

**STATE OF MINNESOTA
DEPARTMENT OF HEALTH**

**IN THE MATTER OF THE
PROPOSED ADOPTION OF AMENDMENTS TO
RULES OF THE
DEPARTMENT OF HEALTH
RELATING TO FAMILY PLANNING
SPECIAL PROJECT GRANTS,
PARTS 4700.1900 TO 4700.2550**

**STATEMENT OF NEED
AND
REASONABLENESS**

STATUTORY AUTHORITIES

The Minnesota Commissioner of Health (hereinafter "commissioner"), pursuant to Minnesota Statutes, section 14.131 through 14.23 presents facts establishing the need for and reasonableness of the proposed amendments to the following rules relating to Family Planning Special Project grants: Minnesota Rules, parts 4700.1900, 4700.2000, 4700.2100, 4700.2300, 4700.2400, 4700.2500, 4700.2550.

The statutory authority of the commissioner to adopt amendments to the rules related to Family Planning Special Project grants is found in Minnesota Statutes, sections 144.05, 144.12, and 145.925. Section 145.925, contains a specific grant of authority to the commissioner to "promulgate rules for approval of plans and budgets

of prospective grant applicants, for the submission of annual financial and statistical reports, and the maintenance of statements of source and application of funds by grant recipients."

COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS

To prepare the proposed amendments the Department:

- (1) followed the procedures mandated by the Minnesota Administrative Procedures Act and the rules of the State of Minnesota's Office of Administrative Hearings;
- (2) published a notice of intent to solicit outside opinion concerning the proposed amendments in the State Register on Monday September 10, 1990;
- (3) established a work group of the Maternal and Child Health Advisory Task Force to examine the Family Planning Special Project grant program;
- (4) solicited written input from approximately 150 individuals and organizations who were Family Planning Special Project applicants or had other interests in family planning programs, and then reviewed the 18 comments that were submitted;
- (5) met with 12 individuals to discuss concerns about the existing rules and grant program.

As of March 1, 1991 four individuals submitted written comments in response to the notice of intent to solicit outside opinion concerning the proposed amendments. The written submissions will

be made part of the rule making record pursuant to Minnesota Statutes, section 14.10. These comments were reviewed and considered by the Department when it prepared the proposed amendments.

A notice of intent to adopt the rules without a public hearing, a notice of intent to adopt the rules with a public hearing if 25 or more persons request a hearing, and a notice of intent to cancel a hearing if fewer than 25 persons request a hearing will be published in the State Register. Drafts of the proposed amendments will be provided to affected parties, other interested individuals and organizations, and to each person requesting a copy.

IMPACT OF PROPOSED AMENDMENTS ON SMALL BUSINESS

State agencies are required by Minnesota Statutes, section 14.115, subdivision 2, to consider ways to reduce the impact of rules on small businesses and to discuss those ways in the statement of need and reasonableness. Minnesota Statutes, section 145.925 gives authority to the commissioner of health to make Family Planning Special Project grants to public agencies and nonprofit corporations. Because the adoption of these amendments will affect small businesses, the Department considered their impact on small businesses.

The Department reviewed its compliance and reporting requirements. These rules are designed to help small businesses by providing

financial support to agencies while keeping reporting requirements at the minimum level necessary to assure the justifiable use of public dollars. Deadlines for reporting requirements were established with consideration that data collection by small businesses may take longer. Therefore, three months is allowed after the end of the reporting period for completion of the report. The minimum standard requirements stated in rule are those generally accepted by the public health community and thus must be applied to all applicant agencies equally. Because the Department elicits information from applicants that will be used to make appropriate funding judgements as well as determine program effectiveness, the same information is required of all applicants regardless of the type of agency. Without receiving the same information from all agencies, small businesses would be at a disadvantage in that the Department would not have the information necessary to make an informed judgement. Thus, if the rules were different for small businesses, the Department would not be able to make a fair and equitable decision as to which agencies should receive these funds.

After review, it was concluded that the proposed rules will have no negative impact on small businesses. Many of the changes proposed will simplify the information that needs to be provided by the applicant. Others are to clarify the intent of the rules.

STATEMENT OF NEED

The commissioner of health has been authorized by State statutes to, "...make special grants to cities, counties, groups of cities or counties, or nonprofit corporations to provide pre-pregnancy family planning services." Minnesota Statutes, section 145.925 subdivision 1.

To effectively administer such a program at the State level, the commissioner has also been authorized to "...promulgate rules for approval of plans and budgets of prospective grant recipients, for the submission of annual financial and statistical reports, and the maintenance of statements of source and application of funds by grant recipients." (Id. at subdivision 5.)

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The commissioner has adopted rules for family planning grants. These permanent rules have been effective since 1979 and were amended in 1988. The rules have served a vital function as a mechanism for administering family planning programs. However, after working with these rules, the Department has, with public input, identified several measures to improve the rules, thus making the program more effectively and efficiently administered.

Several of the proposed rule amendments are necessary to clarify the intended meaning of the current rule. One amendment revises the criteria for award of funds. This will lead to a better understanding of the intended use of these funds. Several of the

amendments revise the contingency funding and allocation scheme to allow for a more equitable and effective allocation of limited grant funds. Several other changes are administrative in that they relate to changes in the rules they reference.

The need for each specific amendment is addressed in the amendment by amendment justification.

GENERAL STATEMENT OF REASONABLENESS

The proposed amendments to rules related to the Family Planning Special Project grants program are intended to improve its quality and effectiveness.

Several amendments serve to clarify the meaning in the current rule, and for this reason improve the rule. Other amendments are intended to ensure that limited grant funds are spent in the most effective manner and for the best interests of the public pursuant to the responsibility delegated the commissioner under the enabling statute. Still other amendments are administrative in nature and represent no substantive change to the rule.

For the above-listed considerations, these rule amendments are reasonable. The amendment by amendment justification which follows will further provide a basis for a determination of reasonableness.

AMENDMENT BY AMENDMENT JUSTIFICATION

Part 4700.1900 describes the purpose, scope and applicability of the rules related to Family Planning Special Project grants. It is amended in two respects. First, changing the citation to these rules is necessary because part 4700.2550 is being repealed. Second, the amendment proposes to delete, because it is no longer needed, a cross reference to Community Health Services rules which address the administration and distribution of Department grants. A series of State statutory and policy decisions were made in the early 1980's establishing uniform administrative procedures for all state grants. The Department now follows these Statewide uniform contracting procedures for all its special project grants including Family Planning Special Project grants. Accordingly, the specific cross reference to CHS rules is no longer needed and the Department will soon begin the process of repealing parts 4700.0100-4700.1800.

Part 4700.2000 Subp. 1. has been added to explain the purpose of the definitions section.

Part 4700.2000 Subp. 2. adds and defines the term "approvable application" to facilitate a better understanding of the use of this term within the rules. With this understanding, applicant agencies can more knowledgeably assess the criteria used to determine if their application is eligible to be approved for

Family Planning Special Project funds. It also helps to clarify that being eligible to receive funds does not mean that the agency will actually receive funding or, if it will, how much.

Part 4700.2000 Subp. 3. adds and defines the term "community health board" to facilitate a better understanding of the use of the term within the rules. It adopts the definition for the term found in Minnesota Statutes, section 145A.02, subd. 5.

Part 4700.2000 Subp. 4. adds and defines the term "current award" to facilitate a better understanding of the use of this term within the rules. With this understanding, applicant agencies, other than new applicants, can more knowledgeably assess the amount of Family Planning Special Project funds upon which subsequent funding requests may be based. This is needed because agencies apply for and are awarded funds for two calendar year periods. However, for many agencies, the amount requested for the second year differs from that of the first. To promote funding stability, subsequent funding requests are thus to be based upon the second calendar year of the cycle which immediately precedes the year for which funds are requested.

Part 4700.2000 Subp. 5. adds and defines the term "current recipient" to facilitate a better understanding of the use of this term within the rules. With this understanding, applicant agencies can more knowledgeably determine the amount of Family Planning

Special Project funds which they may request. Agencies which previously received Family Planning Special Project funds, but not in the year immediately preceding the one for which a new grant of Family Planning Special Project funds is requested, are not defined as current recipients and thus will be considered a "new applicant." See part 4700.2000, subp. 11, for the definition of "new applicant." An agency receiving Family Planning Special Project funds in the cycle immediately preceding the one for which a new grant of Family Planning Special Project funds is requested will be considered a "current recipient."

Part 4700.2000. Subp. 9. This is an editorial change which deletes the citation to the most current issue of the Federal Register which contains the official income poverty guidelines. Because the guidelines are revised annually, it is not feasible for the Department to amend this rule in order to have the accurate citation to the Federal Register. This citation is not necessary because the rule informs individuals as to how they may obtain the most current guideline.

Part 4700.2000 Subp. 11. adds and defines the term "new applicant" to facilitate better use of this term within the rules. It applies to agencies which either have never applied for Family Planning Special Project funds, as well as those which were previous recipients, but not for the year immediately preceding the one for which a new grant is requested. With this understanding, applicant

agencies can more knowledgeably assess the amount of Family Planning Special Project funds which they may request. This term, and "current recipient" which specifies those agencies funded in the year immediately preceding the one for which a new grant of Family Planning Special Project funds is requested, identifies the two classes of applicants for Family Planning Special Project funds.

Part 4700.2000 Subp. 14. adds and defines the term "region" to facilitate a better understanding of the use of this term within the rules. Because the proposed rule amendments establish a new regional funding formula, a clear understanding of the use of the term "region" is essential to their interpretation. The proposed regional boundaries are those used to designate membership on the State Community Health Advisory Committee (SCHSAC) executive committee. (See Minnesota Statutes, section 145A.10, subd. 10)

These were chosen because they divide the state in a manner that assures that the community health board is self-contained within a single region. This is important because as defined in the Local Public Health Act, Minn. Chapter 145A, the community health board is responsible for the coordination of public health services in Minnesota and thus it would not be practical to administer a program that would place a multi-county community health board in two different regions. Also, these regions are known and generally accepted by many of the local agencies which participate in the Department's special projects grant program. Application of the

allocation formula to smaller geographic areas was considered, but rejected because the funding level thus available to many less populous areas of the state would be too small to support an adequate program.

Part 4700.2100 C corrects a typographical error in numbering.

Part 4700.2300 Subp. 1. deletes the word "awarded" and replaces it with "eligible for award." This change is necessary to be consistent with part 4700.2420, because not all applications which meet the requirements of the law and rules will be awarded funds if the amount of funding requested exceeds the amount available. The cross reference to part 4700.0500 and part 4700.0900 is repealed to be consistent with the amendment of part 4700.1900, justified previously in this document.

Part 4700.2300 Subp. 2. is to be deleted so that absolute priority for Family Planning Special Project funding will no longer be accorded to applicants proposing to provide all six of the family planning components specified in Minn. Rules, part 4700.2210 in counties with no other publicly subsidized family planning services. When the rule was originally promulgated, other public funding sources for family planning services were not readily available. Since then, other sources have become available and are being allocated in much of the state to support outreach, counseling, public education and other family planning service

components. Also, because it is desirable to promote development of all funding sources in every community, and because the Family Planning Special Project grant funds have been limited, it is unwise to continue to assure absolute funding priority to counties using only this single funding source for their program.

Part 4700.2300 Subp. 3. A. deletes a reference to the CHS rules to be consistent with the amendment of part 4700.1900, justified previously in this document. The deleted reference, part 4700.1100 C. and E., stated that the commissioner shall give consideration to the following criteria in determining which activities shall receive funds:

"C. Evidence that the proposed activity will positively affect identified community health problems in a cost effective manner.

E. Equitable distribution of funds throughout the state."

The effect of these criteria will be continued through other Family Planning Special Project rules and application procedures. For example, all applicants must submit a program plan which describes activities to be conducted related to an assessment of community need. (See M.R. part 4700.2100) The application also must contain budget and budget justification information which permits consideration of the cost effectiveness of the activity proposed

to affect the community need. (See M.R. part 4700.2100) The change to a regional allocation of funds proposed in part 4700.2410 will allow for a more equitable geographic distribution of funds throughout the State.

Part 4700.2300, Subp. 3. B. remains unchanged. A comment received regarding this criterion stated "for existing programs, expansion only makes sense if there are additional funds available that the applicant can apply for. This priority could be detrimental to the ongoing funding of existing projects." The Department considered this comment and concluded that this criterion should be maintained because of its significance when the amount of State funds available for award is increased relative to the previous cycle. In cycles when the level of funding is unchanged, the criterion would be less significant, and all applicants would be similarly affected by its reduced importance.

4700.2300 Subp. 3.F. adds an additional criteria upon which applications will be evaluated. This change recognizes that although the provision of service components other than the method component are very important, the provision of the method services as defined in part 4700.2210, item D, is the essential core of a family planning program. This change will give those applications in a region proposing to provide method services in counties with no publicly subsidized family planning method services, a competitive advantage for Family Planning Special Project funds.

It also gives those applicants in a region proposing method services in a county where other public dollars are used to provide method services, an advantage over those applicants proposing the other family planning service components. Currently there are thirty-one counties in Minnesota with no publicly subsidized family planning method services. This change is made to encourage those counties already providing method services to continue to do so, while also encouraging those counties without method services to provide such services if deemed needed and feasible.

The increased support for the provision of method services with Family Planning Special Project funds is also a result of recognizing that since the rules were first promulgated, additional public dollars have become available and are being allocated in much of the state for service components other than the method component. Because Family Planning Special Project funds are limited, it is desirable to promote the use of these categorical family planning funds for method services while encouraging the use of other funding sources for the other service components.

4700.2300 Subp. 4 and 5. The term "local board of health" and "board of health" are changed to "community health board" to be consistent with the Local Public Health Act, Chapter 145A.

4700.2300 Subp. 4. remains unchanged except as cited above. A comment was made that "Family Planning Special Project funds should

be used to support family planning programs in both public and private non-profit agencies. The type of agency should not be used as a funding criteria..." These rules will assure access to funds by both public and private non-profit agencies as required by law. The criterion which assigns first priority to the community health board in instances where equivalent applications are competing to serve the same service area is, however, reasonable and should be maintained.

The Local Public Health Act, MN Statutes, Chapter 145A assigns to the community health board the primary responsibility for the coordination of community public health services in Minnesota. When equivalent and competing Family Planning Special Project applications are submitted, it is reasonable that first priority is given to the community health board consistent with its statutory authority. In its coordinating role, it is incumbent upon the Board to work with the non-profit applicant in determining how best to assure access and availability of family planning services in the community in a non-duplicative manner. Such a determination might include an allocation of Family Planning Special Project or other grant funds for delivery of services by the non-profit agency.

Part 4700.2300 Subp. 4a. was added to clarify that all applicants for Family Planning Special Project funds will be treated equally under parts 4700.2410 and 4700.2420. This section is important

because under a competitive grants program, not all applications which meet the requirements of the law and rules will be awarded funds if the amount of funding requested exceeds the amount available. As discussed previously, "current recipient" and "new applicant" are the two classes of applicants for Family Planning Special Project funds. "Current recipients" are not accorded priority because these limited funds will be directed to funding those programs in a region which best meet the criteria for award in rule. It is only reasonable that meeting the award criteria and not simply having received funds in the past should be the appropriate and required basis for receiving new funding. Although this may be of concern to agencies who are "current recipients" of funds, almost all agencies who received Family Planning Special Project funds in the Calendar year (CY) 1988-1989 grant cycle but did not receive funding in the CY 1990-1991 grant cycle have been able to maintain their programs by using funds from other sources. Also, because these funds are available to promote statewide services for family planning, and currently there are thirty-one counties in Minnesota with no subsidized method services, new applicants must be able to compete competitively for funds. A new applicant for funding which would provide services in one of these thirty one counties, should not go without funding simply because other agencies are being funded again solely because they had received it in the past. For each funding cycle, all applicants should be judged equally based upon the current needs of the area they serve.

Part 4700.2300 Subp. 5. is changed to clarify the role of the board. The rule as it now stands is not clear as to which board an applicant must submit its application, nor as to the focus of the board's review and comment. The amendments rectify both matters. Since a community health board is to coordinate the health services in its area, it is logical to require applicants to submit their applications to the community health board for the area in which it proposes to provide family planning services. In addition, in order for the community health board's comments to be useful, they should address the review criteria of part 4700.2300, subp. 3, which for the most part requires that applications be judged based upon the needs of the geographic area in which the applicant proposes to provide its services. The community health board thus is uniquely situated to provide insightful comments pertaining to the review criteria.

A comment stated that the requirement that applicants must submit their proposal to the community health board for review and comment seems to involve a conflict of interest in situations where the community health board is also applying for funds. The concern raised by the comments is understandable, but when the possibility of a conflict is weighed against the following factors, the requirement for community health board review is, in balance, reasonable, appropriate, and needed. The main goal of these rules is to help in fulfilling the goal of assuring that family planning services are provided throughout the entire state. Under the Local

Public Health Act, Minn. Stat. ch. 145A (1990), the legislature has assigned to community health boards the primary responsibility for the planning, development and maintenance of an integrated system of community public health services in Minnesota. Minnesota Statutes, section 145A.10 (1990). Thus, at a minimum, it is important for the community health boards to be made aware of all the applicants and their proposals to provide family planning services in their area. It is also appropriate to give the boards the opportunity to comment given their statutory role under chapter 145A. To the extent that a conflict may exist, it is mitigated by the fact that (1) the community health board's comments must address the criteria specified in Minn. Rules pt. 4700.2300, subp. 3 and (2) most significantly, they are advisory only and not in any way binding on the commissioner. The commissioner may determine what weight, if any, to give the comments, in view of any possible conflict. Finally, the Commissioner makes the grant decisions based on the review criteria and not the comments.

Part 4700.2400 Contingency Funding and Part 4700.2550 Allocation Scheme will be repealed. However, the substance of these provisions, with some changes and deletions, will be transferred to parts 4700.2410 and 4700.2420. Organizationally, these amendments are being made so that the general scheme for allocating the funds will be placed before the exceptions. In addition, new subparts are proposed so that in the event funds might remain, are

increased or reduced after allocations are made per 4700.2410, procedures will be clearly established for distribution of remaining funds or reduction of funds.

Part 4700.2410 will replace the current allocation scheme contained in parts 4700.2400 and 4700.2550. Based upon experience with the previous allocation scheme, comments received and the fact that these funds were increased slightly in 1985, 1986 and 1987 but not since then, it is clear that a new allocation scheme is necessary for several reasons:

- (1) to assure geographic equity in the distribution of funds;
- (2) to limit the potential for a large difference between funds available and funds requested;
- (3) to adjust grant award ceilings for increased costs of providing services since the funding limit was established;
- (4) to assure an allocation of funds for a statewide family planning hotline.

Part 4700.2410 Subp. 1. earmarks part of the Family Planning Special Project funds specifically for a statewide family planning hotline. This service needs to remain statewide, serving all geographic areas, and providing referrals to all publicly-subsidized family planning programs in the State. It cannot be

efficiently funded through the regional allocation scheme established in Subp. 2 of this rule for distribution of all of the other available program funding.

It is important to assure the availability of funding for the hotline for a number of reasons. First, it provides anonymous, confidential family planning information for those individuals throughout the state who, for whatever reason, do not directly access family planning services to address their concerns. Secondly, the hotline provides information on the nearest location of subsidized services. This is important because many agencies do not have the resources to promote their services and in areas with no or limited services, it is difficult for individuals to locate the closest service location.

The Department is proposing to set aside 5% of the total funds available or \$100,000, whichever is less, specifically for the family planning hotline. This figure is derived from a Department estimate that takes into account the cost of operating and promoting the hotline statewide. Currently \$1,100,000 annually is available for award to all family planning applicants. Five percent of this amount would make approximately \$50,000 available for the hotline. The \$30,000 currently awarded for operation of the hotline does not allow for an adequate level of services nor for promotion to expand its use. Because the hotline is an "800" number, as use increases so does the operating cost. Therefore,

with increased promotion the operating costs would increase. A funding limit of \$100,000 was established because the Department estimates this is the maximum amount that would be needed for the operation (staffing, etc.) and promotion of the hotline even with a substantial increase in its use.

The Department's joint Notice of Availability will contain a specific section on the family planning hotline because this is a statewide project with a specific purpose which differs from the regional projects to be funded through Subp. 2.

Under this subpart, it may occur that no applicants to operate the hotline are approved for funding or are approved at less than the amount set aside. In order to assure that all funds appropriated for family planning services are allocated, any remaining funds will be reallocated for distribution under 4700.2410 Subp. 2.

Part 4700.2410 Subp. 2. describes how Family Planning Special Project funds will be distributed. The Department discussed four options for allocating the dollars and concluded that a regional funding distribution formula would best meet the goals of these rules which is to help in fulfilling the goal of assuring that family planning services are provided throughout the entire state.

The following three options were discussed and eliminated for the following reasons:

- 1) Proration- Under this system, if more funds are requested than are available, all approvable applications are recommended for award, and then prorated by the percent created by dividing available funds by recommended funds. This system was applied in the CY 1986-1987 and CY 1988-1989 grant cycles and awards were reduced by 12 percent and 23 percent respectively. The Department felt that the amount of funding requests would continue to increase and therefore each applicant would receive a decreasing amount of funds as the proration factor continued to increase. The amount of dollars an agency would be likely to receive would, for many agencies, be too small to be useful.
- 2) A formula that uses community health boards as the geographic base for applying the formula and allocating funds- This option was considered because under the Local Public Health Act, Minn. Stat. Ch. 145A, the legislature has assigned to community health boards the primary responsibility for the planning, development and maintenance of an integrated system of community public health services in Minnesota. However, this does not mean that the community health boards are to provide the services. This is recognized in the family planning grant legislation which authorizes not only government agencies but also private, non profit corporations to receive grant

funds. (Minnesota Statutes, section 145.925, subd. 1) Furthermore, under the system proposed by these amendments, the role of the community health boards is recognized by involving them in the review and comment process on each application. A final reason for not operating the grant program solely through the community health board system is that not all community health boards choose to provide family planning services because the provision of these services in some areas of the state is controversial. In a family planning grant program operated solely by community health boards, family planning services would be unavailable in these areas. This result is contrary to the specific intent of Minnesota Statutes, section 145.925 to assure that these services are available statewide.

- 3) Statewide competitive- Under this process, the applications receiving the highest scores based on the criteria for award are funded first. This process was implemented in CY 1990-1991 grant cycle as specified in Minnesota Rule, part 4700.2400, subp. 1. The result was that of the 56 agencies with approvable applications, 39 received funding at their requested amount, one received partial funding and 16 were not funded due to insufficient funds. In reviewing this option, the Department considered numerous comments from grant applicants expressing concerns with this option. Under a competitive

grant program, not all applicant agencies will receive funding and it is not known in advance which ones will receive funding and which ones won't. Also, there is no mechanism to assure statewide equity in the distribution of funds because those agencies that score well are funded without regard to the location of the agency. Thus, it is possible under this option that all the funds would be allocated to one area of the state. Although statewide equity in the distribution of funds might occur in any given cycle, there is no assurance that this would continue from cycle to cycle.

The fourth option was accepted for the following reasons:

Funds will be allocated to regions according to a needs based formula, and then competition for funds will occur within the regions rather than statewide. This will allow for greater equity in the distribution of funds throughout the state on a grant cycle to grant cycle basis. This option assures that Family Planning Special Project funds are available in all regions of the State. It will encourage agencies in those areas of the state where there are currently no or limited subsidized family planning services to access funds that are specifically earmarked for their use. Also, because the number of agencies competing for funds on a regional basis would be less than in a statewide competitive program, agencies will better

able to assess their potential for being funded. This option allows for funding those projects best able to meet the criteria for award of funds within a region.

Comments were received that this method of allocating funds is in direct contradiction with the Local Public Health Act because in some regions, nonprofit agencies and community health boards, or two or more community health boards, will be competing against each other. The concern raised by this comment is understandable but when weighed against the goals of this program, this option, in balance, is reasonable and appropriate. The goal of this program is to assure that family planning services are provided throughout the entire state. Given the controversial nature of family planning, there are some areas of the state where community health boards have made the decision not to offer family planning services and instead nonprofit corporations have applied for Family Planning Special Project funds to provide the services. The decisions for provision of family planning services are still to be made at the local level by those agencies applying for the funding. Community health boards are encouraged but not mandated to provide family planning services. If this option were not available, there would be many more areas of the state with no services. Part 4700.2300, Subp. 5 requires that applicants must submit

their proposal to the community health board for review and comment. Thus, the community health board is, at a minimum, made aware of all the applicants and their proposals to provide family planning services in their area. For these reasons, and those cited above, it is not reasonable to allocate these limited funds on a formula basis only to community health boards.

Once the regional allocation option was selected, the Department needed to determine how to implement it. In order to determine the need for family planning services within each region, the Department is proposing a formula based upon the age related and socio-economic related factors in part 4700.2000, subp. 4. (recodified as Subp. 9) used to define "high risk person." In this section it states that, "high risk persons include, but are not limited to women under 18 or over 35.....and persons whose individual or family income is determined to be at or below 200 percent of the official income poverty line..." With this in mind, the following three factors were chosen:

- (1) The number of women 12-18 years of age in a region.

Age twelve was picked because this is generally considered the age at which women become at risk for unintended pregnancy. Age 18 was included because it is generally felt that women age 18 are also at high risk for experiencing an unplanned pregnancy or problems during pregnancy. This data is provided by the Minnesota

Department of Health, Center for Health Statistics which provides updated population estimates between federal census years.

- (2) The number of women 19-34 years in a region receiving Medical Assistance.

The use of data relative to poverty status was examined. Concern was expressed as to the accuracy of using census data for a needs based formula when, for some grant cycles, the data would be ten years old. The number of women who are Medical Assistance enrollees represents a group of women who have service access problems related to low income. Thus, it was concluded that the Medical Assistance data provided the most current indicator of poverty status in a region. This data is provided to the Department of Health by the Minnesota Department of Human Services and is only available by the ages indicated above. Thus, we are using data for ages 19-34 rather than 18-35 which would coincide with the definition of "high risk" discussed above.

- (3) The number of women 35-44 years of age in a region.

The number of women 35-44 years of age represents a group of women who have particular risk of adverse pregnancy outcome. Forty four was picked because the majority of births occur to women under age 45. The data will also be obtained from the Department's Center for Health Statistics.

The factors that were chosen for the formula are generally considered reliable indicators of family planning service needs. Also, as used in the formula, they result in numbers for the counties which are large enough as to not cause significant variance from year to year. Factors were picked in categories that are exclusive of each other because it was determined that it was not desirable to give additional weighting to criteria through the allocation scheme. These factors are based on women in a region and not individuals in general because women are the target population for family planning services provided with these limited dollars.

Once the number of women in each category is identified, the need for services in each region can be ascertained. A mathematical formula proposed in part 4700.2410, Subp. 2, items B and C, will be used to obtain a regional proportion of the total state need for services and to determine the amount of Family Planning Special Project grant funds which will be available for each region.

Part 4700.2420 Subp. 1 increases the funding limit, (which currently is stated in part 4700.2550), for which a current recipient of Family Planning Special Project funds may apply from \$30,000 to \$40,000 annually or its current award, whichever is greater. When the funding limit was first implemented, there were some agencies whose current grant awards were greater than the proposed limit. It was decided to allow them to apply for the

amount of their current award rather than reduce the amount for which they would be eligible. This exception will still be applicable under the proposed rules. The proposed amendment also increases the funding limit for new applicants from \$30,000 to \$40,000.

The \$40,000 limit was selected for a number of reasons. The Department took into account the rate of inflation over the years since the previous funding limit of \$30,000 was established. In response to comments by family planning service providers, the Department also took into account the cost of operating a family planning program. The cost of one full-time family planning worker and necessary training, travel, and supplies was estimated to be closer to \$40,000 than \$30,000. This increase will allow agencies to be able to establish a new program or continue their current program without cutting services.

The Department continues to include a funding limit because available Family Planning Special Project funds usually are not sufficient to meet the funding needs of all applicants. The funding limit reduces the potential for a large difference between the amount of funds requested and the amount of funds available. It also means that more agencies will be funded at a lower dollar amount rather than fewer agencies at a higher dollar amount. Without the funding limit, there is the potential that an applicant agency could apply for all the funds to provide services at sites

it chooses. It's the Department's position that the goal of statewide coverage for family planning services can be more effectively realized by maintaining the funding limit and encouraging community health boards and non-profit agencies to work together to meet the needs in their local communities. The funding of more agencies at the local level also encourages community support for the family planning program.

Allowing the total dollars available for distribution to increase to \$2.2 million dollars before increasing the funding limit beyond \$40,000, will allow more agencies with approvable applications to receive funding. This will allow agencies with family planning programs to be able to continue providing services and thus help fulfill the goal of these rules which is to assure that subsidized family planning services are provided throughout the entire state. The Department estimates that approximately \$2,200,000 per year is the minimum that would have been needed to meet the funding requests of all CY 1990-91 applicants with approvable applications had the funding limit been increased.

The effect of restricting the increase in the funding limit in subsequent grant cycles by a percentage equal to half of the percentage increase in the amount of total funds available for distribution under this section is to allow more agencies with approvable applications to receive funds rather than potentially awarding all of the increased funds to current grantees.

Part 4700.2420 Subp. 2. While part 4700.2400 Subpart 1, is being repealed, the process of rank ordering applications for funding determinations will be maintained in proposed part 4700.2420, subp. 2. The only changes between the existing rule and the proposed amendment are that the procedure of rank ordering applications will now be used routinely, rather than just when requests will exceed available funds, to determine the awarding of grant funds and will be applied on a regional basis instead of on a statewide basis. It is necessary to maintain a competitive grant program because Family Planning Special Project funds are usually limited and may not meet the funding needs of all applicants. The establishment of a process to competitively review the applications within the regions ensures that limited grant funds will be allocated fairly by objectively determining which projects within each region best meet the criteria for award in part 4700.2300. As justified previously, the use of regions allows for a more geographically equitable distribution of funds throughout the state. See justification for part 4700.2410, subp. 2.

Because some applicant service areas may extend into more than one region, it is reasonable that applicants be permitted to submit applications for more than one region. However, in fairness to other applicants, the total funding requested of a single applicant for several regions should not be permitted to exceed the funding limit established for other applicants.

4700.2420 Subp. 3 gives authority to the commissioner to deny funding or to allocate less dollars than the applicant requests under the circumstances specified and then requires that revised program information be submitted in order to receive funding. This is needed to ensure that these limited dollars are allocated to programs that provide quality services in a cost effective and efficient manner. It is consistent with Minnesota Statutes, section 145.925, subd. 5, which gives the commissioner of health the authority to promulgate rules for the approval of plans and budgets of prospective grant recipients. The criteria used by the commissioner to make such a determination are those standards for service delivery established in Minn. Rules, part 4700.2210, the criteria for award listed in part 4700.2300.

Part 4700.2420 Subp. 4. has been added to clarify the commissioner's role if the need for redistribution of funds arises.

Part 4700.2420 Subp. 4. A. establishes a procedure for reallocation of funds in a situation where funds remain unallocated in a region after all approvable applications are funded. In this instance, funds will be distributed to other regions, proportional to their share of the funding need based upon part 4700.2410, Subp. 2 and awarded in accordance with 4700.2420 Subp. 2. This provision is needed because the goal of this program is to distribute all family planning special project funds. Flexibility is needed to move

funds from region to region according to this section because family planning services in Minnesota can not be advanced to their full potential if all funds are not allocated.

Part 4700.2420 Subp. 4. B. establishes a procedure for reallocation of funds in a situation where all approvable applications are awarded funds to the extent of their eligibility and yet funds are still available. In this instance, all applicants will be offered a proportional increase. This provision will be fair to all grantees and will also ensure that all Family Planning Special Project funds will be allocated. Because the goal of this program is to provide family planning services throughout the state, it is important to ensure that all of these limited dollars are allocated. Revised program information is required to ensure that these dollars are allocated to programs that propose to provide quality, cost effective services. The authority for requesting this information is in Minnesota Statutes, 145.925, subd. 5 which gives the commissioner of health the authority to promulgate rules for the approval of plans and budgets of prospective grant recipients.

Part 4700.2420 Subp. 4. C. establishes a procedure for allocating funds if the Department's budget for this purpose is increased after awards have been made. First, funds will be distributed to the family planning hotline within the funding limits specified in part 4700.2410, subp. 1. All remaining funds will be distributed

to the regions proportional to their share of funding need as determined pursuant to part 4700.2410, subpart 2, and awarded according to subparts 2 to 4. In effect, agencies within a region who had approvable applications but did not receive funding due to insufficient funds, would be funded first. This procedure is consistent with the intent of the rules which is to allocate dollars according to a needs based formula and then to fund those applicants best able to meet the criteria for award within a region. Thereafter, the contingency funding scheme would be used to assure that all available funds are distributed. Revised program materials are required to ensure that these dollars are allocated to programs that propose to provide quality, cost effective services. The authority for requesting this information is in Minnesota Statute 145.925 subd. 5 which gives the commissioner of health the authority to promulgate rules for the approval of plans and budgets of prospective grant recipients.

Part 4700.2420 Subp. 4. D is replacing repealed part 4700.2400, subp. 2, concerning procedures for reduction of grant awards if the Department's budget for this purpose is reduced after grant awards have been made. All grants will be reduced proportionate to the Department's reduction in these funds. Reducing funds requested in these proposals by a uniform percentage will have the least negative impact on the equitable distribution of family planning services to service recipients. Part 4700.2400, subp. 2 gave funding priority to applications proposing to establish all service

components in counties with no other in-county publicly subsidized family planning services. This concept is being dropped in the new rule in order to be consistent with the change in part 4700.2300, subpart 2, which deletes this priority from the criteria for award of Family Planning Special Project grants. Revised program information is required to ensure that each grant award recipient plans how to best use the reduced grant. The authority for requesting this information is in Minnesota Statutes, section 145.925, subd. 5 which gives the commissioner of health the authority to promulgate rules for the approval of plans and budgets of prospective grant recipients.

See the justification for the repeal of part 4700.2300, subpart 2. This also provides the basis for the repeal of part 4700.2400, subp. 2 which addresses the reduction of grants if the Department's funds are reduced. The new proces to cover this situation is recodified as part 4700.2420, subpart 4.D, the justification of which is addressed in the preceding paragraph.

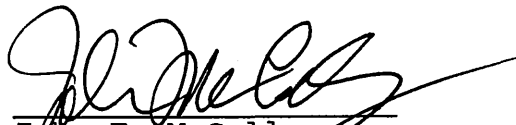
Part 4700.2500 is changed to clarify the meaning of the word "supplant" and to facilitate a better understanding of this section. The word supplant is deleted but the substance of what was intended is placed into the rule itself, thus further explaining what it means. Although the rule already prohibits supplantation, the lack of clarity has made compliance and enforcement difficult. This content is maintained because it will

also eliminate the possibility that agencies will substitute Family Planning Special Project Grant funds for other funds which they have committed for family planning services. The net result, which is the underlying purpose of this program, is to increase family planning services offered by the agency.

STATE OF MINNESOTA

DEPARTMENT OF HEALTH

Dated: 13 March, 1991



John F. McCally
Commissioner of Health