

This document is made available electronically by the Minnesota Legislative Reference Library as part of an ongoing digital archiving project. <http://www.leg.state.mn.us/lrl/sonar/sonar.asp>

IN THE MATTER OF THE PROPOSED STATEMENT OF NEED AND
AMENDMENT OF RULES OF THE REASONABLENESS
DEPARTMENT OF HUMAN SERVICES GOVERNING
ELIGIBILITY TO RECEIVE PAYMENT AS A
PROVIDER OF COMMUNITY HEALTH CLINIC
SERVICES IN THE MEDICAL ASSISTANCE
PROGRAM, MINNESOTA RULES,
PART 9505.0255, SUBPART 1, DEFINITION

INTRODUCTION

Minnesota Rules, parts 9505.0170 to 9505.0475 establish the standards to receive payment as a provider of health services to medical assistance recipients.

The medical assistance program in Minnesota is the joint federal-state program that implements the provisions of Title XIX of the Social Security Act by providing for the medical needs of low income or disabled persons and families of dependent children. (See United States Code, title 42, section 1396a.) Code of Federal Regulations, Title 42, section 431.10, (hereafter abbreviated as 42 CFR 431.10) requires a state to designate a single agency to supervise the administration of a state's medical assistance program. The Department of Human Services has been so designated in Minnesota Statutes, section 256B.04, subdivision 1. Furthermore, 42 CFR 431.10 requires the state agency so designated to make rules and regulations that it will follow in administering

the State Plan.

The State Plan is the comprehensive written commitment of the department to administer and supervise the medical assistance program according to federal regulations. Correspondingly, Minnesota Statutes, section 256B.04, subdivision 2 requires the Commissioner of Human Services to establish "uniform rules and regulations, not inconsistent with law" to ensure that the medical assistance program will be carried out in an efficient, economic, and impartial manner. Further justification for the rule is found in Minnesota Statutes, section 256B.04, subdivision 4 which states, in part, that the department shall cooperate with the federal government "in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program...". Thus authority for the rule is derived from both federal and state law.

Rules to administer Minnesota's medical assistance program are necessary because they set uniform standards which can be objectively applied. Furthermore, these rules inform the public and affected persons of the medical assistance requirements that a provider must meet to receive medical assistance payment for a health service to a recipient. The present rules establishing these requirements, parts 9505.0170 to 9505.0475, except for parts 9505.0323 and 9505.0335, became effective November 1, 1987. Minnesota Statutes, chapter 256B, establishes a statewide program of medical assistance and specifies in section 256B.0625 those mandatory and optional services that are eligible for medical

assistance payment in Minnesota.

As required in Minnesota Statutes, sections 256B.04, subdivisions 2 and 12, part 9505.0255 (which is included within parts 9505.0170 to 9505.0475) establishes limits on the types and frequency of health services that are eligible for medical assistance payment when provided to a recipient by a community health clinic.

The amendment of subpart 1 of part 9505.0255, Community Health Clinic Services, if adopted, will permit certain nonprofit corporations to provide community health clinic services without applying for and receiving tax exempt status as provided in Internal Revenue Code, section 501 (c)(3) as amended through October 4, 1976.

9505.0255 COMMUNITY HEALTH CLINIC SERVICES

Subpart 1. Definition. Minnesota Statutes, section 256B.0625, subdivision 4 specifies that nonprofit community health clinic services to recipients are eligible for medical assistance payment but does not define the term or the term "clinic". A definition is necessary to clarify its meaning and the meaning of the term "clinic". This subpart defines the term "community health clinic service" as a health service provided by or under the supervision of a physician in a clinic and specifies, in items A to D, four criteria that a clinic must meet to be a provider.

The second of these criteria, item B, requires the clinic to obtain tax exempt status as provided in the Internal Revenue Code, section 501 (c)(3). Under section 501 (c)(3) tax exempt status is available only to organizations that have validated their nonprofit nature. Minnesota Statutes, section 144.581 specifies that

certain organizations and the hospitals operated by them are of a nonprofit nature and thus are tax exempt under federal and state law. These entities include regional treatment centers and other institutions under the control of the commissioner and hospitals operated by county governments such as Hennepin County Medical Center. Because state law establishes their nonprofit nature, it would be duplicative and administratively inefficient to require the clinics associated with these entities to further validate their nonprofit nature by obtaining tax exempt status under federal law. The proposed amendment of item B will provide an alternate means for these entities to validate their non-profit nature. As a result, the medical assistance provider enrollment of community health clinics in hospitals owned by a governmental entity and in regional treatment centers and other facilities operated under the control of the commissioner will be accomplished in an administratively efficient manner and be eligible to receive medical assistance payments for the health services provided to recipients.

The expected clientele of the regional treatment centers consists of persons with developmental disabilities who live in state operated community facilities (SOCS) or private group homes in communities adjacent to the centers and some of whom formerly were residents of the regional treatment centers. These persons have health service needs that can only be met by staff trained and experienced in treating this type of client. A report prepared for the Department of Human Services, Ancillary Care Services for Residents of the SOCS Facility in August 1989, found that these

clients with developmental disabilities have extensive health service needs. Examples of their needed services are physical therapy, occupational therapy, speech-language treatment, psychological and behavior modification services, and dental care adapted to their special circumstances. These services often are not available in the communities where the persons with developmental disabilities live. To receive the necessary services from trained and experienced staff, SOCS residents have been returning to regional treatment centers on an outpatient basis. The present staff of the regional treatment centers who are trained and experienced have been providing the necessary services. However, the regional treatment centers have not been able to receive medical assistance or other third party payments for these services to persons who are not residents of the centers because the centers are not enrolled as a provider type recognized by medical assistance, Medicare, or the insurance industry.

Regional treatment centers are state operated hospitals providing care to persons with developmental disabilities, with mental illness, and with brain injuries. See Minnesota Statutes, sections 252.025 and 253.015. They are operated by the Department of Human Services. Under Minnesota Statutes, section 144.581, subdivision 1, the state agency operating such a hospital has the "authority and legal capacity of a nonprofit corporation under Minnesota Statutes, chapter 317...." A regional treatment center is operated by the state as a nonprofit entity. Thus a regional treatment center as an entity operated by a state agency that has nonprofit status established pursuant to Minnesota law clearly meets the test

required for tax exemption under Internal Revenue Code section 501 (c)(3). It is reasonable therefore to amend item B so that a hospital authority established pursuant to Minnesota Statutes, section 144.581 would be a criterion equivalent to tax exempt status under the Internal Revenue Code because such a criterion would eliminate unnecessary paperwork, reduce administrative costs associated with applying for tax exempt status, and facilitate the enrollment of regional treatment centers as medical assistance providers. Additionally, the enrollment would enable the state to receive federal financial participation and other third party payments in meeting the costs of services it is now providing to SOCS and private group home residents at state and county expense.

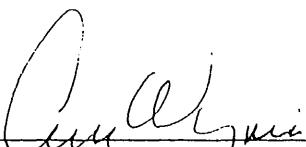
Expert Witnesses

In the event that a public hearing is held in regard to the proposed rule amendment, the Department does not plan to present expert witnesses from outside the Department to testify on behalf of the rule.

Small Business Considerations

This rule is exempt from the small business considerations in rulemaking under Minnesota Statutes, section 14.115, subdivision 7, paragraphs (b) and (c).

Date: July 13, 1990



ANN WYNIA
Commissioner of Human Services



STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3816

August 7, 1990

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

Dear Ms. Hruby:

As required by Minnesota Statutes, section 14.23, I forward a Statement of Need and Reasonableness relating to proposed amendments to permanent rules governing Eligibility to Receive Payment as a Provider of Community Health Clinic Services in the Medical Assistance Program, Minnesota Rules, part 9505.0255, subpart 1.

If you have any questions on the Statement of Need and Reasonableness, please do not hesitate to contact me at 297 4301.

Sincerely,

A handwritten signature in cursive script that reads "Eleanor Weber".

Eleanor Weber
Rules and Bulletins Division

Enclosure



AN EQUAL OPPORTUNITY EMPLOYER