties will comply with state and federal requirements for the receipt of medical assistance funds.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Health Care Programs

AGENCY: Human Services

MINNESOTA RULES: Chapter 9505

INCORPORATION BY REFERENCE: Part 9505.1718, subpart 12 - Recommended Schedule for Active Imnunization of Normal Infants and Children, current edition. Available at State Law Library.

The attached rules are approved for publication in the State Register

Janet M. Rahm
Senior Assistant Revisor

Department of Human Services

Proposed Permanent Rules Relating to Health Care Programs

Rules as Proposed

9505.0445 PAYMENT RATES.

The maximum payment rates for health services established as covered services by parts 9505.0170 to 9505.0475 shall be as in items A to N.

[For text of items A to L, see M.R.]

M. For EPSDT services ~~provided in a physician supervised clinic~~, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all complete EPSDT screening charges submitted ~~by physician supervised clinics during the previous six month period of November to April. For EPSDT services provided in a nurse supervised clinic, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all screening charges submitted by nurse supervised clinics during the previous six month period of November to April~~ for complete EPSDT screenings during the prior state fiscal year, July 1 to the following June 30. The adjustment necessary to reflect the 75th percentile shall be effective annually on ~~August~~ October 1.

[For text of items N to U, see M.R.]

9505.1693 SCOPE AND PURPOSE.

Parts 9505.1693 to 9505.1748 govern the early and periodic screening, diagnosis, and treatment (EPSDT) program.

Parts 9505.1693 to 9505.1748 must be read in conjunction with section 1905(a)(4)(B) of the Social Security Act, as amended through December 31, 1981, and the Code of Federal Regulations, title 42, part 441, subpart B, as amended through October 1, 1987, and section 6403 of the Omnibus Budget Reconciliation Act of 1989. The purpose of the EPSDT program is to identify potentially handicapping conditions in children eligible for medical assistance, to provide diagnosis and

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treatment for conditions identified, and to encourage parents and their children to use health care services when necessary.

9505.1718 SCREENING STANDARDS FOR AN EPSDT CLINIC.

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

Subp. 2. **Health and developmental history.** A history of a child's health and development must be obtained from the child, parent of the child, or an adult who is familiar with the child's health history. The history must include information on sexual development, lead and tuberculosis exposure, nutrition intake, and chemical abuse, and social, emotional, and mental health status.

[For text of subps 3 to 8, see M.R.]

Subp. 9. **Development.** ~~The Denver Prescreening Developmental Questionnaire (PDQ) or the Denver Developmental Screening Test (DDST) must be administered to a child under six years of age. The DDST must be administered to a child whose score on the PDQ is below the age norms for that test. The provider may use an alternative developmental screening test in place of the PDQ or DDST, if approval of the alternative test is given by the department in writing. The alternative test must be standardized, must have norms for the age range tested, and must have written procedures for its administration, scoring, and interpretation.~~

A child ~~six to 20 years of age~~ must be screened for the following according to the screening provider's standard procedures: fine and gross motor development, speech and language development, social development, and cognitive development, and self-help skills. Standardized tests that are used in screening must be culturally sensitive and have norms for the age range tested, written procedures for administration and for scoring and interpretation that are statistically reliable and valid. The provider must use a combination of the child's health and developmental history and standardized test or clinical judgment to determine the child's developmental status or need for further assessment.

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[For text of subps 10 and 11, see M.R.]

Subp. 12. **Immunizations.** The immunization status of a child must be compared to the "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition. Immunizations that the comparison shows are needed must be offered to the child and given to the child if the child or parent of the child accepts the offer. The "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition, is developed and distributed by the Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. The "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition, is incorporated by reference and is available at the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. It is ~~not~~ subject to frequent change.

Subp. 13. **Laboratory tests.** Laboratory tests must be done according to items A to F.

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

~~B. An erythrocyte protoporphyrin (EP) test must be done for a child whose physical examination under subpart 4 indicates possible lead toxicity, and for a child age nine months to six years whose health history indicates that the child:~~

~~(1) has lived in or frequently visited houses built before 1950;~~

~~(2) has shared the residence of a parent or other person who participates in a lead related occupation or hobby;~~

~~(3) has lived near roadways with heavy traffic, hazardous waste sites, lead smelters, or processing plants;~~

~~(4) has a sibling or playmate known to have lead toxicity; or~~

~~(5) is at risk of possible exposure to lead through the use of folk medicines.~~

~~If an EP test is elevated above the level of 35 micrograms of lead per deciliter of whole blood, the child must be referred~~

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~~for further testing.~~ A child aged one to five years must be screened for lead through the use of either an erythrocyte protoporphyrin (EP) test or a blood lead screening test. When the result of the EP or blood test is greater than the maximum allowable level set by the Centers for Disease Control of the United States Public Health Service, the child must be referred for a venous blood lead test. A child with a venous blood lead level greater than the maximum allowable level set by the Centers for Disease Control must be referred for diagnosis and treatment.

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

[For text of subp 14, see M.R.]

Subp. 14a. **Health education and health counseling.** Health education and health counseling concerning the child's health must be offered to the child who is being screened and to the child's parent or representative. The health education and health counseling are for the purposes of assisting the child or the parent or representative of the child to understand the expected growth and development of the child and of informing the child or the parent or representative of the child about the benefits of healthy lifestyles and about practices to promote accident and disease prevention.

Subp. 15. **Schedule of age related screening standards.** An early and periodic screening, diagnosis, and treatment screening for a child at a specific age must include, at a minimum, the screening requirements of subparts 2 to 14 as provided by the following schedule:

Schedule of age related screening standards

A. Infancy:

Standards	Ages					
	By 1 month	2 months	4 months	6 months	~~7-11~~ 9 months	12 months
Health History	X	X	X	X	X	X
Assessment of Physical Growth:						
Height	X	X	X	X	X	X
Weight	X	X	X	X	X	X
Head Circumference	X	X	X	X	X	X
Physical Examination	X	X	X	X	X	X

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Vision	X	X	X	X	X	X
Hearing	X	X	X	X	X	X
Development~~:~~	X	X	X	X	X	X
~~PDQ/DDST~~			~~X~~	~~X~~	~~X~~	
Health Education/ Counseling	X	X	X	X	X	X
Sexual Development	X	X	X	X	X	X
Nutrition	X	X	X	X	X	X
Immunizations/Review		X	X	X	X	X
Laboratory Tests:						
Tuberculin		if history indicates				
Lead Absorption		if history indicates				X
~~Urine~~ Urinalysis	←	←	←	X	←	←
~~Bacteriuria (females)~~						
~~Anemia~~					~~X~~	
Hematocrit or Hemoglobin	←	←	←	←	X	X
Sickle Cell		at parent's or child's request				
Other Laboratory Tests		as indicated				
Oral Examination	X	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

B. Early Childhood:

Standards	~~12-15~~ 15 months	~~16-19~~ 18 months	~~Ages~~ Age ~~20-35~~ 24 months	3 years	4 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Head Circumference	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure				X	X
Development~~:~~	X	X	X	X	X
~~PDQ/DDST~~	~~X~~	~~X~~	~~X~~		
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin		if history indicates			
Lead Absorption		~~if history indicates~~			
	X	X	X	X	X
~~Urine~~ Urinalysis	←	←	X	←	←
~~Anemia~~	~~X~~	~~X~~	~~X~~		
Bacteriuria (females)					X
Hematocrit or Hemoglobin	←	←	←	←	←
Sickle Cell		at parent's or child's request			
Other Laboratory Tests		as indicated			

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Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

C. Late childhood:

Standards	Ages ~~3-4~~ 5 years	~~5-7~~ 6 years	~~8-10~~ 8 years	~~11-13~~ 10 years	12 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure	X	X	X	X	X
Development:	X	X	X	X	X
~~PDQ/DDST~~	~~X~~	~~X~~			
~~Fine & Gross Motor, Speech & Language, Social, Cognitive~~		~~X~~	~~X~~	~~X~~	
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin		if history indicates			
Lead Absorption	X	if history indicates			
~~Urine~~ Urinalysis	←	←	X	←	←
Bacteriuria (females)	~~X~~ ←	←	X	←	←
~~Anemia~~	~~←~~	~~←~~	~~X~~	~~←~~	
Hemoglobin or Hematocrit	←	←	X	←	
Sickle Cell	at parent's or child's request				
Other Laboratory Tests	as indicated				
Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

D. Adolescence:

Standards	~~14-17~~ years	Ages 16 years	~~18-20~~ years	20 years
Health History	X	X	X	X
Assessment of Physical Growth:				
Height	X	X	X	X
Weight	X	X	X	X
Physical Examination	X	X	X	X
Vision	X	X	X	X
Hearing	X	X	X	X
Blood Pressure	X	X	X	X

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Development:	X	X	X	X
~~PDQ/DDST~~				
~~Fine & Gross Motor, Speech & Language, Social, Cognitive~~	~~X~~	~~X~~		
Health Education/Counseling	X	X	X	X
Sexual Development	X	X	X	X
Nutrition	X	X	X	X
Immunizations/Review	X	X	X	X
Laboratory Tests:				
Tuberculin	if history indicates			
Lead Absorption	if history indicates			
~~Urine~~ Urinalysis	←		X	
Bacteriuria (females)	←		←	
~~Anemia~~	~~←~~		~~X~~	
Hemoglobin or Hematocrit	←		X	
Sickle Cell	at parent's or child's request			
Other Laboratory Tests	as indicated			
Oral Examination	X		X	

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

Subp. 15a. **Additional screenings.** A child may have a partial or complete screening between the ages specified in the schedule under subpart 15 if the screening is medically necessary or a concern develops about the child's health or development.

9505.1748 CONTRACTS FOR ADMINISTRATIVE SERVICES.

Subpart 1. **Authority.** A local agency may contract with a county public health nursing service ~~or~~, a community health clinic, a Head Start agency, a community action agency, or a school district for early and periodic screening, diagnosis, and treatment administrative services. Early and periodic screening, diagnosis, and treatment administrative services include outreach; notification; appointment scheduling and transportation; follow-up; and documentation. For purposes of this subpart, "community action agency" means an entity defined in Minnesota Statutes, section 268.53, subdivision 1, and "school district" means a school district as defined in Minnesota Statutes, section 120.02, subdivisions 13 to 15.

[For text of subps 2 and 3 , see M.R.]

Subp. 4. **Approval.** A contract for administrative services

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must be approved by the local agency and submitted to the department for approval by ~~January~~ November 1 of ~~each~~ the year before the beginning of the calendar year in which the contract will be effective. A contract must contain items A to ~~K~~ L to be approved by the department for reimbursement:

[For text of items A to F , see M.R.]

G. a clause that stipulates that the ~~local public health nursing service or the community health clinic~~ contracting parties will provide program and fiscal records and maintain all nonpublic data required by the contract according to the Minnesota Government Data Practices Act and will cooperate with state and federal program reviews;

H. a description of the services contracted for and the agency that will perform them;

I. ~~names of the skilled professional medical personnel and their supporting staff;~~

~~J.~~ methods by which the local agency will monitor and evaluate the contract; ~~and~~

~~K.~~ J. signatures of the representatives of the contracting parties with the authority to obligate the parties by contract and dates of those signatures;

K. a clause that stipulates that the services provided under contract must be performed by or under the supervision of skilled medical personnel; and

L. a clause that stipulates that the contracting parties will comply with state and federal requirements for the receipt of medical assistance funds.

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by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Health Care Programs

AGENCY: Human Services

MINNESOTA RULES: Chapter 9505

INCORPORATION BY REFERENCE: Part 9505.1718, subpart 12 - Recommended Schedule for Active Imnunization of Normal Infants and Children, current edition. Available at State Law Library.

The attached rules are approved for publication in the State Register

Janet M. Rahm
Senior Assistant Revisor

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

(1) NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 256B.0625, subdivision 24.

(2) Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. (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, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON Friday, January 10, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

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

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

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Thursday, January 9, 1992.

(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) A free copy of this rule is available upon request for your review from:

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

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

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis, and treatment program under the medical assistance program and part 9505.0445, item establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

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

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

(13) Adoption of these rules will not result in additional spending by local public bodies in the 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 delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to:

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

State of Minnesota

Dated: November 4, 1991

George J. Steffen
for NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis and Treatment in the Medical Assistance Program, Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M	NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Department of Human Services, in Rooms 1A and 1B, 444 Lafayette Road, St. Paul, MN 55155 on Friday, January 10, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Administrative Law Judge Steve Mihalchick, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall

be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis and treatment program under the medical assistance program and part 9505.0445, item M establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed rule amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.0625, subdivision 24. 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.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

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

This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber at (612) 297-4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request

notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Natalie Haas Steffen

NATALIE HAAS STEFFEN
Commissioner

Dated: November 4, 1991

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

PROPOSED AMENDMENTS TO RULES RELATED TO EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT IN THE MEDICAL ASSISTANCE PROGRAM

Minnesota Rules, parts 9505.1693 to 9505.1748
and part 9505.0445

FISCAL IMPACT

I. NET FISCAL IMPACT OF THE RULE AMENDMENTS

The department expects no direct cost increases to the medical assistance program because of amendments to parts 9505.1693 to 9505.1748 and 9505.0445.

II. BACKGROUND INFORMATION ON RULE AND FUNDING SOURCES

A. Purpose

Minnesota Rules, parts 9505.1693 to 9505.1748 establish the standards for early and periodic screening, diagnosis, and treatment for medical assistance eligible children.

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) is a program of comprehensive health care for people under age 21 who are eligible for medical assistance benefits. It is a medical assistance program established under the Social Security Amendments of 1967 and amended by the Omnibus Budget Reconciliation Act (OBRA) of 1981 and OBRA 1989. The federal laws require the state to inform all recipients under age 21 of EPSDT availability, to provide for or arrange requested screening services, and to arrange for corrective treatment of health problems found as a result of screening.

Minnesota implemented the program in 1974.

B. Authority

Minnesota Statutes, section 256B.0625, subdivision 24.

C. Reason for Amending Rule At This Time

The purpose of the proposed amendments is to ensure consistency with the revision of applicable federal laws and regulations and to remove restrictions on administrative contracts for outreach services.

III. METHODOLOGY AND EXPLANATION OF COSTS

Part 9505.1718, subpart 9. Development.
The amendment allows the provider to use professional judgment in choosing how to assess the recipient's developmental status. The amendment will not affect

provider costs or the screening payment rate.

Part 9505.1718, subpart 12. Immunizations.
The amendment is merely a technical one that changes the required immunization schedule to the current one of the Center for Disease Control. The amendment will not affect costs.

Part 9505.1718, subpart 13. Laboratory tests.
The amendment will not affect costs for lead testing.

Part 9505.1718, subpart 14. Health education and health counseling.
This service is required by OBRA 1989. It will not affect the cost of the program since payment is not based on a separate fee for service but rather will be included within the present payment rate for EPSDT screenings.

Part 9505.1718, subpart 15. Schedule of age-related screening standards and subpart 15a. Additional screenings.
The proposed amendment of these subparts increases the number of recommended screenings between the ages of birth to age 21 from 14 to 20. The increase in the recommended number may cause a similar increase in the number of units of service per child during the years in which a child moves from birth to age 21. Federal laws and regulations currently require states to allow and pay for interperiodic visits without regard to the recommended schedule whenever the child, child's parents, or child's physician requests them. Thus, because medical assistance is an entitlement program, medical assistance now pays for EPSDT screenings and services over and above the recommended number. The Department believes that an increase in the number of recommended screenings will produce minimal cost increases, if any, in the overall program because the more frequent screenings will assist in earlier identification and treatment of health problems, and recommendations for preventive services and, thereby, prevent the need for and use of more expensive treatment services.

The federal government has set state participation goals in 1995 at 80% of all eligible children. Minnesota's present level of participation is 32% of all eligible children.

Part 9505.1748 Contracts for Administrative Services.

Subpart 1 extends a county's authority to contract for administrative services under the EPSDT program to school districts, Head Start, and community action agencies. School districts, Head Start, and community action agencies have ongoing direct contact with children. Therefore, they are in a position to further the program's purpose of outreach by informing children and their parents about EPSDT and encouraging eligible persons to use the program. The amendment will result in a shifting of who receives the payments for administrative contracts as the amendment's purpose is to allow agencies that have more direct contact with children to contract for administrative services and do the outreach. Because each contract is expected to specify a target group, the possibility of duplicate outreach services will be reduced and the possibility of more effective services to children and their families will be increased. The Department believes that increased outreach will assist children and their families to find a single primary care provider and, thereby, increase continuity

of well-child care and the use of preventive services available through EPSDT. Although short term costs may increase as a result, the Department believes that the program will realize long-term savings through elimination of possibly duplicative outreach services and the greater use of well-child care and preventive services.
The Department believes the overall fiscal impact of the amendment is budget neutral.
Subpart 2 adds the requirement that the child's history include information about the child's social, emotional, and mental health status. The amendment will not affect costs.
Subpart 4 has technical amendments that will not affect costs.

Part 9505.0445 item M, Payment Rates.
The amendment deletes the separate (and lower) rate now paid to EPSDT services provided by a nurse supervised clinic and establishes a single rate applicable to all EPSDT providers. The fiscal impact will be to raise the current level of reimbursement to EPS clinics and lower the rate to physicians. The present EPSDT rate for EPS clinics is usual and customary fees, up to $55.52 (plus 15% added for pediatric services authorized by the legislature.*) The current rate for physicians and nurse practitioners is the usual and customary rates up to $92.34 (plus 15% added for pediatric services authorized by the legislature.*) (No other state has a two tiered rate structure.) If the rate had been combined based on date from last year during the period November 1989 to April 1990 as required in the present rule, the combined rate would have been $87.25 (plus 15 % for pediatric services authorized by the legislature.*) Because the rates have been calculated separately at the 75th percentile of submitted claims during the period November to April of the prior year, the net difference of calculating the rates together at the 75th percentile should be about the same or less.

These rates compare with 1989 rates of usual and customary fees of up to $51.00 for EPS clinics and $87.00 for physicians. In 1989, 16% of EPSDT screenings were provided by EPS clinics and 84% by physicians. This ratio of services by EPS clinics to services by physicians has been consistent for the past 10 years; it is expected to remain the same. It should be noted that the additional agencies eligible for administrative contracts under the proposed revision of part 9505.1748, subpart 1 will not be service providers but rather will assist families to find service providers, usually a physician.

* See Laws of Minnesota 1990, Chapter 568, Article 1, section 2, subdivision 1.

Date:

George Steffen

NATALIE HAAS STEFFEN
for Commissioner of Human Services

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program, Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in part 9505.0445, item M

AFFIDAVIT OF MAILING

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

That on the 20th day of November, 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 all persons and associations who have requested that their names be placed on file with the Department of Human Services for the purpose of receiving notice of hearing by this Department.



Nancy L. Bishop

Subscribed and sworn to before me

this 22 day of Nov., 1991

Kathy Ann McDonough

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 256B.0625, subdivision 24.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON Friday, January 10, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

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

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

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Thursday, January 9, 1992.

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.

A free copy of this rule is available upon request for your review from:

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

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

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis, and treatment program under the medical assistance program and part 9505.0445, item establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

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

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

Adoption of these rules will not result in additional spending by local public bodies in the 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 delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to:

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

State of Minnesota

Dated: November 4, 1991

George J. Steffen
for NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis and Treatment in the Medical Assistance Program, Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M	NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Department of Human Services, in Rooms 1A and 1B, 444 Lafayette Road, St. Paul, MN 55155 on Friday, January 10, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Administrative Law Judge Steve Mihalchick, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall

be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis and treatment program under the medical assistance program and part 9505.0445, item M establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed rule amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.0625, subdivision 24. 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.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

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

This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber at (612) 297-4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request

notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: November 4, 1991

NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program, Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in part 9505.0445, item M

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 20th day of November, 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
- Members of the Rule Advisory Committee
- County Public Health Directors
- WIC (women, infant and children food and nutrition program) Directors
- Headstart Agencies
- Minnesota Nurses Association
- Minnesota Medical Assocation
- Ruth Ellen Luehr, State Department of Education
- Dr. Carolyn McKay, MN Chapter of the American Academy of Pediatrics
- Bryan Nelson, Director, PICA Headstart



Nancy L. Bishop

Subscribed and sworn to before me

this 22 day of Nov, 1991

Kathy Ann McDonough

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON Friday, January 10, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

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

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

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Thursday, January 9, 1992.

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.

A free copy of this rule is available upon request for your review from:

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

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

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis, and treatment program under the medical assistance program and part 9505.0445, item establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

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

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

Adoption of these rules will not result in additional spending by local public bodies in the 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 delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to:

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

State of Minnesota

Dated: November 4, 1991

George J. Steffen
for NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis and Treatment in the Medical Assistance Program, Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

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PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Administrative Law Judge Steve Mihalchick, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall

be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis and treatment program under the medical assistance program and part 9505.0445, item M establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed rule amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.0625, subdivision 24. 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.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

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

This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber at (612) 297-4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request

notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: November 4, 1991

NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment of Department of Human Services Rules Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program, Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in part 9505.0445, item M

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision la, 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 20th day of November, 1991.

Nancy L. Bishop

Department of Human Services

Proposed Permanent Rules Relating to Health Care Programs

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

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 256B.0625, subdivision 24.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON Friday, January 10, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

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

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

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Thursday, January 9, 1992.

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.

A free copy of this rule is available upon request for your review from:

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

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

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis, and treatment program under the medical assistance program and part 9505.0445, item establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal regulations and of modifying restrictions on administrative contracts for outreach services. The proposed amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

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

request from:

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

Adoption of these rules will not result in additional spending by local public bodies in the 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 delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to:

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

Natalie Haas Steffen
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Department of Human Services, in Rooms 1A and 1B, 444 Lafayette Road, St. Paul, MN 55155 on Friday, January 10, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between December 26, 1991 and January 9, 1992 at (612) 297-4301.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Administrative Law Judge Steve Mihalchick, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 349-2544, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Parts 9505.1693 to 9505.1748 establish the standards and procedures applicable to the administration of the early and periodic screening, diagnosis and treatment program under the medical assistance program and part 9505.0445, item M establishes the payment rate for EPSDT services. The proposed amendments are for the purposes of ensuring consistency with revisions of applicable federal

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regulations and of modifying restrictions on administrative contracts for outreach services. The proposed rule amendments will: 1. replace the two-tiered system of payment rates for EPSDT services so that all screenings will be paid without regard to provider type; 2. change the period used in calculating the rate from a six month to a 12 month interval; 3. modify the standard for assessing a child's growth and development to provide for the judgment of the health professional screening the child; 4. add health education and counseling as a screening standard; 5. require children aged 1 to 5 years to be screened for lead; 6. revise the schedule of age-related screening standards to the greater number recommended by the American Academy of Pediatrics; and 7. add community action agencies, Head Start agencies, and public school districts as agencies eligible to have administrative contracts related to EPSDT services.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 256B.0625, subdivision 24. 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.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to:

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

This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Eleanor Weber at (612) 297-4301.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a **STATEMENT OF NEED AND REASONABLENESS** is now available for review at the agency and at the Office of Administrative Hearings. The **STATEMENT OF NEED AND REASONABLENESS** includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the **STATEMENT OF NEED AND REASONABLENESS** may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Natalie Haas Steffen
Commissioner

Rules as Proposed

9505.0445 PAYMENT RATES.

The maximum payment rates for health services established as covered services by parts 9505.0170 to 9505.0475 shall be as in items A to N.

[For text of items A to L, see M.R.]

M. For EPSDT services ~~provided in a physician supervised clinic~~, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all complete EPSDT screening charges submitted ~~by physician supervised clinics during the previous six month period of November to April. For EPSDT services provided in a nurse supervised clinic, the rate shall be the lower of the provider's submitted charge or the 75th percentile of all screening charges submitted by nurse supervised clinics during the previous six month period of November to April~~ for complete EPSDT screenings during the prior state fiscal year, July 1 to the following June 30. The adjustment necessary to reflect the 75th percentile shall be effective annually on ~~August~~ October 1.

[For text of items N to U, see M.R.]

9505.1693 SCOPE AND PURPOSE.

Parts 9505.1693 to 9505.1748 govern the early and periodic screening, diagnosis, and treatment (EPSDT) program.

Parts 9505.1693 to 9505.1748 must be read in conjunction with section 1905(a)(4)(B) of the Social Security Act, as amended through December 31, 1981, and the Code of Federal Regulations, title 42, part 441, subpart B, as amended through October 1,

1987, and section 6403 of the Omnibus Budget Reconciliation Act of 1989. The purpose of the EPSDT program is to identify potentially handicapping conditions in children eligible for medical assistance, to provide diagnosis and treatment for conditions identified, and to encourage parents and their children to use health care services when necessary.

9505.1718 SCREENING STANDARDS FOR AN EPSDT CLINIC.

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

Subp. 2. **Health and developmental history.** A history of a child's health and development must be obtained from the child, parent of the child, or an adult who is familiar with the child's health history. The history must include information on sexual development, lead and tuberculosis exposure, nutrition intake, ~~and~~ chemical abuse, and social, emotional, and mental health status.

[For text of subps 3 to 8, see M.R.]

Subp. 9. **Development.** ~~The Denver Prescreening Developmental Questionnaire (PDQ) or the Denver Developmental Screening Test (DDST) must be administered to a child under six years of age. The DDST must be administered to a child whose score on the PDQ is below the age norms for that test. The provider may use an alternative developmental screening test in place of the PDQ or DDST, if approval of the alternative test is given by the department in writing. The alternative test must be standardized, must have norms for the age range tested, and must have written procedures for its administration, scoring, and interpretation.~~

A child ~~six to 20 years of age~~ must be screened for the following according to the screening provider's standard procedures: fine and gross motor development, speech and language development, social development, ~~and~~ cognitive development, and self-help skills. Standardized tests that are used in screening must be culturally sensitive and have norms for the age range tested, written procedures for administration and for scoring and interpretation that are statistically reliable and valid. The provider must use a combination of the child's health and developmental history and standardized test or clinical judgment to determine the child's developmental status or need for further assessment.

[For text of subps 10 and 11, see M.R.]

Subp. 12. **Immunizations.** The immunization status of a child must be compared to the "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition. Immunizations that the comparison shows are needed must be offered to the child and given to the child if the child or parent of the child accepts the offer. The "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition, is developed and distributed by the Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. The "Recommended Schedule for Active Immunization of Normal Infants and Children," ~~June 1988~~ current edition, is incorporated by reference and is available at the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. It is ~~not~~ subject to frequent change.

Subp. 13. **Laboratory tests.** Laboratory tests must be done according to items A to F:

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

B. ~~An erythrocyte protoporphyrin (EP) test must be done for a child whose physical examination under subpart 4 indicates possible lead toxicity; and for a child age nine months to six years whose health history indicates that the child:~~

~~(1) has lived in or frequently visited houses built before 1950;~~

~~(2) has shared the residence of a parent or other person who participates in a lead-related occupation or hobby;~~

~~(3) has lived near roadways with heavy traffic, hazardous waste sites, lead smelters, or processing plants;~~

~~(4) has a sibling or playmate known to have lead toxicity; or~~

~~(5) is at risk of possible exposure to lead through the use of folk medicines.~~

~~If an EP test is elevated above the level of 35 micrograms of lead per deciliter of whole blood, the child must be referred for further testing.~~ A child aged one to five years must be screened for lead through the use of either an erythrocyte protoporphyrin (EP) test or a blood lead screening test. When the result of the EP or blood test is greater than the maximum allowable level set by the Centers for Disease Control of the United States Public Health Service, the child must be referred for a venous blood lead test. A child with a venous blood lead level greater than the maximum allowable level set by the Centers for Disease Control must be referred for diagnosis and treatment.

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

[For text of subp 14, see M.R.]

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Subp. 14a. **Health education and health counseling.** Health education and health counseling concerning the child's health must be offered to the child who is being screened and to the child's parent or representative. The health education and health counseling are for the purposes of assisting the child or the parent or representative of the child to understand the expected growth and development of the child and of informing the child or the parent or representative of the child about the benefits of healthy lifestyles and about practices to promote accident and disease prevention.

Subp. 15. **Schedule of age related screening standards.** An early and periodic screening, diagnosis, and treatment screening for a child at a specific age must include, at a minimum, the screening requirements of subparts 2 to 14 as provided by the following schedule:

Schedule of age related screening standards

A. Infancy:

Standards	Ages					
	By 1 month	2 months	4 months	6 months	~~7-11~~ 9 months	12 months
Health History	X	X	X	X	X	X
Assessment of Physical Growth:						
Height	X	X	X	X	X	X
Weight	X	X	X	X	X	X
Head Circumference	X	X	X	X	X	X
Physical Examination	X	X	X	X	X	X
Vision	X	X	X	X	X	X
Hearing	X	X	X	X	X	X
Development~~:~~	X	X	X	X	X	X
~~PDQ/DDST~~			~~X~~	~~X~~	~~X~~	
Health Education/Counseling	X	X	X	X	X	X
Sexual Development	X	X	X	X	X	X
Nutrition	X	X	X	X	X	X
Immunizations/Review		X	X	X	X	X
Laboratory Tests:						
Tuberculin		if history indicates				
Lead Absorption		if history indicates				X
~~Urine~~ Urinalysis	←	←	←	X	←	←
~~Bacteriuria (females)~~						
~~Anemia~~					~~X~~	
Hematocrit or Hemoglobin	←	←	←	←	X	X
Sickle Cell		at parent's or child's request				
Other Laboratory Tests		as indicated				
Oral Examination	X	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

B. Early Childhood:

Standards	~~Ages~~ Age				
	~~12-15~~ 15 months	~~16-19~~ 18 months	~~20-35~~ 24 months	3 years	4 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Head Circumference	X	X	X	X	X

B. Early Childhood:

Standards	~~12-15~~ 15 months	~~16-19~~ 18 months	~~Ages~~ Age ~~20-35~~ 24 months	3 years	4 years
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure				X	X
Development	X	X	X	X	X
~~PDQ/DDST~~	~~X~~	~~X~~	~~X~~		
Health Education/Counseling	X	X	X	X	X
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin			if history indicates		
Lead Absorption			~~if history indicates~~		
	X	X	X	X	X
~~Urine~~ Urinalysis	←	←	X	←	←
~~Anemia~~	~~←~~	~~←~~	~~←~~		
Bacteriuria (females)					X
Hematocrit or Hemoglobin	←	←	←	←	←
Sickle Cell			at parent's or child's request		
Other Laboratory Tests			as indicated		
Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

C. Late childhood:

Standards	~~3-4~~ 5 years	~~5-7~~ 6 years	Ages ~~8-10~~ 8 years	~~11-13~~ 10 years	12 years
Health History	X	X	X	X	X
Assessment of Physical Growth:					
Height	X	X	X	X	X
Weight	X	X	X	X	X
Physical Examination	X	X	X	X	X
Vision	X	X	X	X	X
Hearing	X	X	X	X	X
Blood Pressure	X	X	X	X	X
Development	X	X	X	X	X
~~PDQ/DDST~~	~~X~~	~~X~~			
~~Fine & Gross Motor, Speech & Language, Social, Cognitive~~		~~X~~	~~X~~	~~X~~	
Health Education/Counseling	X	X	X	X	X

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C. Late childhood:

Standards	Ages 3-4 5 years	5-7 6 years	8-10 8 years	11-13 10 years	12 years
Sexual Development	X	X	X	X	X
Nutrition	X	X	X	X	X
Immunizations/Review	X	X	X	X	X
Laboratory Tests:					
Tuberculin		if history indicates			
Lead Absorption	X	if history indicates			
~~Urine~~ Urinalysis	←	←	X	←	←
Bacteriuria (females)	~~X~~ ←	←	X	←	←
~~Anemia~~	~~←~~	~~←~~	~~X~~	~~←~~	
Hemoglobin or Hematocrit	←	←	X	←	
Sickle Cell		at parent's or child's request			
Other Laboratory Tests		as indicated			
Oral Examination	X	X	X	X	X

X = Procedure to be completed.

← = Procedure to be completed if not done at the previous visit, or on the first visit.

D. Adolescence:

Standards	Ages 14-17 years	16 years	18-20 years	20 years
Health History	X	X	X	X
Assessment of Physical Growth:				
Height	X	X	X	X
Weight	X	X	X	X
Physical Examination	X	X	X	X
Vision	X	X	X	X
Hearing	X	X	X	X
Blood Pressure	X	X	X	X
Development	X	X	X	X
~~PDQ/DDST~~				
~~Fine & Gross Motor, Speech & Language, Social, Cognitive~~	~~X~~	~~X~~		
Health Education/Counseling	X	X	X	X
Sexual Development	X	X	X	X
Nutrition	X	X	X	X
Immunizations/Review	X	X	X	X
Laboratory Tests:				
Tuberculin		if history indicates		
Lead Absorption		if history indicates		
~~Urine~~ Urinalysis	←		X	
Bacteriuria (females)	←		←	
~~Anemia~~	~~←~~		~~X~~	

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D. Adolescence:

Standards	Ages 14–17 years	16 years	18–20 years	20 years
Hemoglobin or Hematocrit	·		X	
Sickle Cell	at parent's or child's request			
Other Laboratory Tests	as indicated			
Oral Examination	X		X	

X Procedure to be completed.

· Procedure to be completed if not done at the previous visit, or on the first visit.

Subp. 15a. **Additional screenings.** A child may have a partial or complete screening between the ages specified in the schedule under subpart 15 if the screening is medically necessary or a concern develops about the child's health or development.

9505.1748 CONTRACTS FOR ADMINISTRATIVE SERVICES.

Subpart 1. **Authority.** A local agency may contract with a county public health nursing service ~~or~~, a community health clinic, a Head Start agency, a community action agency, or a school district for early and periodic screening, diagnosis, and treatment administrative services. Early and periodic screening, diagnosis, and treatment administrative services include outreach; notification; appointment scheduling and transportation; follow-up; and documentation. For purposes of this subpart, "community action agency" means an entity defined in *Minnesota Statutes*, section 268.53, subdivision 1, and "school district" means a school district as defined in *Minnesota Statutes*, section 120.02, subdivisions 13 to 15.

[For text of subps 2 and 3, see M.R.]

Subp. 4. **Approval.** A contract for administrative services must be approved by the local agency and submitted to the department for approval by ~~January~~ November 1 of ~~each~~ the year before the beginning of the calendar year in which the contract will be effective. A contract must contain items A to ~~K~~ L. to be approved by the department for reimbursement:

[For text of items A to F, see M.R.]

G. a clause that stipulates that the ~~local public health nursing service or the community health clinic~~ contracting parties will provide program and fiscal records and maintain all nonpublic data required by the contract according to the Minnesota Government Data Practices Act and will cooperate with state and federal program reviews;

H. a description of the services contracted for and the agency that will perform them;

I. ~~names of the skilled professional medical personnel and their supporting staff;~~

~~J.~~ methods by which the local agency will monitor and evaluate the contract; ~~and~~

~~K.~~ J. signatures of the representatives of the contracting parties with the authority to obligate the parties by contract and dates of those signatures;

K. a clause that stipulates that the services provided under contract must be performed by or under the supervision of skilled medical personnel; and

L. a clause that stipulates that the contracting parties will comply with state and federal requirements for the receipt of medical assistance funds.

Department of Human Services

Proposed Permanent Rules Relating to Merit System

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 256.012.

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STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program; Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M

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 November 25, 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 November 20, 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) The agency received comments from four individuals which included two requests for a public hearing. Therefore, the agency did not receive requests for a public hearing from 25 or more persons.

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

1. Part 9505.1718, subpart 13. **Laboratory tests.** Item B. Marlene E. Marschall, Commissioner of the Department of Health stated the rule allows erythrocyte protoporphyrin (EP) analysis as the screening test for lead exposure. Commissioner Marschall stated that on October 7, 1991, the Centers for Disease Control (CDC) changed the recommended action level for lead exposure to a blood lead level of 10 micrograms per deciliter which is not detectable by EP analysis. The Department of Health recommended that EP tests no longer be used to screen for lead exposure and that a direct blood lead analysis be used instead. Commissioner Marschall also stated that although a venous blood sample is subject to less external contamination than a capillary sample, venipuncture can be traumatic for small children and their parents. Rather than subjecting large numbers of children and parents to this trauma (and possibly losing their cooperation) the Health Department recommended finger stick blood collection be used for blood lead screening. Commissioner Marschall indicated that elevated blood lead levels found by screening should be followed by confirmation with venipuncture blood samples which would reduce the trauma to the clientele and reduce the cost of screening for the EPSDT providers.

Staff from the Departments of Health and Human Services met a number of times to discuss the issue of blood lead screening. During the rule development process, there was not a consensus from Department of Health staff to proceed with replacing erythrocyte protoporphyrin (EP) testing with direct blood leads in the EPSDT rule. However, as indicated by Commissioner Marschall, the Centers for Disease Control issued new guidelines for blood leads in October 1991.

In a November 1991 letter, the Health Care Financing Administration suggested that State Medicaid agencies incorporate the CDC's new multi-tier approach into their screening and treatment of Medicaid eligible children.

The Department of Human Services is in basic agreement with the Department of Health that direct blood levels are more effective in determining lead levels at CDC's recommended individual child intervention level of 10-14 micrograms per deciliter. The Department also agrees that venipuncture obtained blood leads would be too traumatic and might cause parents to stay away from routine checkups. However, the Department of Human Services is concerned over whether there is sufficient laboratory capacity to immediately handle only finger stick blood leads and, since finger stick blood leads are more easily contaminated than EPs, whether the Department of Health can immediately address this training need.

Based on the comments from the Department of Health and new blood lead guidelines issued by the Centers for Disease Control which reduces the usefulness of the EP tests, the Department is modifying part 9505.1718, subpart 13, item B. The Department proposes to permit the use of either EP tests or direct blood tests until December 31, 1992. After December 31, 1992, lead levels must be determined using direct blood tests. The phase out of the EP tests is necessary to provide a smooth transition to the direct use of blood tests. The change is based on public comment and is not a substantial change.

Subp. 13. **Laboratory tests.** Laboratory tests must be done according to items A to F.

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

B. A child aged one to five years must <u>initially</u> be screened for lead through the use of either an erythrocyte protoporphyrin (EP) test or a <u>direct</u> blood lead screening test <u>until December 31, 1992</u>. <u>Beginning January 1, 1993, a child age one to five must initially be screened using a direct blood lead screening test. Either capillary or venous blood may be used as the specimen for the direct blood lead test. Blood tests must be performed at a minimum of once at 12 months of age and once at 24 months of age or whenever the history indicates that there are risk factors for lead poisoning.</u> When the result of the EP or <u>capillary</u> blood test is greater than the maximum allowable level set by the Centers for Disease Control of the United States

Public Health Service, the child must be referred for a venous blood lead test. A child with a venous blood lead level greater than the maximum allowable level set by the Centers for Disease Control must be referred for diagnosis and treatment.

2. Part 9505.1718, subpart 15. **Schedule of age related screening standards.** Items B and C. Diane Thorson, Director of the Otter Tail County Department of Public Health, identified part 9505.1718, subpart 13 in her initial comment. However, her comment pertains more directly to subpart 15 which deals with the schedule of age related screening standards. Ms. Thorson stated it seems as though testing is now required at specific ages regardless of health history or physical exam indication. She indicated the rule requires lead testing at 12 months, 15 months, 18 months, 24 months, 3 years, 4 years, and 5 years. Ms. Thorson supports the need for lead testing being required at 12 months with repeat testing if history indicates potential for exposure.

As proposed, the rule unintentionally requires lead absorption tests at 15 months, 18 months, 3 years, 4 years, and 5 years. The Department's intent is to require all children to be routinely screened at 12 months and 24 months according to the Centers for Disease Control (CDC) Guidelines. Children age 1 to 5 years must initially be screened for lead levels. For example, a child that becomes eligible for EPSDT at age 3 must be screened on the first visit after age 3. All children regardless of age must be screened whenever additional risk factors for lead poisoning are identified. For example, a 4 year old who has a 5 year old sibling identified as lead poisoned must be screened.

The requirement that children age 1 to 5 must initially be screened is addressed in the modification to part 9505.1718, subpart 13, item B. This item now requires that "A child aged one to five years must <u>initially</u> be screened for lead through the use of either an erythrocyte protoporphyrin (EP) test or a <u>direct</u> blood lead screening test ...".

Part 9505.1718, subpart 15, item B is being modified by replacing the "X" (procedure to be completed) with "if history indicates" for ages 15 months, 18 months, 3 years and 4 years. Part 9505.1718, subpart 15, item C is being modified by replacing the "X" (procedure to be completed) with "if history indicates" for age 5 years.

The modification is consistent with the screening schedule recommended by the Centers for Disease Control in its October 1991 Statement on "Preventing Lead Poisoning in Young Children". The CDC also recommends that a questionnaire be used at each routine office visit to assess the potential for high-dose lead exposure and, therefore, the appropriate frequency of screening. If a child is at low risk for high dose lead exposure by questionnaire, the child should have an initial blood lead test at 12 months of age and should be retested at 24 months if possible, since that is when blood lead levels peak. Children at

a high risk for high dose lead exposure need to be screened more often.

The rule, as modified, eliminates a requirement for excessive lead screening tests. The modification is based on public comment and the screening schedule from the Centers for Disease Control. The modification is not a substantial change since children at high risk will continue to be tested based on history and prior lab results.

Item B. Early Childhood:

Standards	Age				
	15 months	18 months	24 months	3 years	4 years
*****					
Lead absorption	~~X~~	~~X~~	X	~~X~~	~~X~~
	<u>if history indicates</u>			<u>if history indicates</u>	
*****					

Item C. Late Childhood:

Standards	Age				
	5 years	6 years	8 years	10 years	12 years
*****					
Lead absorption	~~X~~	if history indicates			

3. Part 9505.1718, subpart 15. **Schedule of age related screening standards.** Diane Thorson stated it seems as though 6 additional visits are being required over the 20 year period. In conferring with a local pediatrician, she recommended the following schedule: one month; two months; four months; six months; 9-12 months; 15 months; 18 months; 3 years if there are risk factors; 5 years; 6-9 years; 10 to 13 years; 14 to 17 years; and 18 to 20 years.

As indicated in the Department's statement of need and reasonableness, the amendment of the schedule increases allowable screenings from 14 to 20 during the years from birth up to age 21. These screenings are not required. A parent must request a screening.

The rule amendment is reasonable because the federal guidance suggests that the American Academy of Pediatrics (AAP) periodicity schedule be used. The AAP schedule is recognized as the usual standard of practice by the medical community. The rule advisory committee agreed with this guidance. The Department does not believe further modification of this subpart is warranted.

4. Part 9505.1748, subpart 4, item K. Gretchen Musicant, Minnesota Nurses Association (MNA), indicated that MNA would prefer item K to

refer to skilled "health" personnel rather than skilled "medical" personnel.

Administrative services contracts for outreach under this part are regulated by federal requirements. Title 42 CFR part 432.2 requires that the contract must be performed by or under the supervision of skilled medical personnel. The definition of skilled medical personnel includes nurses.

It is necessary for part 9505.1748, subpart 4, item K to be consistent with the federal regulations to ensure federal financial participation for administrative services. Therefore, the Department declines to modify the rule.

CONCLUSIONS

I hereby conclude that:

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

2. The rules, as modified, are necessary and reasonable. (8)

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

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

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program; Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M (as modified) is adopted this day of , 1992, pursuant to authority vested in me by Minnesota Statutes, section 256B.0625, subdivision 24.

(9)

George J. Steffen 4-20-92

for NATALIE HAAS STEFFEN
Commissioner

Department of Human Services

Health Care Management Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to *Minnesota Rules* Governing Eligibility and Standards Related to Early and Periodic Screening, Diagnosis, and Treatment

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of amendments to the rules governing eligibility to receive and to provide early and periodic screening, diagnosis, and treatment under the medical assistance program. The adoption of the rule amendments is authorized by *Minnesota Statutes*, section 256B.04, subdivision 2 which requires the agency to adopt rules concerning the medical assistance program. The proposed amendments revise: 1. parts 9505.1693 to 9505.1748 for the purposes of ensuring consistency with revisions of applicable federal regulations and of removing restrictions on administrative contracts for outreach services; 2. part 9505.0445, item M related to payment rates for EPSDT services.

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

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

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

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

Dated: 13 August 1990

Eleanor Weber, Rulemaker
Rules and Bulletins Division

Department of Human Services

Long Term Care Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing the Determination of Payment Rates for Intermediate Care Facilities for Persons with Mental Retardation

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of amendments to the rule governing the determination of payment rates for intermediate care facilities for persons with mental retardation, *Minnesota Rules*, parts 9553.0010 to 9553.0080. The adoption of the rule is authorized by *Minnesota Statutes*, section 256B.501, which requires the agency to establish procedures to determine rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions.

The proposed amendments establish a new payment system which targets resources to clients based on their need for services. The rule amendments will include provisions for client assessments, client reimbursement classification and classification weights, determination of the service unit rate, determination of the program payment rate, reconsideration of client reimbursement classification, initial adjustment of program operating cost payment rates, resident access to assessments and documentation, and payment rates for new facilities. The amendments may also include other statutory changes.

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

RULE EPSDT (NUMBER) . DRAFT OF _____ (DATE)

COMMENT SHEET OF Bryan Nelson (NAME OF REVIEWER)

received 7-16-91

RETURN TO:
ELEANOR WEBER
RULES DIVISION
DHS
444 LAFAYETTE ROAD
ST. PAUL, MN 55155-3816

297-4301

USE BLACK INK

IDENTIFY EACH COMMENT BY PAGE, RULE NUMBER, AND SECTION NUMBER, AND YOUR INITIALS

PAGE	RULE	SEC.	COMMENT	IN
2	9505 .1718	Subp 9 line 25	Standard procedures (these ~~post~~ written procedures are available to parents at the beginning of the screening)	
2	9505 .1718	Sub 9 28	culturally sensitive – define this term. Check with Human Rights or Dept of Ed.	
2	9505 .1718	Sub 9 31-32	"or clinical judgement if trained in child development of the age of the child being assessed to determine the child's developmental status etc.	
4	*	Line 45 46	Development → change to Developmental Screening	
5	*	Line 15+ 16	Same as above	
5	*	53 54	Same as above	
6	9505. 1748 Subp	19	add this Head Start agency as defined 9505.1696 Subp. 12 page 3 line 13 See 11/10/88	

UNIVERSITY OF MINNESOTA
TWIN CITIES

Community-University Health Care Center
University of Minnesota Hospital and Clinic
2016 16th Avenue South
Minneapolis, Minnesota 55404
(612) 627-4774

Received 12-20-90

December 17, 1990

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

Dear Ms. Weber

I hope that this response is not too late. I have finally had a chance to review the proposed revisions to the EPSDT rules and have several comments:

1.) Section 9505.1718, Subpart 9, Screening Standards for an EPSDT Clinic Development. What concerns me about allowing a provider to choose the screening test is the question of whether a particular provider will know when a screening tool for younger children is valid for that child. I am not aware of screening tests that are both standardized and culturally-sensitive for the Southeast Asian population as an example. It would be more difficult to evaluate data if suddenly children are screened with a variety of tests. At least with the Denver, the DDST and the PDQ, we would know in every case which test was used and we would have one fewer variables to deal with if data are to be analyzed. Referring again to the Southeast Asian population, I am not sure whom I would ask to review a particular test in order to evaluate its cultural appropriateness. The mere fact that I can communicate with a Southeast Asian refugee does not guarantee that the person with whom I am consulting will clearly understand all the nuances of the screening test. That situation would leave open to question how solid the consultation is.

2.) Section 9505.1718, Subpart 12, Immunizations. I think it is adequate to specify the current edition of the immunization schedule and not mention specific dates. You might also want to add a paranthetical comment that if in doubt, contact the Minnesota Department of Health's Immunization Program (Dianne Peterson, 623-5569). In regard to the question of what happens when the parent refuses to have the child immunized, it is my understanding that if that is the only deficiency in the care provided for the child, Child Protection units (at least Hennepin County) will not consider it child neglect. It would be very important to document that a significant effort was made trying to convince the parent. A note should be entered in the chart that the parent has declined and the parent should sign the note so that there is absolutely no question that the parent did refuse. I would be interested to know the reason why one school in St. Paul has over 50% of

children not up-to-date as of age 2. Is this a school that serves primarily Southeast Asian children where the parents are fearful of immunizations? Or, is it a case where physicians are not making them available?

3.) Section 9505.1718, Subpart 14a, Education and Health Counseling. I am concerned about the statement attributed to Ms. Rambeck that "no one in an EPS/EPSDT clinic has an obligation to follow up on whether a parent/client seeks the recommended treatment or goes to the referral." It seems to me that whenever a provider makes a referral, the provider should hope that information is returned by the consultant indicating the observations made and treatment/intervention planned. If the parent chooses not to follow through and the condition is serious enough, that may constitute neglect. The provider who makes the referral should know whether it is kept.

4.) Section 9505.1718, Subpart 15. I do not understand the comment attributed to Ms. Schulz that "an elevated result (lead level) may not reflect the level of lead absorption itself but rather a low blood iron content." An elevated lead is an elevated lead. Absorption of lead may be enhanced because the patient is iron deficient (i.e., that in the face of iron deficiency, lead absorption is increased over what it would be were the patient iron replete). The schedule of the American Academy of Pediatrics recommends a tuberculin test if the history indicates the need. I am concerned, at least for Minneapolis and St. Paul where busing has led to very heterogeneous classes, that the history may be silent about the patient's having come in contact with someone else who is carrying the organism. There is also a problem in the Asian families where, because of secondary migration and family re-unification, large families are living together. The health status of many is unknown. To rely on history may be a mistake. I would make a similar comment about a test for lead absorption. I think that when groups of children are considered to be at risk for lead absorption, to wait for the history to tell you to screen may lead to missing cases. The same can be said for iron deficiency. It may be a mistake to presume that the diet is adequate. I would much rather organize an EPS/EPSDT clinic and do an FEP yearly, at least through the preschool years, and then again in the teen years, to rule out iron deficiency and lead absorption.

I hope that these comments reach you in time to be considered. Please contact me if I can be of any further help.

Sincerely,



Amos S. Deinard, M.D., M.P.H.
Director, Community-University
Health Care Center

ASD/sw

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

August 15, 1991

Dr. Amos Deinard
Community University Health Care Center
University of Minnesota Hospital and Clinic
2016 16th Avenue South
Minneapolis, MN 55404

Dear Doctor Deinard:

Your responses to the EPSDT rule language have been forwarded to me for response. Your first area of concern deals with the change to remove the requirement to use a specific developmental test, the DDST and PDQ. The federal guidance issued in the STATE MEDICAID MANUAL of April, 1990 states that, "No list of specified tests and instruments is perscribed for identifying developmental problems because of the large number of such instruments, development of new approaches, the number of children and the complexity of developmental problems which occur, and to avoid any connotation that only certain tests or instruments satisfy Federal requirements." We can no longer as a state specify only one test because it would be contrary to federal guidance.

The second area of concern that you raised is the immunization schedule. We agree with your suggestion to not mention dates and instead use the language "current edition" with the reference being the Minnesota Department of Health. We think that dealing with the parent who refuses to have their child immunized is the local provider's responsiblity and is a matter of professional practice.

Regarding your third area of concern, Ms. Rambeck sent a statement saying she was misquoted. We agree that followup of clients is a professional responsibility.

Your fourth areas of concern are related to the blood lead and tuberculin testing. The Minnesota Department of Health does not recommend routine tuberculin testing unless risk factors are identified. Ms. Schultz was referring to the erythrocyte protoporphyrin (EP) test which is not a direct measure of blood lead level and is subject to false readings. This is why our current rule requires further testing when the EP is elevated regardless of cause.

As you are probably aware there is a current controversy over the use of the EP versus venous blood lead tests and whether the testing should be done routinely on everyone or based on risk factor identification. Currently the Federal requirement is that all children 1-5 must be tested for lead. We expect Federal EPSDT rules due in November to address this controversy further.

Thank you for taking the time to review the rule and give comments. Ms. Weber apologizes for not getting back to you sooner. I would be happy to discuss any of the issues further with you!

Sincerely,

Marykay Haas

Marykay Haas, R.N.C., M.P.H.
EPSDT Program Coordinator

cc; Eleanor Weber

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

November 6, 1990

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

Dear Eleanor:

Today I received the minutes of the October 24, 1990 EPSDT Rule Advisory Committee meeting. I wish to make a correction to those minutes.

On page 3 it states that I said that no one in an EPS/EPSDT clinic has an obligation to follow-up to see that recommended treatment is received. I know that I stated that a parent or client is not obligated to see a specific provider and as a response to Ms. Brown stated that a physician provider is not obligated to refer a child back to an EPS clinic if that is where a child was first seen.

The following is an attempt to clarify some of the follow-up features of the EPSDT program.

Follow-up **is** an important part of EPS clinics. And follow-up **is** an important part of the local social service responsibility for the EPSDT program. For those counties that contract with Public Health Nursing agencies for administrative services the follow-up may be done by Public Health Nursing.

EPS Clinic Follow-up

Each EPS clinic must have an organized system of securing information on children who are referred to another resource for evaluation, diagnosis and treatment. Follow-up efforts are to

assure that the required services were made available and also to evaluate the effectiveness of the screening program.

County Social Service Follow-up

The local social service agency is required to do follow-up to ensure that the child receives all needed treatment. Follow-up occurs after a child has received screening and the invoice is received at the local level. The offer of assistance is again made to the parent so that any needed treatment is received. A record of the follow-up is recorded on the EPSDT checklist that is kept at the local level.

I hope this information clarifies any misunderstanding there may have been. Please feel free to contact me should you have any additional questions.

Sincerely,

Joan Rambeck

Joan Rambeck MS PNP
PHN Advisor - EPSDT Outreach

Received
11-25-91

PINE COUNTY PUBLIC HEALTH NURSING SERVICE
210 6TH STREET
PINE CITY, MN 55063
(612) 629-6781 EXT 168

November 22, 1991

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

Dear Ms. Weber:

I wish to request a public hearing on the proposed amendment of Department of Human Services Rules related to EPSDT in the MA program, MN Rules, Parts 9505.1693 to 9505.1748 and related to the payment rate established in Part 9505.045, item M.

Sincerely,

Virginia Rootkie (RO)

Virginia Rootkie, PHN
Director

VR:ro

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

Received
11-26-91 EW

November 25, 1991

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

Dear Ms. Weber:

I am writing on behalf of the Minnesota Nurses Association (MNA) to comment on the proposed rules related to Early and Periodic Screening Diagnosis and Treatment in the Medical Assistance Program (M.R. 9505.1693 to 9505.1748). Overall, MNA supports the proposed rule changes. Some clarification is needed in M.R. 9505-1748 subpart 4, new K. In the proposed rule, the term "medical" personnel is used. MNA is uncertain about who is included in this term and would prefer that new K read as follows:

> K. a clause that stipulates that the services provided under contract must be preformed by or under the supervision of skilled ~~medical~~ health personnel; and.

The use of the word "health" makes the intent clearer because it would include providers such as public health nurses who have with in their scope of practice; health screening, teaching and counseling which are skills needed for the EPSDT program. The term "medical" can at times be interpreted to mean only physicians. This does not appear to be the intent of the rule.

MNA appreciates this opportunity to comment on this rule.

Sincerely,

Gretchen Musicant

Gretchen Musicant, RN, MPH
Staff Specialist, Governmental Affairs

GM:caa

OTTER TAIL COUNTY
DEPARTMENT OF PUBLIC HEALTH

MAIN OFFICE
OTTER TAIL COUNTY COURTHOUSE
FERGUS FALLS, MINNESOTA 56537
218-739-2271

SUB OFFICE
222 2nd AVENUE S.E.
PERHAM, MINNESOTA 56573
218-346-3175

December 13, 1991

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

RE: EPSDT Rules

I would like to request a hearing on the proposed changes to the EPSDT Rules.

The sections that concern me are:

9505.1718 Subp 13. Laboratory tests.
It seems as though testing is now required at specific ages irregardless of health history or physical exam indications. Testing would be required at 12 months, 15 months, 18 months, 24 months, 3 years, 4 years, and 5 years. I would support the need for lead testing being required at 12 months with repeat testing if history indicates potential for exposure.

9505.1718 Subp 15. Schedule of age related screening standards.
It seems as though 6 additional visits are being required over the 20 year period. In conferring with my local pediatrician, we agree this schedule seems to be excessive such as:

By: 1 month 2 month 4 month 6 month 9-12 month
15 month 18 month 3 years of there are risk factors
5 years 6-9 years 1-13 years 14-17 years 18-20 years

These time periods would address developmental changes, immunizations, and sports physicals.

Sincerely,

Diane

Diane Thorson, Director

DT:nja

enclosure

Printed on Recycled Paper.

minnesota department of health
717 s.e. delaware st. p.o. box 9441 minneapolis 55440
(612) 623-5000

December 20, 1991

Natalie Haas Steffen, Commissioner
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155

Dear Commissioner Steffen:

I am told that the rules for Early Periodic Screening, Diagnosis, and Treatment Services (EPSDT) still allow erythrocyte protoporphyrin (EP) analysis as the screening test for lead exposure. However, the EP test is now obsolete as a measure of lead exposure, and direct blood lead analysis should be used.

On October 7, 1991, the Centers for Disease Control (CDC) changed the recommended action level for lead exposure to a blood lead level of 10 micrograms per deciliter which is not detectable by EP analysis. Blood lead analysis is necessary. The Health Care Financing Administration "strongly suggests" that state Medicaid agencies adopt the CDC's new approach. (Chicago Regional Letter No. 73–91.) The Minnesota Department of Health also strongly suggests that the EP test no longer be used to screen for lead exposure and that a direct blood lead analysis be used instead.

Although CDC is correct that a venous blood sample is less subject to external contamination than is a capillary sample, venipuncture can be traumatic for small children and their parents. Rather than subject large numbers of children and parents to this (and possibly losing their cooperation), this department recommends that fingerstick blood collection be used for screening purposes. Elevated blood lead levels found by screening should be followed by confirmation with venipuncture blood samples. This reduces the trauma to the clientele and reduces the cost of screening for the EPSDT providers. We strongly recommend that the EPSDT program follow this procedure.

Sincerely,

Marlene E. Marschall
Commissioner

MEM/DMB/kjf
cc: Marykay Haas, DHS
Nancy McMorran, DHS

an equal opportunity employer

Celebrate MINNESOTA 1990

91-1250

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38 15

January 13, 1992

Marlene Marschall, Commissioner
Minnesota Department of Health
717 Southeast Delaware Street
Minneapolis, Minnesota 55440

Dear Commissioner ~~Marschall~~ Marlene:

I am responding to your letter expressing concern about the continued use of the erythrocyte protoporphyrin (EP) test for lead. Staff members from the Minnesota Department of Health (MDH) and from the Department of Human Services have been meeting regarding the lead screening issue since August 9, 1991. There was not a consensus from MDH staff at that time to proceed with replacing erythrocyte protoporphyrin EP testing with direct blood leads in the EPSDT rule.

Although the Centers for Disease Control has issued new guidelines since that time, our communications with the Health Care Financing Administration (Chicago Regional Letter No. 73-91 and the EPSDT Conference, December 7, 1991: Mr. Hiscock) state that, while venous blood leads are preferable, there are several interim strategies that can be used including capillary blood leads and EP tests.

We are in basic agreement that direct blood leads are more effective in determining lead levels at the Centers for Disease Control recommended individual child intervention level of 14 micrograms per deciliter. We also agree that venipuncture obtained leads would be too traumatic and might even cause parents to stay away from routine checkups.

We are concerned there may not be sufficient laboratory capacity to immediately handle only fingerstick blood leads. There will also be a training issue as fingerstick blood leads are more easily contaminated than EPs. Will MDH be communicating information to the medical community about the new intervention recommendations, laboratories equipped to process capillary lead specimens, and information on how to obtain fingersticks so as not to contaminate the specimen?

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

We are willing to put a clause into our EPSDT rule that would discontinue the use of the EP test for lead screening by January 1, 1993. In order for this to work, we would need assurance that providers are receiving adequate information about fingerstick techniques for blood lead specimen collection and that there are enough laboratories available to process capillary blood lead specimens. Please advise us if you think those conditions can be met and if you think the time line is adequate.

If you have further questions, please contact Kathryn Lamp at 296-2741.

Sincerely,

NATALIE HAAS STEFFEN
Commissioner

cc: Douglas Benson
Dr. Ron Campbell

In the Matter of the Adoption of the Rule of the State Department of Human Services Related to Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program; Minnesota Rules, Parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established In Part 9505.0445, item M

DECLARATION OF COUNSEL

I, Gail M. Olson , ~~Special~~ Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0866 .

Gail M. Olson

~~Special~~ Assistant Attorney General

Dated: April 13, 1992

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

November 20, 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 Early and Periodic Screening, Diagnosis, and Treatment in the Medical Assistance Program, Minnesota Rules, parts 9505.1693 to 9505.1748 and Related to the Payment Rate Established in Part 9505.0445, item M.

If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at 297-4301.

Sincerely,

Eleanor E Weber

Eleanor Weber
Rulemaker

Encl.

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER