

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE
SUPPORT SERVICES BUREAU

IN THE MATTER OF THE PROPOSED AMENDMENTS
TO THE DEPARTMENT OF PUBLIC WELFARE RULE
GOVERNING REIMBURSEMENT FOR COST OF CARE
OF PATIENTS OF A STATE HOSPITAL
(12 MCAR § 2.027)

STATEMENT OF NEED
AND REASONABLENESS

The Commissioner of Public Welfare believes that the proposed amendments to 12 MCAR § 2.027 are of a noncontroversial nature and therefore may be considered for adoption pursuant to the procedures set forth in Minn. Stat. §§ 14.21 to 14.28. These amendments reflect the 1982 amendments to Minn. Stat. §§ 246.50, subdivision 5 and 6; 246.51; and 246.511.

Laws of 1982 Chapter 641, Article 1 amended Minn. Stat. §§ 246.50, subdivisions 5 and 6, 246.51 and 246.511. Minn. Stat. § 246.50, subd. 5 was amended to include counseling or other service provided in a state hospital facility or through state hospital personnel within the definition of "outpatient" or "day-care". Minn. Stat. § 246.50, subd. 6 was amended to include the children of chemically dependent patients within the definition of "relatives". Minn. Stat. § 246.51, subd. 1 was amended to require the patient or relatives or both to provide the Commissioner with documents and proofs necessary to determine their ability to pay. It further provides that failure to provide sufficient information to determine ability to pay may make the patient or relative or both liable for the full per capita cost of care until sufficient information is provided. Minn. Stat. § 246.511 was amended to permit the Commissioner to accept from responsible relatives voluntary payments in excess of ten percent and to require full payment of the full per capita cost of care in state hospitals for patients whose parent, parents, spouse, guardian or conservator do not reside in Minnesota.

It is the Commissioner's responsibility to determine an individual's ability to pay the cost of care provided at a Minnesota state hospital. The Commissioner also has the responsibility to determine the ability of certain responsible relatives to pay for the care of the patient who is unable to pay the full cost of care. In carrying out these responsibilities, the Commissioner must adhere to statutory provisions concerning the determinations. Rule 27 sets out the specific procedures and standards by which such determinations must be made. It is therefore necessary to incorporate the 1982 amendments affecting the determination of an individual's ability to pay the cost of care provided at a state hospital.

B.9. This section currently defines "inpatient" as a person who occupies a bed in the hospital for the purpose of observation, care, diagnosis, or treatment. The term "resident patient" is not used in Rule 27. Minn. Stat. § 246.50, subd. 5 defines the term "resident patient" to mean a person who occupies a bed while housed in a hospital for obser-

vation, care, diagnosis or treatment but does not use the term "inpatient". The proposed amendment inserts the phrase "or resident patient", and thereby incorporates the term used in the statute. This amendment does not change the meaning of either term. It simply indicates the interchangeability of the two terms for purposes of the rule. It is necessary that the definition of inpatient contained in the rule correspond with the statutory definition. The term "inpatient" is commonly used by hospital personnel and the general public for a person who occupies a hospital bed overnight. It is reasonable to include the statutory term while retaining the term "inpatient".

The Department wishes to clarify that the definition in B.9. applies to inpatients and resident patients of state hospitals only. Therefore, insertion of the work "state" before hospital will limit the definition to patients of a state hospital.

- B.12. The proposed amendment to this section, which defines the term "outpatient", parallels the amended statute Minn. Stat. § 246.50, subd. 5. It is necessary and reasonable for the Rule 27 definition of "outpatient" to conform to the 1982 statutory amendment.
- B.20. Minn. Stat. § 246.50, subd. 6 as amended in 1982 defines "relatives" as "the spouse, and parents, and in the case of the mentally ill or chemically dependent, children of a patient, in that order of liability for cost of care." The proposed amendment to this section incorporates the statutory change. The Department wishes to bring the rule definition into conformity with the 1982 amendment.
- C.3.e. This section states the general provisions which the Department must follow in all interviews. Minn. Stat. § 246.51 was amended in 1982 to require that patients and responsible relatives provide information, documents and proofs necessary to determine ability to pay. The amendment gave the Commissioner the authority to impose the full per capita rate until sufficient information is provided. It is necessary and reasonable that persons on whom a statutory obligation is placed be informed as soon as possible about this obligation and that the responsibility for so informing patients, representatives of patients, and responsible relatives be clearly fixed on the Department. The proposed change of section C.3.e. reflects the 1982 statutory amendments to Minn. Stat. § 246.51.
- C.3.f. This section states the specific forms which the Department will use to investigate the financial resources of patients and responsible relatives and thereby obtain sufficient information for the Commissioner to determine ability to pay in compliance with Minn. Stat. § 246.51, subd. 1 as amended in 1982. The section requires the Department to provide these forms to patients, representatives of patients, and responsible relatives at the time of the interview. It is reasonable to specify the forms necessary to comply with the requirement of providing sufficient information. It is also reasonable to clearly specify the Department's obligation to provide such forms.
- C.3.g. The proposed amendment to this section reflects the amendment to C.3.f. specifying the forms used by the Department to investigate the financial resources of patients and responsible relatives.

E.4.k. The proposed amendment to this section permits adjustments to the special personal allowance given to patients who have earnings under an individual plan of rehabilitation or work therapy. It requires that adjustments be made in accordance with the limit established for persons receiving public assistance grants, which was the standard used to establish the present limit of \$50. It is necessary and reasonable to provide a method for updating the special personal allowance so that an amendment to the rule is not required when the allowance for persons receiving public assistance is changed.

F.2.b., m., and o. The proposed amendments to these sections permit adjustments to the allowances for cash and liquid assets, life insurance, and burial expenses. They require that adjustments be made in accordance with the limits established under the Medical Assistance program, which were used to establish the present allowances. It is necessary and reasonable to provide a method for updating these allowances so that an amendment to the rule is not required when Medical Assistance program standards are changed.

G.4. Minn. Stat. § 246.50, subd. 6 as amended in 1982 includes the children of chemically dependent patients within the definition of "relatives." The proposed amendment to this section incorporates the statutory change. The amendment also clarifies that separate determinations of parents' ability to pay apply only to parents who do not reside in the same household. It is reasonable to jointly consider the resources of parents living in the same household since parental resources are considered together under public assistance programs. It has also been the Department's policy for many years to jointly consider parental resources in determining parents' ability to pay. The change is necessary to clarify the Department's intent to continue its previous policy.

G.5.b. The 1982 amendment to Minn. Stat. § 246.51, subd. 1 removed the limitation on the Department that in no case could a responsible relative who is a resident of Minnesota be ordered to pay more than ten percent of the cost of the patient's care. The amended statute permits the Department to assess liability for the full per capita cost of care in the case of a resident relative who fails to provide the department sufficient information to determine ability to pay. It further states that such failure may make the responsible relative liable for the full per capita cost until such time as sufficient information is provided. The amended statute also requires the responsible relative to provide information, documents and proofs necessary to determine ability to pay. The proposed revision of G.5.b. incorporates the 1982 amendment to Minn. Stat. § 246.51, subd. 1 and is therefore necessary and reasonable. The amended G.5.b. also defines by reference to C.3.f. and g. what information, documents, and proofs are necessary.

G.5.c. The proposed amendment to this section is necessary to bring it into conformance with Minn. Stat. § 246.511 as amended in 1982. The amended statute enlarges the category of responsible relatives and patient representatives whom the Department may require to pay the full per capita cost of care to include the "parent, parents, spouse, guardian or conservator who do not reside in Minnesota." The amended G.5.c. also removes the reference to G.7. and requires that ability to pay the full per capita cost of care be determined by the Department. This change is necessary because G.7. refers only to payments up to ten

percent of the per capita cost of care.

- G.5.f. This new section reflects a new provision of Minn. Stat. § 246.511 as amended in 1982 which allows the Commissioner to accept voluntary payments from responsible relatives in excess of ten percent.
- G.6.a. The proposed amendment is necessary to bring this section into conformance with Minn. Stat. § 246.51 as amended in 1982. It requires that responsible relatives provide the Department sufficient information, documents and proofs in order to have their ability to pay determined from the Exhibit in G.7.
- G.6.b. The proposed amendment to this section removes language which the 1982 amendment to Minn. Stat. § 246.51 has superseded. It allows the Department to assess the full per capita cost of care against a responsible relative who has not provided sufficient information, documents and proofs necessary to determine ability to pay.
- G.7. Minn. Stat. § 246.511 limits payments from responsible relatives who are residents of Minnesota to ten percent of the per capita cost of care. The per capita cost of care is determined annually by the Commissioner pursuant to Minn. Stat. § 246.50, subd. 5. Exhibit 12 MCAR § 2.027 G.7. is used to determine the daily payments of responsible relatives based on household size and annual gross earnings. Daily payments in this table increase at each level of earnings up to the statutory limit of ten percent of the per capita cost of care in effect for last fiscal year. Because the cost of care is redetermined annually, it is necessary to provide a method for the Department to revise the table to reflect such changes.

It is reasonable to revise Exhibit 12 MCAR 2.027 G.7. according to the same method used to develop the table. The table was derived from the monthly fee schedule for a family of four published in the Department's "Proposed Comprehensive Title XX Services Program Plan" for October 1, 1981 to December 31, 1982. The cut-off points on the attached table indicate the level of earnings, for each household size, at which entitlement to Title XX services ends. For levels of earnings above these points, it was determined reasonable to increase daily payments by 25 percent at each level.

The Department proposes to continue this method for the purposes of revising Exhibit 12 MCAR § 2.027 G.7., beginning with daily payments equal to ten percent of the cost of care for the previous year. The amended G.7. requires that daily payments at ten percent of the previous year's cost of care be changed to equal either a 25 percent increase in the daily payment at the preceding level of earnings, or ten percent of the current year's cost of care, whichever is less. The amendment also allows the Department to add additional levels of earnings to the table to provide for possible increases in the per capita cost of care that would require daily payments for levels of earnings beyond those in the present table.