STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed
Adoption of Amendments to
Minnesota Rules, parts 9505.0500 to
9505.0540, Governing Inpatient Hospital
Admission Certification in the Medical
Assistance Program.

STATEMENT OF NEED
AND REASONABLENESS

Minnesota Rules, parts 9505.0500 to 9505.0540 establish a system for reviewing the utilization of inpatient hospital care for hospitals which participate in the Medical Assistance (MA) or General Assistance Medical Care (GMAC) programs. As required by Minnesota Statutes, section 256B.04, subd.15, this utilization review system is designed to safeguard against the "unnecesssary or inappropriate hospital admissions or lengths of stay, and against against underutilization of services in.....any health care delivery system subject to fixed rate reimbursement." Furthermore, the statute requires the department to use "both prepayment and postpayment review systems to determine if utilization is reasonable and necessary. Thus these rules are designed to guard against excess payments and to reduce expenditures which result from inappropriate hopsitalization of medical assistance and general assistance medical care recipients. The statutory authority for these rules is found in Minnesota Statutes, sections 256B.503 and 256D.03, subd.7(b). The rules were adopted in April 1985.

Since adopting these rules, the department has identified several areas of the rules that need to be amended. The need for these amendments arises from inconsistency with related rules, timeliness requirements that allow

insufficient time to complete necessary procedural steps, the failure of physicians to submit information prior to admission of recipients, confusion about the patient's medical assistance eligibility status and insurance coverage, confusion about who may appeal the determination of the physician advisers, and the absence of criteria for inpatient psychiatric and chemical dependency treatment.

To advise the department concerning amendments to address these concerns, the department convened an advisory committee. (See appendix A for committee membership.) The committee met on April 2, 1986 and reviewed amendments proposed by the department. Members of the committee supported the department's desire to address these concerns and the proposed amendments.

Part 9505.0500, Subp. 3. Admission certification. This amendment is necessary and reasonable because the cited emergency rule has been superseded by a permanent rule, parts 9505.5000 to 9505.5105.

Part 9505.0500, Subp. 24. Readmission. The amendment is necessary and reasonable to achieve consistency with the department's review mechanism which is based on the lapsed time between a discharge and a readmission. The department's experience during the last year has been that the time limitation of seven days is sufficient to ensure the medical necessity of a previously discharged patient's return to the hospital as an inpatient. Therefore, the department proposes the deletion of the requirement that the inpatient hospital service be "for the same diagnosis or a related condition or the treatment of a condition which grew out of the previous diagnosis".

Part 9505.0510 APPLICABILITY. This amendment is necessary and reasonable because the cited emergency rule has been superseded by a permanent rule, parts 9505.5000 to 9505.5105.

Part 9505.0520, Subp. 6, item I. This amendment proposes to extend the period within which the required written notice concerning a reconsideration decision must be mailed. Experience in the last year has shown that five days is too short a time always to complete all work required to prepare and send the written notice. For example, if the reconsideration is requested under subpart 9, the result of the reconsideration must be phoned to the admitting physician and the person responsible for the hospital's utilization review within 24 hours. However, the requirement of mailing the written notice of the reconsideration decision within five days does not allow enough time to complete necessary paperwork. Extension of the notice mailing time from five to ten days has been accepted by the advisory committee and by the medical review agent as reasonable because it balances allowing sufficient time to complete a required procedure and the need of the hospital and admitting physician to receive confirmation of the phoned message as soon as possible in order to prevent a possible misunderstanding of the decision. The required procedure thus has the time necessary to permit the physicians who made the decision to compare the written summary prepared by the medical review agent to the physicians' decision. Thus the extension of time strengthens the procedure by ensuring consistency between the comments and decision of the physicians and the written notice of the medical review agent.

Part 9505.0520, Subp. 6, item J. This proposed item amends the rule to permit consideration of a request for retroactive admission certification. As stated in the introduction, Minnesota Statutes, section 256B.04, subd.15, which requires the department to establish a program to guard against unnecessary or inappropriate hospital admissions or lengths of stay, also requires department to use "both prepayment and postpayment

systems to determine if utilization is reasonable and necessary." Thus the amendment is consistent with statute as a retroactive request foradmission certification would only be the first step necessary to prepare a claim for payment and thus would be part of a prepayment system. The purposes of parts 9505.0500 to 9505.0540 are to guard against unnecessary use of inpatient hospital service, avoid excess payments, and reduce expenditures which result from inappropriate hospitalization. Thus, the required review can be either preadmission or postadmission as long as the outcome is consistent with the statutory requirement. These rules focus on the medical necessity of the admission, the services provided in the hospital, and the length of stay. Several examples show clearly that admissions that were medically necessary were denied admission certification because rule requirements related to timeliness precluded a retroactive certification based on medical necessity. In the first example, a hospital referred a patient who required cardiology consultation before an elective surgery for gallstones to a hospital where the consultation was available but the referring hospital incorrectly reported the patient's MA status to the second hospital. The second hospital attempted to verify the patient's MA status before the patient's admission but was unable to reach the patient because the patient did not have a phone. The patient's MA status was clarified after his admission and the second hospital requested admission certification. The medical review agent denied the certification because "the call for this elective surgery was received after the admission occurred." Admission certification was denied for a patient undergoing a total knee arthoplasty on the left because of a breakdown in communication between the hospital and the admitting physician concerning the MA status of a patient admitted on a Sunday. In a third example, prior authorization and a second opinion

approving the surgery (a hysterectomy) were obtained but admission certification was denied because the request for admission certification of the elective procedure was received after the patient was admitted tothe hospital. Another example occurs when a recipient does not give either the admitting physician or the hospital accurate information about his or her medical assistance eligibility status and thus the admitting physician and the hospital do not believe that admission certification is necessary. Therefore, it is necessary and reasonable to provide a method to ensure medically necessary admissions are not denied admission certification and to ensure that medically necessary hospital services and lengths of stay are not ineligible for medical assistance payment because the admitting physician failed to request admission certification before the recipient's admission. If this amendment is adopted, two technical amendments are necessary: in item H, after "holidays;", delete "and"; in item I, after "holidays", delete "." and insert "; and".

Part 9505.0520, Subp. 9. Reconsideration. This amendment is necessary to clarify who has a right to appeal the determination of the physician advisers according to the contested case provisions of Minnesota Statutes, chapter 14. The amendment is consistent with Minnesota Statutes, section 256B.04, subd. 15 which permits an aggrieved party to appeal pursuant to the contested case procedures of Minnesota Statutes, chapter 14. The aggrieved parties in parts 9505.0500 to 9505.0540 are the admitting physician and the hospital. The clarification is reasonable because it removes confusion about who may appeal.

Part 9505.0520, Subp. 14. Retroactive admission certification. This amendment is necessary to establish a standard method of requesting a

retroactive admission certification. Because services specified under subpart 2 are exempt from the requirement of admission certification before the person's admission to the hospital, it is reasonable to clarify that they are also exempt from having to apply for retroactive certification. Because the decision of granting or denying certification must be based on the medical necessity of the admission and the inpatient hospital services, the medical review agent needs information about the person's medical condition, diagnosis, and treatment. Requiring the admitting physician to submit the person's complete medical record is reasonable because this record customarily has all the information about the person's condition, diagnosis, and treatment. Furthermore, requiring the admitting physician to submit the record at his or her own expense is reasonable because such an expense will encourage physicians to request certification before a person's admission whenever possible in order to avoid the expense of duplicating the complete medical record. A physician who needs a medical record to request retroactive admission certification must request the hospital to duplicate it as the hospital controls the use of the medical records of its patients. Therefore, this provision will assist hospitals to identify physicians who have a pattern of failing to comply with admission certification requirements before hospital admission and thus to pressure the physician to comply before the admission. Additionally, limiting the period for submmitting the record after the person's discharge is necessary because it facilitates obtaining any additional information required in deciding the certification request. Thirty days is a reasonable limit because this period is customarily used in business. Thirty days was acceptable to the advisory committee. It is necessary to clarify the procedure that must be followed when requesting retroactive admission certification. It is reasonable to require use of

the procedure applicable to a request made before admission because using the same procedure will ensure the appropriate reviews and enable affected persons to use a familiar procedure. Providing for reconsideration and appeal of denials and withdrawals of retroactive admission certification is consistent with Minnesota Statutes, section 256B.04, subd. 15.

Finally, the department calls attention to the difference between retroactive eligibility for medical assistance and retroactive admission certification. Retroactive admission certification does not affect a recipient's eligibility status in any way. Retroactive admission certification does affect the eligibility of hospital services to be reimbursed by medical assistance or general assistance medical care. However, retroactive eligibility under subpart 5 allows for admission certification for persons who are retroactively granted medical assistance or general assistance medical care eligibility. (See 42 CFR 435.914.) There may be instances in which a person is admitted, treated, and discharged from a hospital before that MA or GAMC is retroactively granted.

If this amendment is adopted, it is necessary to amend subpart 1 to achieve consistency of subparts 1 and 14. The amendments of subpart 1 are: after, "Except as provided in" revise "subpart" to "subparts" and after "2", insert "and 14".

Part 9505.0530 INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

and

Part 9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY.

Amending these parts to include criteria for inpatient psychiatric and chemical dependency treatment is necessary because the criteria for these two services on an inpatient basis are not included in the Appropriateness

Evaluation Protocol of the National Institutes of Health (AEP) that is now used with medical and surgical admissions. Criteria for these conditions are necessary to provide a uniform standard for determining medical necessity. The ones chosen are the ones developed by the present medical review agent, Blue Cross and Blue Shield of Minnesota. Members of the advisory committee reported that these criteria are in general use by the health service professions. The committee agreed their use is reasonable.

EXPERT WITNESSES AT PUBLIC HEARING

If a public hearing is held on these amendments, the department will not use expert witnesses from outside the department to testify at the hearing.

Dated: 10/14/, 1986

LEONARD W. LEVINE

Commissioner

Minnesota Department of Human Services

APPENDIX A

April 2, 1986

DEPARTMENT OF HUMAN SERVICES

ADVISORY COMMITTEE
on
AMENDMENTS TO PARTS 9505.0500 to 9505.0540

Dr. Lee Beecher, Suite 121, Creekside Professional Building, 6600 Excelsior Blvd., St. Louis Park, MN 55426

Ms. Deborah Glass, Minnesota Medical Association, 2221 University S.E., Minneapolis, MN 55414

Ms. Marcie Jefferys, Minnesota Hospital Association, 2221 University S.E., Minneapolis, MN 55414

Mr. Richard Peterson, North Memorial Hospital, 3300 Oakdale No., Robbinsdale, MN 55422

Ms. Linda Roe, Blue Cross and Blue Shield of Minnesota (under contract with the department as the medical review agent), 3535 Blue Cross Road, Eagan MN 55121

The determinant of certification should be the medical necessity of inpatient treatment, not restrictive time parameters. Refusing to pay for medically appropriate care, simply because the review agent wasn't called in advance, is unreasonable when the review agent is only available 40 hours a week.

Overly-restrictive procedures penalize the patients ultimately, as admissions may have to be delayed in order to comply with the letter of the law. We feel that a more reasonable approach will not dilute the effectiveness of the screening program, but would instead foster a more cooperative effort among all parties concerned.

Thank you for allowing our input on the proposed changes.

Sincerely,

Donna Anderson

Donna Anderson
Assistant Finance Director/Director of Admissions

DMA/dks

cc: Dan Rode, UMHC