

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED
ADOPTION OF MINNESOTA RULES,
PARTS 9505.1693 TO 9505.1748
GOVERNING ADMINISTRATION OF
THE EARLY AND PERIODIC SCREENING,
DIAGNOSIS, AND TREATMENT PROGRAM

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

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. 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 make appointments for EPSDT services; and helps with transportation to EPSDT services.

The goal of EPSDT is to provide comprehensive health care to a large segment of the population not previously served (f1). Secondarily, "The [United States] Department of Health and Human Services and HCFA [Health Care Financing Administration] strongly believe that EPSDT, when properly implemented, has the potential for assuring the accomplishment of an important long range goal the reduction and prevention of public dependency by giving health care to poor youngsters to assure that they move into the mainstream of life" (f2).

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 EPSDT program too slowly. However, Public Law Number 97-35, (the Omnibus Budget Reconciliation Act of 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.

New federal EPSDT regulations, which became final on January 29, 1985, encourage continuing care for clients; emphasize the involvement of health professionals in designing and implementing EPSDT; require coordination with related programs; and give states the flexibility to design preventive health care programs for children which are best suited to the needs in each state (Code of Federal Regulations, title 42, part 441, subpart B, as amended through October 1, 1986).

Minnesota implemented the EPSDT Program in 1974. A law suit initiated in August 1975 by Legal Aid Society of Minneapolis on behalf of

recipients, which was settled out-of-court in April 1977, was the impetus for an effort to recruit EPSDT providers by the then Department of Public Welfare. Early and periodic screening, diagnosis, and treatment providers now serve children in every county in Minnesota.

To govern the EPSDT program in Minnesota, Minnesota Rules, parts 9505.1500 to 9505.1690 were promulgated on June 6, 1978. Parts 9505.1500 to 9505.1690 provide criteria for the eligibility of recipients and providers of EPSDT services; screening standards; periodicity; outreach and follow-up; and documentation of EPSDT program activities.

County social service agencies manage EPSDT administrative services, such as outreach and follow-up, under state supervision. Some counties contract with a local public health agency or community health clinic to provide EPSDT administrative services. Currently there are 40 such contracts, including contracts in Hennepin, Ramsey, and St. Louis counties.

The proposed amendments, parts 9505.1693 to 9505.1748, have been developed to ensure consistency between Minnesota's EPSDT rules and the 1985 federal EPSDT regulations, to improve clarity and organization of rule parts, and to reflect current medical practice.

To prepare the amendments proposed in parts 9505.1693 to 9505.1748 the Department followed procedures mandated by the Administrative Procedures Act and the rules of the Office of Administrative Hearings. A notice to solicit outside opinion concerning the proposed rule parts was published in the State Register on Monday, February 3, 1986.

The Department also used a public advisory committee of persons familiar with the EPSDT program to amend the rules. The public advisory committee was formed by the department in January of 1986. The committee consisted of the persons listed in Appendix A.

The committee met three times for a total of about nine hours. Members discussed the screening standards and considered changes in the assessment of physical growth, vision, hearing, developmental testing, sexual development, nutritional status, laboratory testing, and dental examinations. They also discussed and considered changes in rule parts on outreach and follow-up, appropriate providers, and periodicity. Additional physicians were consulted for their opinions on medical aspects of the EPSDT program. Drafts of the rule were circulated to the optometric and nurses associations and to each person requesting a copy of the draft rule after publication of the notice of intent to solicit outside opinion. Comments received were reviewed and considered by the department when it drafted the proposed rule parts.

EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT PROGRAM.

9505.0275 EARLY AND PERIODIC, SCREENING, DIAGNOSIS, AND TREATMENT

Part 9505.0275 is an existing rule that establishes early and periodic screening, diagnosis, and treatment as a covered service under medical assistance. This part contains two citations to the present rules setting standards for the EPSDT program. If the proposed parts 9505.1693 to 9505.1748 are adopted, present rule parts 9505.1500 to 9505.1690 will be repealed and the citations contained in part 9505.0275 will be obsolete. It is, therefore, necessary and reasonable to amend part 9505.0275 so that it is accurate and consistent with other rules of the department.

9505.1693 SCOPE AND PURPOSE.

This part is needed to provide readers of Minnesota Rules with a reference that enables them to easily distinguish parts 9505.1693 to 9505.1748 from other parts of Minnesota Rules; to determine whether parts 9505.1693 to 9505.1748 pertain to them; and to understand better the organization of parts 9505.1693 to 9505.1748. Part 9505.1693 is consistent with the purpose of EPSDT services described under the Code of Federal Regulations, Title 42, Section 441.50. The part is reasonable because it informs affected persons of the reason for the program.

9505.1696 DEFINITIONS.

Applicability under subpart 1 and the definitions under subparts 2 to 23 are needed to clarify which parts of Minnesota Rules the definitions apply to; to provide consistent terminology for use by persons and organizations affected by the EPSDT program; to provide a basis for evaluating compliance with Minnesota Statutes, other rules promulgated by the State of Minnesota, and federal laws and regulations; and to identify and clarify terms used in parts 9505.1500 to 9505.1690.

Subpart 1. **Applicability.** This subpart is reasonable because the terms as defined are unique to the EPSDT program and do not necessarily apply to other parts of Minnesota Rules.

Subp. 2. **Child.** This definition is reasonable because it is consistent with the Code of Federal Regulations, Title 42, section 441.50 and provides an abbreviation to describe the person eligible to receive EPSDT services.

Subp. 3. **Community health clinic.** "Community health clinic" as used in parts 9505.1500 to 9505.1690 is the same type of clinic that is referred to in the term "nonprofit community health clinic services" under Minnesota Statutes, section 256B.02, subdivision 8(4). Minnesota Statutes, section 256B.02, subdivision 8(4) does not, however, define the term "nonprofit community health clinic" or "nonprofit community health clinic service". The definition of "community health clinic" is consistent with the definition given "community health clinic service" by other rules of the department that specify which services are eligible for payments from the Medical Assistance program (see part 9505.0255, subpart 1).

A. Minnesota Statutes, chapter 317 specifies the requirements an organization must meet to incorporate in Minnesota as a nonprofit corporation. This item is consistent with Minnesota Statutes, section 256B.02, subdivision 8(4) which requires the clinic to have nonprofit status.

B. Similarly this item is consistent with the statutory requirement of nonprofit status because tax exempt status under the Internal Revenue Code, section 501(c)(3), is available only to an organization that is organized and operated for certain specified nonprofit purposes.

C. People with a low income have difficulty in paying for health services and are often unable to obtain necessary health care. They are, therefore, an underserved population. Defining community health

clinic as a clinic formed to serve low income people is consistent with Minnesota Statutes, section 317.05, which specifies the purposes for which a non-profit corporation may be formed.

D. **Community health clinics** are the urban counterparts of rural health clinics which provide alternative primary care services for low income population living in an area with a paucity of health services. The Code of Federal Regulations, title 42, section 491.9(b) requires rural clinics to have written policies about the health services they provide. This item is reasonable because it is consistent with the federal requirement placed on a clinic providing similar services to a similar population.

Subp. 4. **Department.** This definition is reasonable because it provides an abbreviation for the state agency responsible for supervising the administration of the EPSDT program and, thereby, makes the rule more concise.

Subp. 5. **Diagnosis.** This definition is consistent with the definition of EPSDT given under the Code of Federal Regulations, Title 42, section 440.40(b), with the definition given for diagnosis in The American Heritage Dictionary, Houghton Mifflin Company, Boston, Massachusetts, and with common usage in medical practice.

Subp. 6. **Early and periodic screening clinic or EPS clinic.** The Minnesota Department of Health is responsible for setting the standards for EPS clinics. These standards for obtaining MDH approval are found in parts 4615.0900 to 4615.2000. Therefore, the definition is reasonable because it informs affected persons of existing standards and thereby coordinates rules governing the same program, EPSDT.

Subp. 7. **Early and periodic screening, diagnosis, and treatment program or EPSDT program.** This definition is reasonable because it provides an abbreviation for referring to all aspects of the EPSDT program. It is consistent with the Code of Federal Regulations, Title 42, section 440.40(b).

Subp. 8. **EPSDT clinic.** This definition is reasonable because it provides an abbreviation used in the rule to refer to the individuals and facilities that provide screening under the EPSDT program.

Subp. 9. **EPSDT provider agreement.** This definition is reasonable because it refers to the part which sets forth the provisions of the agreement.

Subp. 10. **EPSDT screening form.** This definition is reasonable because it clarifies a term used in this rule. It is consistent with the Code of Federal Regulations, Title 42, sections 441.56(d)(1) and 431.107.

Subp. 11. **Follow-up.** This definition is reasonable because it is an abbreviation in common use to refer to the activities required under parts 9505.1620 and 9505.1640.

Subp. 12. **Head Start agency.** This definition is reasonable because it is an abbreviation in common usage to refer to the agency that may

provide a portion of a screening according to part 9505.1590.

Subp. 13. **Local agency.** This definition is reasonable because it provides an abbreviation in common usage to refer to the agency that administers the MA program. Minnesota Statutes, section 256B.02, subdivision 6 defines and chapter 393 governs the establishment of a local agency.

Subp. 14. **Medical assistance.** EPSDT is a component of medical assistance. This definition is reasonable because it defines the medical assistance program by citing the federal and state laws establishing the program.

Subp. 15. **Outreach.** This definition is consistent with the Code of Federal Regulations, Title 42, section 441.56(a), which requires the state to effectively inform persons of the availability and benefits of EPSDT services. This definition is reasonable because it provides an abbreviation for referring to the activities required by the federal regulation.

Subp. 16. **Parent.** This definition clarifies who is a parent. It is reasonable because it provides an abbreviation for referring to the "genetic or adoptive parent of a child".

Subp. 17. **Physician.** Minnesota Statutes, Chapter 147 specifies the licensure requirements for and scope of practice of a physician. This definition is consistent with statute.

Subp. 18. **Prepaid health plan.** This definition is consistent with the cited statutes. It is also consistent with Minnesota Statutes, section 256B.69, which authorizes prepaid health programs in a demonstration project (also see part 9505.0175, subpart 13).

Subp. 19. **Public health nursing service.** Minnesota Statutes, sections 145.08 to 145.12 and 145.125 specify the standards for a public health nursing service. The definition is consistent with statute.

Subp. 20. **Screening.** The term "screening" is in common use among EPSDT providers and local agencies to refer to the procedures used to implement Code of Federal Regulations, title 42, section 441.50. The definition is consistent with the federal regulation.

Subp. 21. **Skilled professional medical personnel and their supporting staff.** This definition clarifies a term used in these rules. The definition is consistent with the definitions of "skilled professional medical personnel" and "supporting staff" given in the Code of Federal Regulations, title 42, section 432.2.

Subp. 22. **Treatment.** This term is in common usage by health care providers to refer to a spectrum of health services. It is consistent with the definition of EPSDT given under the Code of Federal Regulations, Title 42, section 440.40(b)(2) and the definition of "treatment" in Dorland's Illustrated Medical Dictionary, 24th edition, W.B. Saunders and Company.

9505.1699 ELIGIBILITY TO BE SCREENED

This part is necessary to identify who is eligible for screening under the EPSDT program. It is reasonable because it is based on the Code of Federal Regulations, Title 42, section 441.50, which limits participation in the EPSDT program to persons "under age 21" who are eligible for Medical Assistance.

9505.1701 CHOICE OF PROVIDER.

Subpart 1. **Choice of screening provider.** This subpart and subpart 2, choice of diagnosis and treatment provider, are necessary and reasonable because they are consistent with the Code of Federal Regulations, Title 42, section 431.51, which requires a state to "provide that any [medical assistance] recipient may obtain [medical] services from any institution, agency, pharmacy, person, or organization that is qualified to perform the services ...".

Subp. 2. **Choice of diagnosis and treatment provider.** The need and reasonableness of subpart 2 is given under subpart 1.

Subp. 3. **Exception to subparts 1 and 2.** Requiring a child who is enrolled in a prepaid health plan to receive screening, diagnosis and treatment from that plan is necessary and reasonable because it is consistent with the Code of Federal Regulations, title 42, section 431.55(f).

9505.1703 ELIGIBILITY TO PROVIDE SCREENING.

Subpart 1. **Providers.** This subpart is needed to identify who is eligible to provide EPSDT services under the Code of Federal Regulations, title 42, section 441.55.

Subpart 2. **EPSDT Provider agreement.** It is reasonable to require an EPSDT provider to sign an EPSDT provider agreement because the agreement establishes the business relationship between the Department and the provider and helps to prevent misunderstanding of what is required under the EPSDT program. It is reasonable to require that EPSDT providers sign a Medical Assistance provider agreement because the EPSDT program is part of the Medical Assistance program.

Subpart 3. **Terms of EPSDT Provider Agreement.** This part is needed to define parameters of the EPSDT provider agreement, to require contractual compliance with these rules and to delineate the respective obligations of the provider and the Department. The requirements are reasonable because they require screening according to this rule, reporting of findings and referral for diagnosis and treatment if indicated. Screening alone, without reporting and referral, would be inadequate.

9505.1706 REIMBURSEMENT.

Subp. 1. **Maximum payment rates.** The fee for EPSDT screenings already has been established in the medical assistance rule, part 9505.0445, item M. It is necessary and reasonable to refer to that rule to give notice of the fee rule.

Subp. 2. **Eligibility for reimbursement; Head Start agency.** This subpart is needed to increase the effectiveness of the EPSDT program through cooperation with related services. Head Start agencies share some of the same preventive health goals as the EPSDT program and conduct some health screenings of children. By having Head Start agencies document screening activities completed by themselves and other medical service providers, the EPSDT program is able to prevent "double screenings" of children while assuring those children receive a complete EPSDT screening. This subpart is reasonable because it is consistent with the Code of Federal Regulations, title 42, section 441.61(c).

Subp. 3. **Prepaid health plan.** This subpart is needed and reasonable to coordinate the EPSDT program with medical assistance programs involving prepaid health plans.

9505.1709 EPSDT SCREENING FORM.

Documentation of services is needed for the department to determine the amount a provider will be reimbursed for a screening, to ensure that a complete screening is performed for each child, and to evaluate the EPSDT program. This part is reasonable because it is consistent with the Code of Federal Regulations, title 42, section 433.32(a) and 441.56(d)(1).

9505.1712 TRAINING.

I speak own language

This part is necessary to inform providers of the training the Department will make available to a provider that signs an EPSDT provider agreement and to ensure compliance with minimum standards for screenings established according to the Code of Federal Regulations, title 42, section 441.56(b). The training provided under this part is reasonable because it is consistent with the the Code of Federal Regulations, title 42, section 431.105. The availability of this training is part of the Department's written agreement with the EPSDT screening provider.

9505.1715 COMPLIANCE WITH SURVEILLANCE AND UTILIZATION REVIEW.

This part is necessary and reasonable to refer EPSDT providers to other rule parts with which they must comply.

9505.1718 SCREENING STANDARDS FOR AN EPSDT CLINIC.

This part is necessary for the state to specify procedures that are consistent with the Code of Federal Regulations, title 42, sections 441.50 and 441.56(b). Also, it is necessary to clearly specify the procedures to be included in the screening so that the state can operate a uniform program on a statewide basis and ensure that the goals of the program are met.

Subpart 1. **Requirement.** The screening components in subparts 2 to

14 are reasonable because they are required by or are consistent with the Code of Federal Regulations, Title 42, section 441.56(b). The standards have been found by the public advisory committee to meet "reasonable standards of medical and dental practice" as required by the Code of Federal Regulations, title 42, section 441.56(b)(2). The above regulations provide minimum standards for screening and require states to develop and specify those standards. The standards developed and specified for Minnesota by the department and the public advisory committee are given in subparts 2 to 14.

Subp. 2. Health history. This subpart is necessary and reasonable because information from a health history can affect the screening standards in subparts 3 to 13. This subpart is reasonable because it is consistent with the Code of Federal Regulations, title 42, section 441.56(b)(1)(1).

Subp. 3. Assessment of physical growth. This subpart is reasonable because the use of growth grids to determine deviations from normal growth is accepted by the medical community nationwide. The National Center for Health Statistics' (NCHS) growth grids were developed in the mid-1970's by a task force consisting of experts on child development. The task force used data from the Fels Research Institute (Wright State University School of Medicine, Yellow Springs, Ohio) and NCHS health examination surveys. The growth grids were developed from that data using all recent advances in data analysis and computer technology (f3). This subpart is also reasonable because it is consistent with part 4615.1100, subpart 3, item D.

Subp. 4. Physical examination. This subpart is reasonable because it was developed for the original rule in 1978 by a group of physicians on the EPSDT advisory committee and mailed for comment to all primary care physicians in Minnesota. The comments received were incorporated into the physical examination standards. The 1986 public advisory committee also reviewed the physical examination standard and did not recommend any changes.

Subp. 5. Vision. This subpart and subpart 6, vision of a child age three or older, are reasonable because the standards are based on the Minnesota Department of Health's Preschool and School Vision Screening Manual. The manual was developed by an ad hoc Vision Committee whose members were selected for their knowledge and interest in the areas of child vision screening, referral, medical follow-up and education. The 1986 public advisory committee reviewed the vision standard but did not recommend any changes.

Subp. 6. Vision of a child age three or older. The reasonableness for Subpart 6 is the same as for subpart 5.

Subp. 7. Hearing. Subparts 7 and 8 are reasonable because the standards are based on the Minnesota Department of Health's Preschool and School Hearing Screening Manual. Development of the "manual" included staff review and analysis of scientific literature and information on programs in Minnesota and other states followed by the review and input of a panel of experts. The panel consisted of experts on child hearing screening, referral, and follow-up. The pure tone audiometric test

required by subpart 8 is reasonable because it is also required by the Department of Health's Early and Periodic Health and Developmental Screening Program under Minnesota Rules, part 4615.1100, subpart 3, item H. The 1986 public advisory committee reviewed but did not recommend changing subparts 7 or 8.

Subp. 8. **Hearing of a child age three or older.** The reasonableness for subpart 8 is given under subpart 7.

Subp. 9. **Development.** It is reasonable to require the Denver Prescreening Developmental Questionnaire (PDQ) and the Denver Developmental Screening Test (DDST) because these tests have proven to be valid and reliable means of detecting significant development problems in children (f4 and f5). Under Minnesota Rules, part 4615.1100, subpart 3, item G, the Department of Health also requires EPS clinics to use the PDQ and DDST. These tests require minimal time and expertise. It is reasonable to allow an alternative test because this provides flexibility to the screener while still guaranteeing reliability standards to ensure the instrument is appropriate for the purposes for which it is being used.

It is reasonable to specify developmental areas to be screened for children ages six through 20 years because there is no specific screening tool for this age group.

Subp. 10. **Sexual development.** This subpart is reasonable because it incorporates recommendations of the public advisory committee and staff of the Maternal and Child Health Unit of the Minnesota Department of Health. It is also reasonable because it is consistent with the Code of Federal Regulations, Title 42, sections 441.56(b)(1)(ii), and 441.56(b)(2).

Subp. 11. **Nutrition.** The reasonableness of requiring the use of the NCHS growth grids is explained in this statement of need and reasonableness under part 9505.1718, subpart 3.

It is reasonable to require that a child receive or be referred for nutrition counseling if subpart 3 indicates a risk condition because such counseling is consistent with the purpose of the EPSDT program as described under the Code of Federal Regulations, title 42, section 441.50, and with the "timeliness" provision of the Code of Federal Regulations, title 42, section 441.56(e) as those provisions relate to treatment.

Referral to a nutrition program is reasonable because such referrals are consistent with the requirements of the the Code of Federal Regulations, Title 42, section 441.61(c).

Subp. 12. **Immunizations.** This subpart is reasonable because the Recommended Immunization Schedule was developed by the Minnesota Department of Health and approved by the Minnesota Medical Association.

Subp. 13. **Laboratory tests.**

A. This item is reasonable because it is the recommendation of the Tuberculosis Control Program of the Minnesota Department of Health, the state agency responsible for the control and prevention of disease.

B. This item is reasonable because it is based on the Center for Disease Control's priority listing for lead screening, published in the Center's booklet, "Preventing Lead Poisoning in Young Children" (f6).

The suggested level of lead at which further testing should be done came from the same source. The Center for Disease Control is the Federal agency responsible for the control and prevention of disease.

C. and D. These items are reasonable because they were developed for the original rule in 1978 by a group of physicians on the EPSDT advisory committee and mailed for comment to all primary care physicians in Minnesota. The comments received were incorporated into the final standards. The policies under these items are the same as current part 9505.1550, subpart 14, items C and D. The 1986 public advisory committee reviewed but did not recommend changing these items.

E. This item is reasonable because it is the recommendation of the Human Genetics Unit of the Minnesota state Department of Health.

F. This item is reasonable because it was developed for the original rule in 1978 by a group of physicians on the EPSDT advisory committee and mailed for comment to all primary care physicians in Minnesota. The comments received were incorporated into the final standards. This item is consistent with the present part 9505.1718, subpart 14, item F. The 1986 public advisory committee reviewed but did not recommend changing this item.

Subp. 14. **Oral examination.** This subpart is reasonable because it was developed and recommended by representatives of the Minnesota Dental Association as meeting standards of professional dental care and oral hygiene. This subpart is consistent with the requirements of the Code of Federal Regulations, Title 42, sections 441.56(b)(1), (b)(2), and (c).

Subp. 15. **Schedule of age-related screening standards.** This subpart is necessary because the Code of Federal Regulations, Title 42, section 441.58 requires the state to develop a schedule for screening services "that meets reasonable standards of medical and dental practice determined by the agency after consultation with recognized medical and dental organizations involved in child health care" and that "specifies screening services applicable at each stage of the recipient's life . . ." The schedule of age-related screening standards is reasonable because it reflects contemporary standards of medical practice as indicated by physicians and nurses participating on the 1986 public advisory committee. Thus the requirement is consistent with the requirements of the Code of Federal Regulations, title 42, section 441.58.

9505.1724 PROVISION OF DIAGNOSIS AND TREATMENT.

This part is necessary and reasonable because eligibility to receive diagnosis and treatment services identified as needed by a screening is governed by parts 9505.0010 to 9505.0150 and eligibility to receive medical assistance payment for diagnosis and treatment services is governed by parts 9505.0170 to 9505.0475.

9505.1727 INFORMING.

This part is necessary to clarify the local agency's responsibility to inform recipients about the EPSDT program and its benefits in a timely manner. This part is reasonable because it is consistent with the Code of Federal Regulations, Title 42, section 441.56(a); section 441.56(d)(3), and 441.56(e).

It is necessary and reasonable to send a written notice on screening eligibility periodically to a child or parent who has been screened

because it is consistent with the Code of Federal Regulations, Title 42, sections 441.56(a)(4), 441.56(b)(1) and 441.58. It is necessary and reasonable to send a written notice annually to a child or parent who has never been screened because this is also consistent with the above cited regulations. It is also reasonable for the state to send the notices because the state has the computer capability to automatically generate the notices at the specified times.

9505.1730 ASSISTANCE WITH OBTAINING A SCREENING.

This part is necessary to specify responsibilities for helping a child obtain a screening that the state delegates to local agencies according to the Medical Assistance State Plan.

A. This item is consistent with the Code of Federal Regulations, Title 42, section 441.56(a)(2)(11).

B. Item B is reasonable because the Code of Federal Regulations, Title 42, section 441.62 requires a state to provide assistance with appointment scheduling and transportation. Item B is also reasonable because it can improve a recipient's ability to use EPSDT services. One of the reasons for initial implementation of the EPSDT program was the belief that individuals, and especially children, do not receive needed health care because the health care system is often inaccessible or confusing to an individual.

The requirement that items A and B be done within 10 days of receiving a request for screening from a child or parent of a child is consistent with the requirements of the Code of Federal Regulations, title 42, section 441.56(a)(4).

9505.1733 ASSISTANCE WITH OBTAINING DIAGNOSIS AND TREATMENT.

This part is necessary because it is consistent with the Code of Federal Regulations, Title 42, sections 441.50 and 441.62. This part is reasonable because screening is of little value if needed diagnosis and treatment are not received. It is reasonable for the state to require an EPSDT clinic to inform the parent or child of the offer of assistance because the EPSDT clinic has in-person contact with each child that the clinic screens. Using forms prescribed by the Department is reasonable because it enables the Department to administer the program in a uniform manner.

It is necessary and reasonable that the assistance be provided within ten days of a request for the assistance because this insures that diagnosis and treatment is provided according to the Code of Federal Regulations, title 42, section 441.56(a)(4).

9505.1736 SPECIAL NOTIFICATION REQUIREMENT.

This part is necessary because all eligible individuals have the right to be notified of their eligibility for EPSDT services. This part is consistent with the Code of Federal Regulations, Title 42, section 441.56(a)(3).

9505.1739 CHILDREN IN FOSTER CARE

Subpart 1. **Dependent or neglected state wards.** This subpart is necessary because the state, through local social service agencies, is responsible for the health care of children who are dependent or neglected state wards. It is reasonable for the state to require a local agency to provide EPSDT services for its dependents and state wards because this is consistent with the purposes of the EPSDT program. The exception, identical to that of the existing rule, is provided for cases in which EPSDT is inappropriate because other comparable health care services are provided or other circumstances make EPSDT unnecessary.

Subp. 2. **Other children in foster care.** This subpart is necessary to clarify that foster children who are eligible for Medical Assistance are also eligible for EPSDT services. Because foster children are not in the custody of their genetic or adoptive parents, it is necessary to establish special requirements to provide access to EPSDT services.

It is reasonable that the local agency consult with the genetic or adoptive parent and help the genetic or adoptive parent decide whether to accept EPSDT services, because this is consistent with the Code of Federal Regulations, title 42, section 441.56(a)(1). It is reasonable that the local agency decide whether to use EPSDT services for "other children in foster care" if the genetic or adoptive parent is not available to decide and if the local agency has responsibility for the child's welfare under Minnesota Rules, chapter 9560.

Subp. 3. **Assistance with appointment scheduling and transportation.** This subpart is necessary and reasonable to inform affected persons that the local agency must provide scheduling and transportation assistance for children in foster care and for dependent or neglected state wards just as it does for other eligible clients.

Subp. 4. **Notification.** This subpart is necessary to clarify that in the case of children in foster care, notification of eligibility to be screened the first time and of periodic rescreenings must be sent to the local agency. It is reasonable to notify the local agency because the local agency is responsible for the health care of the foster child.

9505.1742 DOCUMENTATION.

Documentation required under this part is necessary and reasonable because it is consistent with the Code of Federal Regulations, title 42, sections 431.15, 431.16, 431.17, and 441.56(d), and with Minnesota Statutes, section 256.01, subdivision 4(4), and section 256B.04, subdivision 2.

9505.1645 INTERAGENCY COORDINATION.

This part is necessary and reasonable because it is consistent with The Code of Federal Regulations, Title 42, section 441.61(c), which requires the state to make appropriate use of other agencies.

9505.1748 CONTRACTS FOR EPSDT ADMINISTRATIVE SERVICES.

Subpart 1. **Authority.** This subpart is necessary to authorize local agencies to contract with public health nursing services or community health clinics for EPSDT administrative services, and to clarify which administrative services may be provided under contract. It is reasonable for a local agency to contract with public health nursing services and community health clinics because the services and clinics have staff with the skills and experience needed to perform outreach and follow-up, and to maintain EPSDT program administrative documents. This subpart is also reasonable because it is consistent with the Code of Federal Regulations, Title 42, section 441.61(c).

Subp. 2. **Federal financial participation.** This subpart is necessary and reasonable to clarify the amount of federal reimbursement for contracts for administrative services if those services are performed by skilled professional medical personnel and their directly supporting staff.

Subp. 3. **State reimbursement.** This subpart is necessary and reasonable to clarify that the amount of state reimbursement for administrative contracts is according to Minnesota Statutes, section 256B.19, subdivision 1.

Subp. 4. **Approval.** This section is necessary to identify articles that EPSDT administrative contracts must contain to be approved by the Department. It is reasonable for the state to approve these contracts because the state is responsible for the administration of the EPSDT program under the Code of Federal Regulations, Title 42, section 441.55.

Items A to K are reasonable because they contain the information necessary to enable the department to determine whether the contracts meet the requirements of the Code of Federal Regulations, Title 42, section 441.50.

Item A is reasonable because it identifies the two parties of the contract.

Item B is reasonable because it helps the contracting parties understand their role and purpose in the program.

Item C is reasonable because it clarifies to the parties when their responsibilities begin and end.

Item D is reasonable because it authorizes the Department to establish the appropriateness of the costs in each county and provides statewide data on the costs of administrative contracts.

Item E is reasonable because it allows for contracts to be changed or terminated if the contract conditions change during the contract period.

Item F is reasonable because these contracts must be consistent with state and federal regulations.

Item G is reasonable because it is consistent with the Code of Federal Regulations, Title 42, sections 441.55 and 441.56(d).

Item H is reasonable because the Department must ensure that the administrative services contracted for and the agency contracted with meet state and federal regulations.

Item I is reasonable because skilled professional medical staff and their directly supporting staff qualify for enhanced federal financial participation under the Code of Federal Regulations, Title 42, sections 432.2 and 433.15(b)(5), and because the Department needs to know the qualifications of the staff involved in the contract to claim this higher reimbursement.

Item J is reasonable because it helps ensure that the contracts are implemented in a way that is consistent with the terms of the contract.

Item K is reasonable because the contract needs to be signed by appropriate individuals to be valid.


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EXPERT WITNESSES

The department will not present expert witnesses to testify concerning the provisions of these proposed rules on behalf of the department.

3-11-88
DATE


SANDRA S. GARDEBRING, Commissioner
Department of Human Services

APPENDIX A
1986 PUBLIC ADVISORY COMMITTEE

MEMBER

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Gwen Stallkamp, Freeborn County
Welfare Department

REPRESENTING

Minnesota Department of Health
Health Maintenance Organizations

Minnesota Department of Education
Clinic Providers
Child Net
Minnesota Department of Health
Clinic Providers

Community University Health
Care Center
Minnesota Department of Health
American Academy of Pediatrics,
Minnesota Chapter
Minnesota Dental Association
Developmental Disabilities Council
Minnesota Medical Association
Hennepin County EPSDT Program
Minnesota Nurses Association
Ramsey County Nursing Services
Ramsey County Child Health
Consortium
Minnesota Department of Education
Children's Defense Fund, Minnesota
Chapter
County Financial Workers

Minnesota Department of Health
Hennepin County EPSDT Program
County Social Service Directors