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

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December 21, 1990

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 the proposed adoption of the rule relating to children in need of protection or services, Minnesota Rules, parts 9560.0410 to 9560.0485.

If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at (612) 297-4302.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie L. Schwartz".

Stephanie L. Schwartz
Rulemaker

Encl.



AN EQUAL OPPORTUNITY EMPLOYER

IN THE MATTER OF THE PROPOSED
ADOPTION OF DEPARTMENT OF HUMAN
SERVICES AMENDMENTS TO RULES
GOVERNING THE ADMINISTRATION OF
LOCAL AGENCY RESPONSIBILITIES
FOR CHILDREN UNDER STATE
GUARDIANSHIP WHO ARE IN NEED
OF PROTECTION OR SERVICES,
MINNESOTA RULES, PARTS 9560.0410
to 9560.0485

MINNESOTA DEPARTMENT
OF HUMAN SERVICES

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

The above-entitled rule amendments are authorized by Minnesota Statutes, sections 260.242 and 393.07. Minnesota Statutes, section 260.242 authorizes appointment of the commissioner of human services as guardian when parental rights have been terminated. It also establishes the responsibilities of all court-appointed guardians. Minnesota Statutes, section 393.07 assigns the commissioner of human services supervisory authority over the child public welfare program. This authority includes the responsibility to assure protection and care for dependent and neglected children. Counties are required by this section to supervise wards of the commissioner and act as the commissioner's agents in the adoptive placement and foster care placement of these wards and to comply with law and "with rules of the commissioner."

The proposed amendments incorporate changes in state law and clarify certain provisions that have been the source of some confusion in the past. The amendments include added definitions and language that brings the rule into conformity with the Minnesota unitary residence and financial responsibility act, Minnesota Statutes, chapter 256G.

The proposed rule amendments have been developed in consultation with an advisory committee composed of representatives from counties, child-placing agencies and advocacy organizations. This committee met two times to discuss various drafts of the proposed amendments. The language of the proposed rule reflects input received from the committee.

SPECIFIC RULE PROVISIONS

The above-entitled rules are affirmatively presented by the department in the following narrative in accordance with the provisions of the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Attorney General's Office.

9560.0410 SCOPE.

This part is amended by changing the phrase "dependent and neglected children" to "children in need of protection or services," an amendment necessary and reasonable to reflect the language used in Minnesota Statutes, section 260.015, subdivision 2a. This part is also amended by changing the phrase "local social service agency" to the more abbreviated "local agency," a change necessary and reasonable to reflect the terminology used in Minnesota Statutes, section 256G.02, subdivision 7.

9560.0420 PURPOSE.

This part is amended in the same way and for the same reason as the change in part 9560.0410.

9560.0430 DEFINITIONS.

Subpart 1. Applicability.

This subpart is necessary to establish that the terms used in the rule have the meanings assigned to them in this part. The subpart is reasonable because it applies the defined terms to all the parts of the rule. Terms used in a manner consistent with common usage in the child welfare field are not defined unless a definition is necessary to clarify the rule.

Subpart 2. Commissioner.

This definition is necessary because the term "commissioner" is used throughout the rule in reference to the individual who serves as guardian of state wards. The definition is reasonable because it is consistent with the definitions of "commissioner" in Minnesota Statutes, sections 257.351, subdivision 3a and 259.21, subdivision 5. It is further reasonable to include "designee" within this definition because one individual cannot perform all the tasks for which the commissioner is responsible.

Subpart 3. County of residence.

This subpart defines "county of residence" as the county in which the child is physically present in the home of a related individual, a residential program or an adoptive placement. The definition of "county of residence" is necessary because the term is used throughout the rule as the basis for allocating guardianship duties among the counties. It is reasonable because it identifies a child's county of residence as the county in which the child lives, ensuring that responsibility for the child rests with the county agency in which the child lives. Close physical proximity to the child enables the county agency to effectively

monitor and protect the child on behalf of the commissioner as guardian.

It is reasonable to specify relatives, residential programs and adoptive placements as the living arrangements that establish county residency for a child because these are the three possible living situations for a child under state guardianship. When the parents of a child die or lose their parental rights, the child will live with relatives as defined in Minnesota Statutes, section 245A.02, subdivision 13, be placed in foster care or another type of residential program defined in Minnesota Statutes, section 245A.02, subdivision 14, or be placed for adoption.

Subpart 4. County of financial responsibility.

This definition is necessary because the term is used throughout the rule to delineate that county which is financially responsible for a child under state guardianship. The definition is reasonable because it defines financial responsibility by reference to the Minnesota unitary residence and financial responsibility act, Minnesota Statutes, chapter 256G.

Subpart 5. Indian child.

This definition is necessary because the term is used throughout the rule to describe a person under age 18 who is a member of or eligible for membership in an American Indian tribe. The definition is reasonable because it is consistent with the use of "Indian child" in Minnesota Statutes, section 257.351, subdivision 6.

Subpart 6. Local agency.

This definition is necessary because the term is used throughout the rule to delineate the political subdivisions responsible for state wards. The definition is reasonable because it is consistent with the definition of "local agency" in Minnesota Statutes, section 256G.02, subdivision 7.

Subpart 7. Licensed child-placing agency.

This definition is necessary because the term is used throughout the rule in reference to private agencies licensed by the commissioner to place children in foster care or for adoption. Licensed child-placing agencies may, under certain circumstances, provide services to state wards on behalf of the commissioner. The definition is reasonable because it is consistent with definitions of the term in Minnesota Statutes, sections 245A.02, subdivision 12; 257.351, subdivision 12 and 259.21, subdivision 6.

Subpart 8. Relative.

This definition is necessary because the term is used in part 9560.0440, subpart 3, item C when referencing the social service plan that must establish a "permanent family relationship" for a ward. The social service plan must have adoption as its goal for a child under age 14, unless there is established a permanent family relationship between a child and the child's relative. The definition is reasonable because it is consistent with definitions of the term in Minnesota Statutes, sections 245A.02, subdivision 13 and 260.015, subdivision 13.

9560.0440 GENERAL RESPONSIBILITIES.

Subpart 1. Financial responsibility.

This subpart requires the county of financial responsibility to provide financial assistance and to pay the cost of services provided to a child under state guardianship. The use of the phrase "county of financial responsibility" is necessary and reasonable because it is the phrase used in Minnesota Statutes, chapter 256G, the Minnesota unitary residence and financial responsibility act.

This subpart specifically requires the county of financial responsibility to pay the cost of services provided to a child under state guardianship. This language is necessary to ensure that a county's financial responsibility for state wards is not limited to cash assistance, but can include social work or psychiatric services, and/or clerical and administrative costs relating to the child's guardianship. The addition is reasonable because it is consistent with current practice and with Minnesota Statutes, section 256G.01, subdivision 3.

The change from "local social service agency" to "local agency" is done for same reason as discussed in part 9560.0430, subpart 6.

Subpart 2. Notice.

This subpart requires the local agency in the child's county of residence to notify the commissioner when a child is placed under state guardianship and, when an Indian child is eligible for tribal membership, to the appropriate tribe. The notice to the commissioner must be on a form prescribed by the commissioner and must be provided to the commissioner within 30 days after the child is placed under state guardianship.

This subpart is necessary because the county of residence is most likely to be aware of the child's circumstances, be responsible for the child's care and be in the best position to know whether a child is placed under state guardianship. The notice requirement

is reasonable because the county of residence is responsible for establishing the types and level of social services provided to a state ward pursuant to Minnesota Statutes, section 256G.07, subdivision 4, for carrying out the guardianship duties delegated by the commissioner in accordance with Minnesota Statutes, section 260.242, subdivision 2 and for ensuring compliance with both the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq., Pub.L. 95-608 and with Minnesota Statutes, section 257.352.

The requirement that the notice to the commissioner be provided on the form prescribed by the commissioner is necessary to ensure that the commissioner receives all the information needed to assume guardianship of the child. The requirement is reasonable because it conforms with Minnesota Statutes, section 256.01, subdivision 4, clause 4 which gives the commissioner the authority to prescribe the form of applications, reports and affidavits. Because the commissioner has no similar authority to prescribe the form of the notice to the appropriate tribe, the local agency may notify the appropriate tribe by letter.

The change from "local social service agency" to "local agency" is done for the same reason as discussed in part 9650.0430, subpart 6, above.

Subpart 3. Social service plan.

The revisions to this subpart are necessary to make it consistent with state statute. Language is deleted that assigns social service planning responsibilities to the county of financial responsibility, and language is added to make this subpart consistent with state statute which assigns planning to the county of residence. Specifically, item E makes these changes. Other changes are relatively minor and do not alter the basic requirement under this subpart that counties develop social service plans within 90 days for state wards. This time frame is reasonable because three months is a large enough block of time for a social worker to develop a social service plan.

The changes in item A are reasonable because a child may not be old enough or competent to participate in the development of his or her social service plan. The department believes a child under seven years of age, or a child seven years of age incapable of articulating his or her thoughts is not old enough or competent enough to adequately participate in the creation or review of a social service plan. Therefore, the participation of a child's local agency as representative of the commissioner is a reasonable means of ensuring that a child's interests are represented in the development of the service plan. This is consistent with the requirements in Minnesota Rules, part 9550.0090.

Item B is amended with the addition of a reference to the statutory provisions requiring racial, ethnic and religious preferences in the placement of children as well as tribal membership status for Indian children. This addition is a reasonable means of ensuring that these statutory requirements are implemented with respect to children under state guardianship.

This item is also amended to require the social service plan to preserve the sibling relationship, where feasible. A child under guardianship often has siblings. The amendment is necessary because regardless of the type of placement that will occur, the commissioner and the commissioner's agents have a responsibility to maintain the sibling group where feasible. Part of this responsibility is found in part 9560.0450, subpart 2, item G (only the commissioner can issue consent to separate siblings after the date of appointment of the commissioner as guardian).

Further, department experience shows that a sibling relationship often is stronger than a parent-child relationship. When siblings are placed under state guardianship, the bond between them is strengthened, and a traumatic time is made less threatening. Department experience also shows that preserving the family structure whenever possible will mean fewer requests for postguardianship services. Therefore, requiring the social service plan to preserve the sibling relationship where feasible is a reasonable method to carry out the department's responsibility to protect children under guardianship.

Item C is amended with the addition of language requiring the social service plan to provide for the adoptive placement of a child under 14 years of age unless there is established a permanent family relationship between the child and the child's relative, in which case adoption must be encouraged. This amendment is necessary because state law provides for the goal of adoption except in specific circumstances. This requirement is reasonable because it incorporates Minnesota Statutes, section 259.45, requiring the commissioner to seek an adoptive placement for a child under 14 years of age.

This item is also amended to provide that a child 14 years of age or older shall receive counseling regarding adoption and other available permanent placement options. If the child chooses not to be placed for adoption, the local agency must notify the commissioner. This is necessary and reasonable to comply with Minnesota Statutes, section 259.45, subdivision 5.

Item D currently provides that a plan which permits a child to "assume responsibility to meet his own needs without agency guidance shall not preclude agency responsibility to be aware of the child's needs and provide for them if necessary." This item is amended to refer to plans which permit a child to "live independently" without relieving the agency of its responsibilities

to the ward. This change is reasonable because it more accurately reflects the living situations of children who may not be living with foster parents or in adoptive homes but who are still wards of the commissioner under the care and supervision of the local agency.

Item E is amended to replace the term "private agency" with the term "licensed child-placing" agency. This change is necessary and reasonable because Minnesota Statutes, sections 260.015, subdivision 3 and 260.191, subdivision 1 use the term "child-placing agency" in reference to agencies with the delegated authority to place and supervise children under state guardianship.

Child-placing agencies are defined in state statute as agencies licensed by the state. The broader term "private agency" encompasses agencies which are not authorized to place or supervise children, and therefore it is necessary to delete its reference.

Item E is also amended to place responsibility for the child's social service plan and goals on the county of residence rather than the county of financial responsibility. Although the county of financial responsibility and the county of residence will generally be the same, the change is needed to address those instances where they are not. This is necessary to make this subpart consistent with the Minnesota unitary residence and financial responsibility act, Minnesota Statutes, section 256G.07, subdivision 4, which assigns social service responsibilities to the county of residence. Further, Minnesota Statutes, section 260.242, subdivision 2 regarding guardianship responsibilities permits the commissioner to delegate authority to act in decisions affecting state wards to the welfare board of the county in which the ward resides.

Subpart 3a. Review of social service plan.

This new subpart requires a quick review of a child's social service plan by the local agency in the child's new county of residence. This is reasonable and necessary because time is often of the essence particularly for a developmentally disabled or handicapped child, or a child who is the victim of molestation. Subpart 3a prohibits the new local agency from changing a plan developed by the child's previous county of residence before notification of the local agency in the child's previous county of residence and, if necessary, the county of financial responsibility. If, after 45 days, there is no consensus, the local agency may change the plan, but only with written approval from the commissioner.

This language is reasonable because two months should be enough time to decide on the proper social service plan, particularly if the child is in need of special services or protection. This language is also reasonable because it ensures that the plan is not

altered contrary to the best interests of the child. The change is also reasonable because, as the child's guardian, the commissioner is ultimately responsible for the well-being of the child. This language is necessary because Minnesota Statutes, section 260.242, subdivision 2 states that any county action with respect to a state ward taken on behalf of the commissioner is subject to the commissioner's final authority. This change is also consistent with the community social services act language, Minnesota Statutes, section 256E.05, subdivision 2, which requires commissioner approval of community social service plans and plan amendments.

Subpart 4. Change in child's county of residence.

This subpart requires the local agency in the child's current county of residence to notify the new county's local agency and, if applicable, the American Indian child's tribe, of a change in the child's county of residence. This amendment is necessary to ensure that guardianship and social service responsibilities are assumed by a child's new county of residence. A child's current county of residence is the county responsible for the child, putting the county in the best position to know if a child has relocated. This amendment is necessary to conform to Minnesota Statutes, chapter 256G.

This subpart is also amended to require the new county of residence to provide the county of financial responsibility with reports the county of financial responsibility requests concerning service expenditures for the child. This is necessary because the new county of residence would not be assuming financial responsibility for a child in "excluded time" status, defined in Minnesota Statutes, section 256G.02, subdivision 6 as time spent in, among other things, a foster home. It is reasonable to make sure that the county of financial responsibility is provided with information needed to meet and evaluate its financial obligations.

Subpart 5. Appointment of guardian ad litem.

This subpart is amended by placing responsibility for the appointment of a guardian ad litem on the county of residence rather than the county of financial responsibility.

The change assigning responsibility for appointments under this subpart to the county of residence is necessary and reasonable because the county of residence is the county to which the commissioner may delegate the department's guardianship responsibilities pursuant to Minnesota Statutes, section 260.242, subdivision 2.

Subpart 1. Delegated consents.

The changes to items B, C, D, I, J, P and Q are necessary to clarify the scope of consents delegated to counties by the commissioner. The clarifications are reasonable because they are consistent with current agency practice and are supported by the advisory committee. The delegation of these consents is also reasonable because delegation is within the commissioner's authority under Minnesota Statutes, section 260.242, subdivision 2, paragraph (b).

Item C contains the language from deleted (old) item J, except for the nondelegated consent in subpart 2, item H.

Item D contains the language from deleted (old) item K, with the addition of language currently used by the department.

The new language in item F is necessary to comply with current use of "regional treatment center," one of the examples of a state facility in Minnesota Statutes, section 246.50, subdivision 3.

The addition of item H is necessary to provide wards with the opportunity to take trips of more than 30 days but less than 90 days without the excessive delay entailed in obtaining consent directly from the commissioner. This time period will encompass most summer vacations and caregiver's trips out-of-state. If a trip lasts 90 days or longer, the department will look into a more permanent living arrangement as well as a child's need for services. In sum, up to 89 days is a workable maximum time frame to delegate department consent; after three months, the commissioner will be more involved in ensuring services for the child. This change is reasonable because it is supported by the advisory committee and is within the commissioner's delegation authority under Minnesota Statutes, section 260.242, subdivision 2, paragraph (b).

Item I contains the language from deleted (old) item O. Item J contains the deleted language from item E, with the addition of "driver's permit." Item K contains the language from deleted (old) item P. Item L contains the deleted language from item C.

The reference to abortion (old item M) is deleted, because it is a surgical procedure covered under new item M. New item M is necessary and reasonable because it is a consent delegated to the local agency by the commissioner pursuant to Minnesota Statutes, section 260.242, subdivision 2, paragraph (b).

Item N contains the deleted language from item D. Item O contains the deleted language from item F. Item P is expanded to include the current statutory and policy references to tuition waivers.

Subpart 2. Nondelegated consents.

The change from "local social service agency" to "local agency" is done for the same reason as discussed in part 9560.0430, subpart 6.

The language change to item B is necessary to provide clarity. "Exportation" is jargon. The new language clears up what is meant by "exportation": taking or sending a child out of Minnesota for the purpose of placing a child in foster care or an adoptive home. See Minnesota Statutes, section 257.06.

The amendment to item C is necessary to provide clarity and provide that the commissioner can ensure the proper services for the child. As discussed in subpart 1, item H, travel for 90 days or more does not encompass most summer vacations and is not a workable time frame to delegate department consent. The change is reasonable because it is consistent with the commissioner's delegation authority under Minnesota Statutes, section 260.242, subdivision 2, paragraph (b). The amendment is also necessary and reasonable because it ensures compliance with Minnesota Statutes, section 257.06 which prohibits anyone other than a parent or guardian from taking a child out of state for purposes of foster care placement without first obtaining the approval of the commissioner.

The new language in item E is necessary to comply with current use of "regional treatment center," one of the examples of a state facility as defined in Minnesota Statutes, section 246.50, subdivision 3.

The amendment to item G is necessary to remove redundant language. Subpart 2 lists nondelegated consents, meaning they can be issued only by the commissioner. For issuance to take place, the commissioner would already be appointed guardian. Therefore, language stating that separation of siblings may take place only "after the appointment of the commissioner of human services as guardian" is redundant.

Item H (requests that the child not be resuscitated or intubated) is necessary because this issue requires review of life threatening conditions. Including this item in this subpart ensures that consents to requests for nonresuscitation testing will not be delegated as are consents for other medical treatment under subpart 1, item C. This item is reasonable because it is consistent with Minnesota Statutes, section 260.242, subdivision 2 which gives the commissioner discretion to determine which guardianship duties will be delegated to counties. This item was supported by the advisory committee and is consistent with current department practice.

9560.0460 DISPOSITION OF SOCIAL WELFARE FUND.

The amendments to this part are necessary to ensure that money and funds intended for a state ward are managed in accordance with state law. The amendments are reasonable because they incorporate the relevant statutory provisions that govern county dispensation of benefits intended for state wards.

9560.0470 STATE GUARDIANSHIP ASSISTANCE UP TO AGE 21.

The amendments further define the assistance wards may receive. They are necessary to ensure that the local agency in the child's county of residence provides social services and access to financial assistance to wards who have reached age 16 and, in some instances, to wards who have reached the age of majority. The amendments are reasonable because they are consistent with federal law as provided in 42 U.S.C. 677 regarding client services toward independent living skills. This federal statute lists the independent living initiative programs states may establish; such programs may include initiatives providing counseling, coordinating services, establishing outreach programs, and enabling participants to seek a high school diploma or its equivalent or to take part in vocational training. The amendments are also reasonable because they are consistent with Minnesota Statutes, section 256E.08, subdivision 1, clause (4), which establishes the responsibility of county welfare boards and Minnesota Statutes, section 260.40, which establishes 21 years of age as the age of majority for children under state guardianship.

It is also reasonable to give the child adequate notice, six months before the child reaches age 18, of his or her right to request the continuation of social services and access to financial assistance up to age 21.

9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.

The addition of this part is necessary to ensure that children placed under the guardianship of the commissioner receive the same services toward permanent placement as other children who reside in out-of-home care under agency supervision due to voluntary placement agreements or court custody orders.

The provisions of this part are reasonable because they are based upon the statutory requirements of Minnesota Statutes, sections 257.071, subdivision 2 and 260.242, subdivision 2, paragraph (d). These statutes, in turn, are based upon the federal mandates found in the Social Security Act, Section 471(a)(14), (15) and (16).

9560.0480 GUARDIANSHIP RECORDS.

Subpart 1. Content.

This subpart is necessary to ensure that the agency maintains a service record of its services while the child is under the commissioner's guardianship as required by Minnesota Statutes, section 257.01. By maintaining a record, the local agency will be able to help a former ward who requires postguardianship services or a former ward who requests needed family and medical history and assistance in locating family members. This subpart is reasonable because often the local agency is the only resource for a former ward and because maintaining records is administratively efficient.

Subpart 2. Retention.

This subpart requires permanent retention of the guardianship records. Former wards who grew up separated from birth siblings were assured by the agency that they would receive assistance after age 18 to locate their siblings. Therefore, it is necessary to enable the local agency to respond to requests from former wards or, in the event of death, next of kin. This subpart is reasonable because many requests are made years after the records are closed, sometimes after the death of the former ward, and because retention of the data will be done to ensure privacy. This subpart is based upon Minnesota Statutes, section 259.46, subdivision 3, which requires that all adoption records be retained permanently to ensure confidentiality.

Subpart 3. Use of information.

This subpart is necessary to clarify that unless state law requires a different classification, information on a child is private data subject to the provisions of the Minnesota government data practices act, Minnesota Statutes, chapter 13. This subpart is reasonable because it provides the agency in the child's county of residence with direction on how to disseminate information on a former ward under Minnesota Statutes, sections 13.01 et. seq. and in situations where the child was adopted, under Minnesota Statutes, section 259.46, subdivision 1.

9560.0485 POSTGUARDIANSHIP SERVICES.

Subpart 1. Postguardianship assistance.

This subpart is added because former wards may request postguardianship services after they reach 21 years of age. The need for postguardianship services has been shown over the past 20 years: Each month, up to five or more former wards request the commissioner or local agency to provide background and health history from the local agency record, as well as assistance in

locating birth relatives. The needs of former wards, then, are similar to those of adopted persons who are able to receive postadoption services under Minnesota Statutes, sections 259.47 and 259.49. The department believes it is good public policy to supply services to former wards in the same manner as is provided to adopted persons. In order to serve these former wards, it is necessary to provide for postguardianship services.

When the person was a ward, the local agency acted for the commissioner by providing services as required by Minnesota Statutes, sections 256E.03, subdivision 2, paragraph (a), clause (2) and 393.07, subdivision 2. Additionally, the local agency may have provided services to "other groups of persons" in need of social services pursuant to Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a), clause (9). The local agency was also required to maintain records in accordance with Minnesota Statutes, section 257.01 which contain information about the birth parents and "further demographic and other information as is required by the commissioner of human services." The commissioner also has the authority "to adopt and enforce rules ... governing the custody, use and preservation of ... child welfare records, files, and communications" pursuant to Minnesota Statutes, section 393.07, subdivision 4. Because services were provided to the ward by the local agency, because important records were maintained by the local agency, and because the requests and needs of former wards are similar to those of adopted persons who can receive services under Minnesota Statutes, sections 259.47 and 259.49, it is reasonable to require local agencies to provide postguardianship services when so requested in writing.

Subpart 2. Documentation of postguardianship service.

As noted in subpart 1, it is not unusual for a former ward to request additional postguardianship services over a span of years. If services are provided, it is reasonable to require documentation in the guardianship record of the services provided. This is especially true because staff changes and potential client recontacts are likely to occur. This requirement is necessary to ensure that the information is available for the delivery of future services.

Subpart 3. Reimbursement.

Neither state nor county governments will cover the cost of postguardianship services. As noted above in part 9560.0485, subpart 1, services may include providing background and health histories and providing help in locating birth relatives, both of which may require photocopying and other administrative details. If a former ward is entitled to receive postguardianship services from a local agency, it may become necessary for the local agency to cover the costs of providing services. Seeking "reasonable" reimbursement from the former ward based on the former ward's


ability to pay for the cost of providing services and for recovery of administrative costs is reasonable. While the amount varies from agency to agency, reimbursement covers an agency's cost per hour for service and administration. The agency can charge a flat fee, a sliding fee scale or waive reimbursement costs.

This subpart is also reasonable as it is based in part on Minnesota Statutes, sections 256E.08, subdivision 6 (the county board can establish a fee schedule to be charged to persons receiving social services); 259.47, subdivision 5 (the commissioner, local agencies and licensed child-placing agencies may require "**a reasonable expense reimbursement**" for providing postadoption services) (emphasis added); and 259.49, subdivision 2 (the commissioner, local agencies and licensed child-placing agencies may "**charge a reasonable fee** to the adopted person for the cost of making a search" of the original birth certificate) (emphasis added).

Expert Witnesses/Small Business

If this rule is heard in public hearing, the Department does not intend to have outside expert witnesses testify on its behalf. The proposed rule amendments do not affect small businesses as defined in Minnesota Statutes, section 14.115.

Dated: 12-12-90



ANN WYNIA
Commissioner