

STATE OF MINNESOTA  
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Amendment  
of the Department of Human Services  
Rule Governing Long Term Care Management,  
Nursing Home Rate Determination, Semiannual  
Assessments of Residents, In the Medical  
Assistance Program, Minnesota Rules, Part  
9549.0059, Subpart 2C

STATEMENT OF NEED  
AND REASONABLENESS

INTRODUCTION

Minnesota Rules, part 9549.0059 establishes the procedures used by the Department of Health Quality Assurance and Review (MDH/QA&R) team to determine the rates paid by medical assistance for the care of nursing home residents. Subpart 2C provides that nursing homes must submit the assessment forms, residents' plans of care, and the nursing home's daily census, to the Department of Health on a semi-annual basis. The assessments are used to classify residents into a payment class. This amendment, if adopted, would eliminate the requirement that the nursing home must submit the residents plans of care semi-annually. If the amendment is adopted, the rule would still allow the MDH/QA&R team to have access to the residents' plans of care, through the reconsideration process, if it was deemed necessary. The proposed amendment would result in a cost savings for both the department and nursing homes.

STATUTORY BACKGROUND

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 dependant children. (See United States Code, title 42, section 1396a, hereafter abbreviated as 42 U.S.C. 1396a). Code of Federal Regulations, Title 42, section 431.10, (hereafter abbreviated as 42 CFR 431.10), requires a state to designate a single state 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 medical assistance program according to federal requirements. Correspondingly, Minnesota Statutes, section 256B.04, subdivision 2 requires the Commissioner of Human Services to

establish "uniform rules and regulations, not inconsistent with the law" to ensure that the medical assistance program will be carried out in efficient, economic, and impartial manner. Further justification for the rules 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 rules is derived from both federal and state law. It is through proposing an amendment to these rules and publishing a Notice of Solicitation of Outside Opinion and a Notice of Intent to Adopt a Rule Without a Hearing in the State Register that the public, all interested parties, and all persons affected by the rules are afforded the opportunity to comment upon the procedures and standards the department uses to carry out the mandates.

Rules to administer Minnesota's medical assistance program are necessary because they set out 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 health service to a recipient.

Part 9549.0059, Subpart 2, sets forth the guidelines for conducting semi-annual assessments of residents by nursing homes. The guidelines must be consistent with federal regulations, Minnesota Statutes, and previously promulgated rules governing the administration of the Minnesota Medical Assistance Program.

#### Historical Perspective

A public hearing was held on March 7, 1985 regarding proposed rules relating to nursing home payment rate determination. As a result of the hearing parts 9549.0010 to 9549.0080 were promulgated. On June 10, 1985 the department adopted the present rules. Part 9549.0050 to 9549.0059 were reserved for a proposed rule to be promulgated at a later date.

On January 7 and 8, 1987, a public hearing was held relating to parts 9549.0050 to .0059. On April 27, 1987 the permanent rules were adopted. Procedures for assessment and classification of residents by the Department of Health in accordance with parts 9549.0050 to 9549.0059 are found in parts 4656.0010 to 4656.0090. The purpose of the rule is to implement a case mix reimbursement system to establish operating cost payment rates for nursing homes based on the condition and needs of the residents in each nursing home. Payment to nursing homes are based on eleven resident classes. Ongoing assessments of residents' needs is required to determine which of the eleven resident classes each resident belongs.

9549.0059, Subp. 2, Semiannual assessments by nursing homes. The purpose of the semiannual assessments is to assist in setting payment rates for nursing homes participating in the medical assistance program. The amendment to subpart 2C is necessary

because currently the rule requires nursing homes to provide the residents' plans of care at the semiannual assessment. When this part of the rule was promulgated in 1987 the Department believed the residents' plans of care best reflected the residents' current needs. The Department has found that the residents' plans of care are not utilized. The information contained in the plans of care is available in the medical plan of care. Further, residents and nursing homes can request an administrative reconsideration if they disagree with the classification they receive from the department. This proposed amendment would result in a cost savings for both the Department and nursing homes because of the expense involved in mailing, handling and storing the unused documents.

SMALL BUSINESS CONSIDERATIONS

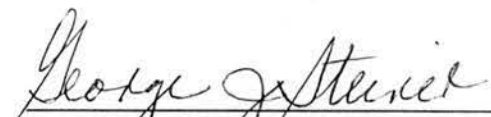
In preparing this rule amendment, the Department has noted the statutory requirement that when an agency proposes an amendment to an existing rule the impact on small business must be considered. Minn. Stat. § 14.115.

The Department believes this rule falls into the exception in the statute which states that this requirement does not apply to service businesses regulated by government bodies, for standards and costs, such as nursing homes, long term care facilities, providers of medical care, and residential care facilities. Minn. Stat. § 14.115, subd.7(3).

EXPERT WITNESSES

The Department expects this amendment to be noncontroversial. If this amendment should be heard in public hearing the Department does not intend to have outside expert witnesses testify on its behalf.

2-13-91  
Date:

  
for NATALIE HAAS STEFFEN  
COMMISSIONER OF HUMAN SERVICES



1 Department of Human Services

2

3 Proposed Permanent Rules Relating to Assessment of Nursing Home

4 Residents

5

6 Rules as Proposed

7 9549.0059 RESIDENT ASSESSMENT.

8 [For text of subpart 1, see M.R.]

9 Subp. 2. **Semiannual assessment by nursing homes.**

10 Semiannual assessments of residents by the nursing home must be  
11 completed in accordance with items A to D.

12 [For text of items A and B, see M.R.]

13 C. Within five working days of the completion of the  
14 nursing home's semiannual resident assessments, the nursing home  
15 must forward to the Department of Health requests for  
16 classification for all residents assessed for the semiannual  
17 assessment. These requests must include the assessment forms,  
18 ~~the-residents'-plans-of-care,~~ and the nursing home's daily  
19 census for the date on which the assessments were completed  
20 including an explanation of any discrepancy between the daily  
21 census and the number of assessments submitted. The nursing  
22 home must provide additional information to the Department of  
23 Health if the Department of Health requests the information in  
24 order to determine a resident's classification.

25 [For text of item D, see M.R.]

26 [For text of subps 3 to 9, see M.R.]