

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendment
of the Department of Human Services
Rule Governing Funding and
Administration of Home and
Community-Based Services (parts
9525.1800 to 9525.1930) and
the Rule Part Governing the
Definition of Supported Living
Services For Children (part 9525.2010,
subpart 34)

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION AND BACKGROUND

Adopted rule parts 9525.1800 to 9525.1930 (Rule 41) and proposed noncontroversial amendments to parts 9525.1800 to 9525.1930, establish procedures that govern the funding and administration of home and community-based services provided to persons with mental retardation and related conditions. Parts 9525.1800 to 9525.1930: (1) identify eligibility criteria for home and community-based services; and (2) establish procedures for the funding and administration of these services. The amendments to parts 9525.1800 to 9525.1930 are being proposed in order to conform to current federal and state regulations governing home and community-based services.

Adopted rule part 9525.2010, subpart 34 and the proposed noncontroversial amendment to part 9525.2010, subpart 34, defines the scope and capacity of supported living services for children.

Authority for the adopted rule parts and the proposed amendments is granted to the commissioner in Minnesota Statutes, sections 256B.092, subdivision 6, 256B.501, subdivision 2, and 256B.503. Minnesota Statutes, section 256B.092, subdivision 6, required the commissioner to adopt rules to establish required controls, documentation, and reporting of services provided in order to assure proper administration of the approved waiver plan.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, published the revised Title 42, Code of Federal Regulations in October of 1990. Title 42 specifies requirements for home and community-based services. Chapter 4 outlines the purpose of the waiver, required contents of a waiver, Minnesota assurances, required documentation, duration of the waiver, termination, hearing for termination and limits on federal financial participation. Minnesota's waiver plan is written to comply with the regulations as set forth in the Code of Federal Regulations.

The Department's initial waiver application was approved by the United States Department of Health and Human Services in April 1984. The current waiver plan was submitted in March, 1987 as a waiver renewal request pursuant to section 1915(c) of the Social Security Act for a five year period from July 1, 1987 to June 30, 1992. It was approved in June 1987. In January, 1992, the Department will be submitting a new Minnesota waiver renewal plan for approval. The new waiver plan, once approved, is expected to be effective from July 1, 1992 to June 30, 1997.

RULE DEVELOPMENT HISTORY

In order to implement the first approved waiver plan, emergency rules were published in August 1984. These emergency rules were subsequently revised and became effective on October 22, 1984. Additional temporary amendments regarding provider qualifications and licensing standards were developed and became effective on April 23, 1985. Permanent rule parts 9525.1800 to 9525.1930 were subsequently developed and became effective on October 14, 1985.

The Department implemented rule making procedures to amend rule parts 9525.1800 to 9525.1930, after determining that a number of revisions were necessary. In view of the nature of the revisions needed, the Department decided to amend parts 9525.1800 to 9525.1930 through a two-phase process. These first set of technical and noncontroversial amendments are being proposed in order to make parts 9525.1800 to 9525.1930 consistent with current federal regulations, federally-approved amendments to the waiver, and Minnesota Rules, parts 9525.2000 to 9525.2140, which became effective October 10, 1989. The Department has recently begun work on a second set of proposed amendments to parts 9525.1800 to 9525.1930 which are of a controversial nature and will therefore require a public hearing. This was determined to be the most responsible approach in terms of time, efficiency, and cost-effectiveness.

A Notice of Solicitation of Outside Information or Opinions was published in the State Register on August 20, 1990. The Department reviewed the potential scope, content, and impact of the proposed rule amendments and developed an advisory committee to gather public input. The advisory committee was composed of parents, service providers, legal advocates, county representatives, and department representatives. (Advisory committee membership list attached as Exhibit 1). The Department plans to use this committee for purposes of both sets of rule amendments.

The committee met on November 19, 1990 for the purpose of discussing noncontroversial amendments only. The committee members were informed that a second set of proposed amendments to parts 9525.1800 to 9525.1930 of a more controversial nature would be addressed later in a series of three to four advisory committee meetings beginning in January 1991. In December 1990, committee members were sent a revised draft of proposed technical amendments to parts 9525.1800 to 9525.1930 and were requested to submit any additional written comments regarding the proposed technical amendments by January 1991. This approach was taken in order to expedite the process. All comments and recommendations received during the committee meeting as well as additional written comments were carefully reviewed and considered by the department.

As an additional means of obtaining public input, the department held regional meetings in four different locations during the month of March 1991. The purpose of these meetings was in part, to obtain information from parents, providers, advocates and counties regarding how waived services were working for them and suggestions for how waived services could be improved. These recommendations were considered in these amendments and will be further considered when drafting the second set of controversial amendments to parts 9525.1800 to 9525.1930.

NEED AND REASONABLENESS OF SPECIFIC PROVISIONS

The specific provisions of proposed amendments to parts 9525.1800 to 9525.1930 are affirmatively presented by the Department in the following narrative which constitutes the Statement of Need and Reasonableness, in accordance with the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings.

PART 9525.1800 DEFINITIONS

Subpart 1a. Adaptive modifications and equipment. Amendment of this definition is necessary to reflect the current status of adaptations under waived services. The change in terminology from "minor physical adaptations to the home" to "adaptive modifications and equipment" is necessary to reflect what is actually available to waived services recipients; i.e. modifications as well as equipment. As the advisory committee indicated, the amended definition is reasonable because it provides clarification by being more clearly descriptive of the forms of adaptations available while at the same time providing for flexibility. For example, since the waiver also provides for adaptations to vehicles, the amended terminology is more accurate because adaptations are not limited to the home by definition.

It is necessary and reasonable to limit adaptive modifications and equipment to those which are approved by the United States Department of Health and Human Services as a part of the ACS and MR/RC waiver plans because the department has no authority to exceed the scope of an approved waiver plan unless an amendment to the waiver plan is approved. For example, the Minnesota Title XX Home and Community-Based Services for Persons with Mental Retardation or Related Conditions waiver plan was amended in October 1988 to include accessible showers, adaptive switches, and other remote control devices to enable management of room lighting, temperature, sound levels and privacy. These adaptations are provided as a waived service only when they are documented in the individual plan of care as necessary to avoid institutionalization. Accordingly, it is reasonable to define adaptive modifications and equipment by referring to those adaptations approved in the waiver plan itself.

Subpart 1b. Alternative Community-Based Services waiver plan or ACS waiver. This amendment is necessary to be consistent with the requirements under the ACS waiver. The ACS waiver offers alternative home and community-based services for persons determined to be inappropriately placed in nursing facilities. This waiver was first approved in April, 1990 to assist Minnesota in complying with the Omnibus Reconciliation Act (OBRA). OBRA requires that persons with mental retardation or related conditions who require ICF/MR level of care, are not receiving ICF/MR level of care and, thus, are inappropriately placed in Medicaid-certified nursing facilities be appropriately served in alternative settings. Minnesota developed an Alternative Disposition Plan (ADP) pursuant to Public Law 100-203 in December, 1988 which outlines how alternative services will be delivered. The ACS waiver is not a part of Minnesota's other existing Home and Community-Based waivers. The ACS waiver was approved and is administered distinctly from the federal waivers granted to Minnesota. The ACS waiver has been approved for the period from April 1, 1990 through March 31, 1993 with a renewal plan to be submitted to the federal Health Care Finance Administration (HCFA) in 1992 for continuation of the ACS waiver plan. This amendment is reasonable because it implements the OBRA requirements and brings the rule up-to-date with the current status of waived services in Minnesota.

Subpart 2. Billing rate. It is necessary to amend this definition to be consistent with current billing practices for day training and habilitation services. These services can be billed on partial day rates. Six hours or more of service constitutes a full day. Any amount of time less than six hours is considered a partial day for billing purposes. It is reasonable to include a provision for a partial day billing rate to be consistent with regulations governing day training and habilitation services and to reflect current practice.

Subpart 3. Case manager. Amendment of this definition is necessary to be consistent with the reorganization of the rule parts. This definition is moved from part 9525.1860, "Reimbursable Services", to part 9525.1800 in this subpart. Reorganization of the rule is reasonable because providing definitions to all pertinent terms in one rule part provides clarification and is easier to read.

Subpart 4. Client. It is necessary to repeal this definition because the term "client" is replaced by "person" throughout parts 9525.1800 to 9525.1930. This change in terminology is reasonable because it affords more respect to the person receiving waived services and is consistent with the use of "person" rather than client in other department rules governing services to persons with developmental disabilities.

Subpart 4a. Case management services. Addition of this term in the definitions part and its deletion from part 9525.1860, subpart 2 is necessary and reasonable for the reasons stated in subpart 3.

Subpart 5a. Community Social Services Administration Plan or CSSA Plan. It is necessary to add this definition to the rule in order to define a term that is pertinent to the understanding of part 9525.1880 regarding county proposals. Part 9525.1880 allows for the incorporation of the CSSA plan as a part of the county proposal rather than requiring a lengthy, detailed plan by the county boards. It is reasonable to define a term which has a meaning specific and integral to the rule parts. Addition of this definition is further reasonable because allowing the CSSA plan to be a part of the county proposal in lieu of identification of county goals and other information stated separately, avoids duplicative efforts by counties thereby facilitating cost-efficiency.

This definition is reasonable because it refers to the requirements set forth in Minnesota Statutes, §256E.09, subdivision 3 (the Community Social Services Act), which is the legal authority governing the county boards' provision of community social services.

Subpart 5b. Conversion. Addition of this term is necessary to replace the term "placement" which is repealed at subpart 19. It is reasonable to replace "placement" with "conversion" since the latter provides a better description of the action involved in converting the funding for ICF/MR services to waiver services funding. To meet federal requirements, there must be an ICF/MR bed decertification for every conversion allocation used.

Subpart 7. County of financial responsibility. The amendment of this definition is necessary to assure consistency with statute. The amended definition cites Minnesota Statutes, §256G.02, subdivision 4, which contains the full definition of "county of financial responsibility." Minnesota Statutes, chapter 256G, known as the Unitary Residence and Financial Responsibility Act, was passed in 1987 after the promulgation of parts 9525.1800 to 9525.1930. It is reasonable to update definitions and rule language as statutory changes occur in order to assure consistency with statute. Simply referring to the statutory cite in the definition is reasonable because it promotes brevity of the rule and avoids unnecessary duplication.

Subpart 8. Daily intervention. Amendment of this definition is necessary to provide clarification with respect to current waiver plan provisions. The current waiver plan was amended effective October, 1988 to clarify that in-home family support services, supported living services for children, and supported living services for adults may be provided in the community. Therefore, this amendment is reasonable because it incorporates this provision for delivery of services in the community. It is reasonable to update rule definitions in order to reflect changes in federal and state regulations.

Subpart 8a. Day training and habilitation. This amendment is necessary to assure consistency with current terminology and definitions used in statute and other department rules governing services to persons with mental retardation or related conditions. This amendment is reasonable because Minnesota Statutes, §252.40, which governs service principles and rate-setting procedures for day training and habilitation services for adults with mental retardation and related conditions, refers to the term "day training and habilitation services" rather than "day habilitation" which is the terminology used in the current rule parts. Parts 9525.1500 to 9525.1690 (Rule 38) governs the licensure of training and habilitation services for adults with mental retardation or related conditions. Rule 38 was written after the promulgation of Rule 41 and therefore, it is reasonable to amend the definition to assure consistency with current governing rules. It is reasonable to simply cite the definition of "training and habilitation services" in part 9525.1500, subpart 36, rather than restating it in entirety because this promotes brevity of the rule and provides for consistency among department rules governing services to similar populations.

It is necessary and reasonable to delete reference to day habilitation services for children because since the introduction of Minnesota Statutes, §120.17 (early intervention law), public school systems are the primary agency responsible for the delivery of educational intervention services to children. For children under five years of age, according to Minnesota Statutes, §120.17, subdivision 14, it is the joint responsibility

of school districts, county boards, and public health agencies to coordinate, provide, and pay for appropriate services not required under §120.17 and to facilitate payment for services from public and private sources. State plan medical assistance services may be utilized in the provision of appropriate services; however, day training and habilitation services available through the waiver are considered to be a duplicate of educational intervention service and should not be used for children. This is not intended to imply that residential habilitation services in the form of In-Home Family Support or Supported Living Services for children should not be provided to children receiving educational services.

Subpart 13. Geographic region. It is necessary to amend this definition in order to delete an unnecessary phrase. It is reasonable to delete the phrase "...in effect on July 1, 1984" because this phrase provides no additional meaning or clarification to the definition of "geographic region." It is sufficient to refer to the definition given in Minnesota Statutes, §462.385 since Chapter 462 governs regional planning activities.

Subpart 13a. Habilitation services. This amendment is necessary to be consistent with the reorganization of the rule parts. This definition is moved from part 9525.1860, "Reimbursable Services", to part 9525.1800, in this subpart. Relocation of this definition is necessary and reasonable for the reasons specified in part 9525.1800, subpart 3. The addition of the word "training" to the phrase "day training and habilitation services" is necessary and reasonable to ensure consistency with terminology currently used in other department rules.

Subpart 14. Home and community-based services. This amendment is necessary to make the rule consistent with the current status of waived services in Minnesota. The phrase "related conditions" is added to be consistent with the provision for related conditions in several other department rules governing services to persons with developmental disabilities, i.e. parts 9525.0015 to 9525.0165 and parts 9525.0180 to 9525.0190. It is reasonable to amend rules as changes occur in other department rules governing services to similar populations. It is necessary to identify the two types of waivers, MR/RC and ACS waivers, because these waivers have been approved by the federal government as separate and distinct waiver plans with differing eligibility criteria. The ACS waiver plan was initially approved in April 1990, and therefore, two distinct waiver plans did not exist at the time parts 9525.1800 to 9525.1930 were originally promulgated in 1985. It is reasonable to amend these parts to incorporate changes in the waived services system in Minnesota, since parts 9525.1800 to 9525.1930 implement these waiver plans. Home and Community-Based Services refers to services available through different waivers the federal government has approved.

Subpart 14a. Homemaker services. It is necessary to amend this definition to add the correct reference to parts 9565.1000 to 9565.1300, which are the department rules governing homemaker services. It is reasonable to correct and update references to other department rules to assure accuracy. This amendment is further necessary and reasonable for the reasons stated in subpart 3 regarding relocation of the term to the definitions section.

Subpart 16. Individual habilitation plan. It is necessary to repeal this subpart to be consistent with statutory changes. In the 1990 session, Minnesota Statutes, §256B.092 was amended to provide that a separate individual habilitation plan is no longer required; rather, the individual service plan must include an habilitation component. Therefore, it is reasonable to repeal this definition in order to be consistent with the current case management law requirements.

Subpart 17. Individual service plan. It is necessary to amend this subpart to be consistent with the current statutory definition of individual service plan. The definition of individual service plan contained in Minnesota Statutes, §256B.092, subdivision 1b was amended in both the 1990 and 1991 sessions. Further, the reference to parts 9525.0015 to 9525.0145 is no longer current since these parts are no longer an emergency rule. It is reasonable to amend rule definitions as needed in order to be consistent with statute.

Subpart 17a. In-home family support services. This amendment is necessary to clarify the intent of in-home family support services. The addition of the phrase "...to remain in the family home...", clarifies that these services may be provided in the person's home and are available to support the family as well as the person receiving services. It is reasonable to clarify the intent of this service, which is to encourage and enable parents to keep their children living at home. The relocation of this term to the definitions part of the rule is necessary and reasonable for the reasons stated in subpart 3.

Subpart 19. Placement. It is necessary and reasonable to repeal this definition for the reasons set forth in subpart 5b.

Subpart 19a. Leave days. It is necessary and reasonable to move this term to part 9525.1800 and delete it from part 9525.1860 for the reasons stated in subpart 3.

Subpart 19b. Mental retardation or related conditions or MR/RC. It is necessary to add this definition because the term mental retardation or a related condition as well as the abbreviation MR/RC is used throughout these rule parts. MR/RC refers to the Title XIX medical assistance waiver to provide home and community-based services for persons with mental retardation or

related conditions. As stated earlier, the ACS waiver was approved in Minnesota in April 1990. Therefore, the abbreviation MR/RC is used throughout parts 9525.1800 to 9525.1930 to distinguish the MR/RC waiver from the ACS waiver. It is reasonable to use an abbreviation to refer to a term that is used several times in the rule language in order to contribute to the brevity of the rule. It is reasonable to refer to the definition of "mental retardation" contained in part 9525.0015, subpart 20, items A and B because parts 9525.0015 to 9525.0165 govern the provision of case management services to persons with mental retardation or related conditions. This definition of mental retardation is used in other department rules as well. It is reasonable to refer to definitions used in other department rules governing services to the same population of consumers to facilitate consistency among rules and to promote brevity of the rule.

It is reasonable to refer to the definition of "related condition" given in Minnesota Statutes, section 252.27, subdivision 1a to assure consistency with statute. Section 252.27 was amended in the 1991 session revising the definition of "related condition". It is reasonable to simply cite to this section to assure consistency with the statutory language in the event the definition is amended in the future.

Subpart 19c. Nursing facility. It is necessary to add this definition due to the development and approval of the ACS waiver. When parts 9525.1800 to 9525.1930 were originally promulgated in 1985, the ACS waiver did not exist. However, following the approval of the ACS waiver in April 1990, the department determined that these parts required amending to incorporate specific provision for ACS waived services. Since the ACS waiver services are available to persons who are determined to be inappropriately placed in a Medicaid-certified nursing facility, the meaning of "nursing facility" is central to the understanding of eligibility for services funded through the ACS waiver. It is reasonable to refer to Minnesota Statutes, chapter 144A because this chapter governs the Department of Health which certifies nursing facilities.

Subpart 19d. Person. This amendment is necessary because the term "person" has a meaning specific to parts 9525.1800 to 9525.1930. The term "person" is used in a number of other department rules. It is reasonable to be consistent with terminology used in other rules and regulations governing services to persons with developmental disabilities. This definition is further reasonable based on advisory committee input that the term "person" emphasizes the individual and afford more dignity to persons receiving services than the term "client." It is reasonable to refer to the definition of person with mental retardation or a related condition in part 9525.1800, subpart 19b to assure consistency in the two definitions. It is

reasonable to confine the definition to those persons who are receiving home and community-based services through the MR/RC or ACS waiver to clarify that these parts apply only to persons receiving home and community-based services under a Minnesota waiver plan. The need and reasonableness of this definition are specified further in subpart 19b above.

The term "person" is used throughout parts 9525.1800 to 9525.1900. In order to avoid redundancy, the need and reasonableness specified in this subpart applies to all other amendments throughout parts 9525.1800 to 9525.1930 which replace the term "client" with the term "person." Accordingly, such amendments will not be addressed separately hereafter in this Statement of Need and Reasonableness.

Subpart 21a. Residential-based habilitation services. This amendment is necessary to reflect the waiver plan amendment which was effective October, 1988. This amendment clarifies that in-home family support services, supported living services for children, and supported living services for adults may be provided in the community. The addition of the phrase "..and in the community", incorporates this waiver amendment into the rule. It is reasonable to amend rule definitions to be consistent with federal authority. This definition is further reasonable because it is consistent with part 9525.2010, subpart 30, which defines "residential-based habilitation services" for licensure purposes. It is necessary and reasonable to repeat this definition rather than to merely cite to part 9525.2010 because parts 9525.1800 to 9525.1930 actually implement Minnesota's waiver plans. Therefore, the specific meaning of the services authorized by the waiver are essential to the understanding of the rule. This amendment is further necessary and reasonable for the reasons specified in subpart 3 with respect to the addition of the term "residential-based habilitation services" to part 9525.1800 and its deletion from its current placement at part 9525.1860, subpart 2.

Subpart 21b. Respite care. This amendment is necessary and reasonable for the reasons specified in subpart 3 regarding moving the definition from part 9525.1860, "Reimbursable Services" to part 9525.1800.

Subpart 23. Screening team. Amendment of this term is necessary to provide clarification to those affected by these rule parts. The addition of subdivision 7 to the reference to Minnesota Statutes, §256B.092, identifies for the reader specifically where the statutory provision for screening teams is located. This subpart clearly defines the members of the screening team. It is reasonable to amend rule parts to provide additional clarification, since such clarification facilitates easier implementation of the rule parts.

Subpart 25. Short-term. Amendment of this definition is necessary to differentiate between respite care (a temporary service) and other services which are provided for longer periods of time. The term "short-term" is used in the definition of respite care. It is necessary to amend this definition to allow for use of respite hours that may exceed current limitations when federal approval is granted to do so. The current waiver plan was approved by the federal Health Care Finance Administration with the limitation of no more than 30 days of respite. Ten percent of those receiving respite may receive additional respite up to 90 days upon the commissioner's authorization with no more than 30 days in out-of-home respite. The Omnibus Reconciliation Bill, which was signed into law on November 5, 1990, contained language affecting respite care provided through home and community-based services. This language prohibits the Secretary of Health and Human Services from restricting the number of hours or days of respite care a participant in a home and community-based waiver program may receive. Minnesota must comply with the limitations stated in the current federally-approved waiver plan until a new waiver renewal plan is effective. It is reasonable to amend rule definitions to enable the commissioner to authorize additional hours of respite care at the time of federal approval of the waiver renewal plan which will modify current limitations on respite, in the event that the second stage of amendments to parts 9525.1800 to 9525.1930 have not been finalized.

Subpart 26a. Supported Living Services for adults. The need and reasonableness of this amendment is specified in subpart 3 with respect to moving the term "supported living services for adults" to part 9525.1800 and deleting it from its current location at part 9525.1860, subpart 2.

Subpart 26b. Supported Living Services for children. It is necessary to amend this definition to make it consistent with department rules governing the licensure of foster care service for children. Minnesota Rules, parts 9545.0010 to 9545.0260 governs the licensure of family foster care and group family foster care. Part 9545.0030, item D, limits the number of foster children in special services homes to no more than four children. Therefore, the amendment from three to four persons is necessary and reasonable in order to be consistent with the child foster care rule. It is reasonable to update rule definitions to make them consistent with current definitions used in other department rules governing services to similar populations.

The need and reasonableness of this amendment is further specified in subpart 3 with respect to moving the definition to part 9525.1800 and deleting it from its current location at part 9525.1860, subpart 2.

Subpart 27. Title XIX Home and Community-based waived services for persons with mental retardation or related conditions or the MR/RC waiver (plan). This amendment is necessary to make the rule consistent with the current status of waived services in Minnesota. When parts 9525.1800 to 9525.1930 were originally promulgated in 1985, the ACS waiver, as defined in subpart 1b, did not exist. Accordingly, use of the term "waiver" was ample. Given the approval of the ACS waiver in April 1990, the rule must now distinguish the two distinct waiver plans. It is reasonable to amend this definition by adding MR/RC to its name since doing so identifies the MR/RC as a waiver separate from the ACS waiver. It is reasonable to amend the definition to reflect changes in the delivery of waived services as well as to provide clarification to those affected by the rule with regard to the distinction between the two waivers.

It is further necessary and reasonable to add the phrase "...the effective date of the last waiver plan...", to prevent undesirable restrictions and in recognition that there is expected to be a new waiver plan in effect beginning July 1, 1992.

PART 9525.1810 APPLICABILITY AND EFFECT.

Subpart 2. Effect.

This amendment is necessary to identify that parts 9525.1800 to 9525.1930 implement two types of waivers. It is necessary to inform counties, providers and other interested parties of the amendments to the rule parts which govern the provision of home and community-based services, and to whom the rule parts apply. The need and reasonableness for distinguishing the MR/RC waiver and the ACS waiver is stated further in part 9525.1800, subpart 27.

PART 9525.1820 ELIGIBILITY.

Subpart 1. Eligibility criteria for MR/RC waiver. This amendment is necessary to distinguish the eligibility requirements for the two waiver plans. It is necessary to clarify who is eligible to receive services funded and administered under this rule. When parts 9525.1800 to 9525.1930 were originally promulgated in 1985, only the Title XX Home and Community-Based Services for Persons with Mental Retardation or Related Conditions existed in Minnesota. Therefore, in the current rule, it was appropriate to refer to eligibility for the waiver generally. However, in April 1990, the ACS waiver was approved. The MR/RC and ACS waivers, as defined in part 9525.1800, are distinguishable in their purpose. The criteria for eligibility under each waiver plan is also different. Accordingly, it is necessary and reasonable to add to this

subpart, eligibility criteria specific to the MR/RC waiver in order to distinguish the two waiver plans.

The amendment of items A to E by reorganizing their order is necessary to enable these items to be applicable to and clearly read with subpart 2. It is reasonable to reorder items to avoid repetition and provide clarification.

The amendment of item B is necessary to be consistent with statute and other department rules. Parts 9525.0015 to 9525.0165 are now permanent rules. The definition of "related condition" contained in Minnesota Statutes, section 252.27, subdivision 1a was amended in the 1991 session. It is reasonable to update rule language in order to reflect changes that have occurred in statute and other department rules governing services to similar populations of consumers.

Subpart 1a. Eligibility criteria for the ACS waiver. This amendment is necessary to distinguish the eligibility requirements for the two waiver plans addressed in parts 9525.1800 to 9525.1930. The need and reasonableness for separating the eligibility criteria specific to the MR/RC waiver and the ACS waiver is specified further in subpart 1. It is necessary and reasonable to refer to the requirements in items B to E of subpart which are applicable to the ACS waiver as well as the MR/RC waiver in order to avoid unnecessary repetition, to promote brevity of the rule, and to clarify the similar requirements.

It is necessary to specify in detail those eligibility requirements which are specific to the ACS waiver in order to be consistent with the federal regulations governing the ACS waiver. The ACS waiver provides alternative community-based services, as part of Minnesota's federally-approved Alternative Disposition Plan, to persons who were determined to be inappropriately placed in nursing facilities per Public Law 100-203 (OBRA) at the time of submission of the ACS waiver plan to the federal Health Care Financing Administration. All eligibility criteria must be met to assure compliance. It is reasonable to specify the criteria which must be met under A and B in order to execute the intent of OBRA to discontinue inappropriate nursing home placements as well as to comply with the requirements under Public Law 100-203.

Subpart 2. Medical assistance eligibility for children residing with their parents. It is necessary to amend item A to be consistent with the item changes made in subpart 1. Subpart 2 references the eligibility criteria contained in subpart 1. Since an additional criteria was added at subpart 1, item E, it is necessary and reasonable to amend this subpart to include reference to item E to be consistent. This amendment is further reasonable because it facilitates the department's goal of having children with developmental disabilities remain in their family

home.

PART 9525.1830 PROVISION OF HOME AND COMMUNITY-BASED SERVICES.

Subpart 1. Conditions. It is necessary to amend item A to allow for increased flexibility in the department's management of ACS and enhanced waiver funds. It is necessary to inform persons affected by these rule parts of the conditions that must be met before home and community-based services are provided. The addition of the phrase "...or as authorized by the commissioner;", allows the department flexibility in the management of waiver funds thereby clarifying the authority to fund special projects such as through the enhanced waiver services fund. Such increased flexibility is reasonable because it allows special projects and rate enhancements that, in certain cases, better meet the unique needs of the individual receiving services.

It is necessary and reasonable to amend item B by replacing the reference to emergency parts 9525.0015 to 9525.0145 with reference to permanent parts 9525.0015 to 9525.0165, to be consistent with the current permanent status of Rule 185.

PART 9525.1840 PARENTAL CONTRIBUTION FEE.

Subpart 1. Out-of-home placements. This amendment is necessary to make the rule consistent with current statutory requirements. Minnesota Statutes, §256B.14 requires parental fees for children in out-of-home placements receiving medical assistance. Minnesota Statutes, §256B.14 requires the department to adopt rules that determine the ability of responsible relatives to contribute partial or complete payment or repayment of medical assistance furnished to recipients for whom they are responsible and that these rules shall be consistent with the requirements of Minnesota Statutes, §252.27 for parents of children whose eligibility for medical assistance was determined without deeming of the parent's resources and income. Minnesota Statutes, §252.27 was amended in the 1990 session to include a specific parental fee schedule based on adjusted gross income. This provision applies to parents of children receiving in-home services as well as those children in out-of-home placements. It is reasonable to amend this subpart to reflect changes which have occurred in statute in order to be consistent with statutory requirements.

Subpart 2. In-home services. This amendment is necessary and reasonable for the reasons specified in subpart 1.

PART 9525.1850 PROVIDER REIMBURSEMENT.

The amendment of the first paragraph of this part is necessary to be consistent with other department rules governing licensure of services. This amendment refers to parts 9525.0215 to 9525.0355 (Rule 34), parts 9525.1500 to 9525.1690 (Rule 38) and parts 9525.2000 to 9525.2140 (Rule 42). Rule 34 governs the licensure of residential programs for persons with mental retardation or related conditions and sets standards for staff qualifications, orientation and training in part 9525.0355. Rule 38 governs the licensure of training and habilitation services for adults with mental retardation or related conditions and sets standards for staff qualifications and staff training in parts 9525.1610 and 9525.1620. Rule 42 governs the licensure of residential-based habilitation services and contains standards for staff training and orientation in part 9525.2140. This amendment is necessary because it waives staff qualification and training requirements that are already addressed under these three licensing rules. It is reasonable to exempt these groups from the requirements under items C, D, and E of this part to avoid duplication and discrepant requirements. In particular, since the promulgation of parts 9525.2000 to 9525.2140, there have been a number of questions raised by providers with regard to whether the staff requirements of parts 9525.1800 to 9525.1930 or parts 9525.2140 apply. This amendment is necessary and reasonable to clarify when requirements are applicable as well as to eliminate any inconsistency between the two rules. It is necessary and reasonable to inform providers of the criteria they must meet to receive medical assistance reimbursement for providing home and community-based services. These amendments are reasonable because they promote consistent treatment of providers by assuring consistency with other department rules governing services to persons with mental retardation.

The amendments in this part replacing the term "minor physical adaptations" with "adaptive modifications and equipment" are necessary and reasonable for the reasons stated in 9525.1800, subpart 1a.

The amendment in this part replacing the term "individual habilitation plan" with "individual service plan" is necessary to be consistent with the current case management requirements under Minnesota Statutes, §256B.092. The need and reasonableness of this amendment is stated further in part 9525.1800, subpart 16.

Amendment of item J is necessary to be consistent with current rule references. Minnesota Rules, parts 9500.0750 to 9500.1080 have been repealed with the exception of part 9500.1070. Parts 9505.1750 to 9505.2150 have been repealed and replaced by parts 9505.2160 to 9505.2245, which governs the surveillance and utilization review systems. Proposed parts 9505.2160 to 9505.2245 were published in the State Register on January 14,

1991.

PART 9525.1860 REIMBURSABLE SERVICES.

The amendments in this part are necessary to inform interested persons of the services that can be reimbursed by medical assistance under parts 9525.1800 to 9525.1930 and of changes that have occurred in the status of these services. The amendments in this part replacing the term "minor physical adaptations" with the term "adaptive modifications and equipment" are necessary and reasonable for the reasons stated in part 9525.1800, subpart 1a.

Subpart 1. General limits. This amendment is necessary to clarify which services are reimbursable under the MR/RC waiver and which are reimbursable under the ACS waiver. As stated earlier, amendment of parts 9525.1800 to 9525.1930 are necessary to include provision for the ACS waiver, as well as to distinguish between the MR/RC and ACS waivers with respect to eligibility criteria and reimbursable services under this part. This amendment is reasonable because it clearly identifies and distinguishes those services which are reimbursable under the MR/RC waiver and the ACS waiver. It is reasonable to update this subpart in order to incorporate changes in federal approvals and regulations.

Subpart 2. Definitions. It is necessary to repeal this subpart to provide clearer organization of the rule. This subpart currently contains definitions of the following terms: "case management", "day habilitation", "habilitation services", "home-maker services", "in-home family support services", "leave days", "minor physical adaptations to the home", "residential-based habilitation services", "respite care", "supported living arrangements for adults", "supported living arrangements for children", and "other home and community-based services." These definitions were amended to reflect the current status of these services and to incorporate changes made in applicable state and federal regulations since the original promulgation of parts 9525.1800 to 9525.1930 in 1985.

It is reasonable to repeal this subpart and move the amended definitions to the definitions in part 9525.1800 because these terms are used throughout parts 9525.1800 to 9525.1930; their use is not limited solely to part 9525.1860. It is reasonable to reorganize rule parts when such reorganization provides clarification and facilitates easier reading of the rule as a whole.

Subpart 3. Billing for services.

The amendments in this subpart replacing the term "individual habilitation plan" with the term "individual service plan" are

necessary and reasonable for the reasons stated in part 9525.1800, subpart 16. The amendments in this subpart replacing the term "minor adaptations to the home" with "adaptive modifications" is necessary for the reasons specified in part 9525.1800, subpart 1a.

Subpart 4. Service limitations. Amendments in this part are necessary to clearly identify the limits that apply to home and community-based services under the MR/RC and ACS waivers. The amendments in this subpart adding the word "training" to the phrase "day training and habilitation services" are necessary for reasons specified in part 9525.1800, subpart 18a.

Amendment to item B (3) is necessary to be consistent with current statutory requirements. Minnesota Statutes, §256B.501, subdivision 1 (d), as cited in the current rule language is incorrect. Rather, Minnesota Statutes, §252.40, subdivision 3, which was passed in 1987, now governs the service principles and rate-setting procedures for day training and habilitation services for adults with mental retardation and related conditions. It is reasonable to update rule language as statutory changes occur in order to assure consistency with the governing statute.

Amendment to item D by replacing the term "supported living arrangements" with "supported living services" is necessary and reasonable for the reasons stated in part 9525.1800, subparts 26a and 26b. Amendment of item D by adding the phrase, "If the person is not receiving respite care or other supported living services,..." is necessary to clarify the intent of current language that leave days may not duplicate other services. The prevention of duplication of service payment is necessary and reasonable to comply with federal requirements and the approved waiver plan. Amendment of item D(2) is necessary for further clarification of the intent to avoid duplicate payment. It is reasonable to delete the qualifying terms "therapeutic" and "camping trip" based on input by advisory committee members that these qualifications are limiting and unnecessary since they do not contribute to the intent of this item. Rather, simply stating "an overnight trip or a vacation" clearly states what types of leave days are allowed while providing a higher degree of flexibility. This flexibility avoids situations where the county can not authorize reimbursement for a leave day in the form of an overnight trip because it may not be considered "therapeutic" or may not be a camping trip. This allowance for flexibility is reasonable because while the intent of the leave day provision is to prevent duplicate payment for services, it is not to prevent counties from authorizing leave day reimbursement to providers in individual service plans and service contracts with providers.

Amendment of item E is necessary to clarify that the dollar amount of funding available through the waiver for physical modifications and equipment increases on an annual basis. In addition, the ACS and MR/RC waivers have different levels of funding that may be used towards physical modifications and equipment. It is reasonable to address the fiscal year dollar limitations available for the MR/RC and ACS waivers on an annual basis through a bulletin.

It is necessary to specify that there are differences in the approved physical modifications and equipment between the MR/RC and ACS waiver plans. The MR/RC waiver plan limits the approved physical modifications and equipment that may be purchased with waiver dollars. The ACS waiver plan states, "The following are examples of home adaptations that will be offered", and lists items that are approved to indicate the intent of physical modifications and equipment but does not limit the purchase of modifications or equipment exclusively to that list. In addition, amendments to the waiver plans or waiver renewal plans may allow for different modifications and equipment to be purchased. Deleting the itemization of specific adaptations which are allowed under the waiver and replacing the itemization with the phrase "...shall be determined annually by the commissioner based upon the approved waiver plan.", is reasonable because it allows for accommodation of federally-approved waiver plan amendments which may change the list of reimbursable adaptations. It is reasonable to issue a bulletin to advise counties of approved physical modifications and equipment on an annual basis to ensure counties are aware of currently approved modifications and equipment because bulletins can be disseminated in a very timely manner.

Amendment of item E by a provision that adaptive modifications and equipment must meet or exceed applicable federal as well as state and local building codes is necessary to reflect new federal building regulations which are provided for under the American Disabilities Act, Public Law 101-336, enacted July 26, 1990, and subsequent regulations that will be promulgated thereunder.

Subpart 5. Special services. It is necessary to repeal this subpart to remedy confusion that exists in the interpretation of the current rule language. Subpart 5a is added to address and clarify the area of special services. Federal regulations do not allow waiver funds to be used to pay for those services that are available through other funding sources. State plan medical assistance programs must be used first for any services. It is reasonable to repeal rule language which is confusing and may lead to inaccurate interpretation and inappropriate use of federal funds.

Subpart 5a. Other medical or related costs. It is necessary to add this subpart to replace unclear language repealed at subpart 5. This amendment is reasonable because it clarifies that waived services must not duplicate services which are available through other funding sources and that those resources must be used first when planning waived services. State plan Medicaid services must be used to the extent allowable before a county may consent to pay for services that are different or beyond what is allowable through state plan medical assistance services. This includes physical modifications and equipment. It is reasonable to add language which clarifies the use of waived services funding to ensure compliance with approved waiver plans and facilitate the most desirable and cost-efficient use of waived services funding.

Subpart 6. Other applicable rules. It is necessary to amend this subpart to inform interested persons of the standards contained in other department rules which are applicable to home and community-based services. It is reasonable to amend this subpart to be consistent with current requirements in other department rules governing the licensure of services to persons with mental retardation or related conditions which have been adopted or amended subsequent to the original adoption of parts 9525.1800 to 9525.1930. It is reasonable to update rules as changes occur in other department rules in order to assure consistency.

It is necessary to amend item C to include provision for licensure of the provider under parts 9525.1000 to 9525.2140 (Rule 42). Rule 42 was promulgated in October 1989 and therefore was not in existence at the time the current parts 9525.1800 to 9525.1930 were promulgated in 1985. Due to the adoption of Rule 42, the provider must be licensed under parts 9525.2000 to 9525.2140, while the site serving children must be licensed separately under parts 9545.0010 to 9545.0260 which governs child foster care licensure.

It is necessary to amend item D to be consistent with changes that have occurred in other department rules governing services to persons with mental retardation or related conditions that are subject to the provisions of parts 9525.1800 to 9525.1930. Parts 9525.2000 to 9525.2140 were promulgated in 1989 and govern the licensure of residential-based habilitation service providers. It is necessary to incorporate these requirements into this rule to assure consistency and compliance with both rules. As discussed in item C above, due to the adoption of Rule 42, the provider must be licensed under parts 9525.2000 to 9525.2140 and the site serving four or fewer adults must be licensed under parts 9555.5105 to 9555.6265, which governs adult foster care licensure. The amendment relating to the requirements of parts 9525.0215 to 9525.0355 is necessary to be consistent with the correct current rule reference. The parts referenced in the

current rule were repealed subsequent to the promulgation of current parts 9525.1800 to 9525.1930. The addition of "five or six adults" is necessary because it provides clarification as to how many adults can live at a single residence while receiving waived services. It is reasonable to revise rule language to provide additional clarification to those affected by the rule.

The amendments in item E updating references to other department rules are necessary and reasonable for the same reasons stated in item D above.

Subpart 7. Licensing variances. The amendment in item B revising the reference to other rule parts is necessary to assure consistency with other department rules governing services to persons with mental retardation and related conditions as related to waived services. Parts 9555.5105 to 9555.6265 govern adult foster licensure. Parts 9555.6100, 9555.6200, 9555.6300 and 9555.6400 were repealed effective August 3, 1987 for specified foster homes and effective August 3, 1988 for the remaining foster home operators.

The amendment of C replacing the reference to parts 9525.0210 to 9525.0430 with 9525.0215 to 9525.0355 is necessary to be consistent with changes that have occurred in the department rule governing the licensure of residential programs for persons with mental retardation or related conditions. Parts 9525.0210, 9525.0220, 9525.0230, 9525.0240, 9525.0250, 9525.0260, 9525.0270, 9525.0280, 9525.0290, 9525.0300, 9525.0310, 9525.0320, 9525.0330, 9525.0340 and 9525.0350 were repealed after the promulgation of current parts 9525.1800 to 9525.1930. It is reasonable to update rule language as other rule parts are amended or repealed.

PART 9525.1870 PROVIDER CONTRACTS AND SUBCONTRACTS.

Subpart 1. Contracts. It is necessary to amend this subpart to be consistent with current rule references. When parts 9525.1800 to 9525.1930 were originally promulgated in 1985, as indicated in the current language, parts 9550.0010 to 9550.0092 (Rule 160) were being proposed by the Department. Rule 160 was subsequently adopted in 1986 and now has a permanent rule status. Therefore, it is reasonable to amend this subpart to assure the correct reference to rule parts. Since parts 9550.0010 to 9550.0092 governs the general administration of public social services, it is necessary and reasonable to inform county boards and providers that contracts between providers and the host counties are required for services to be reimbursed under parts 9525.1800 to 9525.1930 and that such contracts must be developed according to parts 9550.0010 to 9550.0092.

PART 9525.1880 COUNTY PROPOSAL AND APPROVAL OF COUNTY PROPOSAL.

The amendments in this part are necessary to inform the county board of the current requirements for county proposals to provide home and community-based services. It is reasonable to advise county boards in the rule of changes that have occurred in the proposal process since the original promulgation of parts 9525.1800 to 9525.1930. The amendments in this part deleting references to the *Welsch v. Levine* consent decree are necessary because this decree has been settled. It is reasonable to delete references to decrees and other such matters that are no longer in effect.

The amendments in this part replacing the term "state-operated ICFs/MR" with "regional treatment centers" are necessary to be consistent with current terminology used in other department rules governing state facilities. ICF/MR is the certification required for federal participation in funding. Regional treatment centers have ICF/MR certifications for "beds" in their developmental disabilities units. There is currently a moratorium on the development of ICF/MR capacity. Waivered services provide a cost efficient alternative to ICF/MR services by converting medical assistance funding from ICF/MR to waivered services. This allows purchase of the types of services available in an ICF/MR facility and provide them to a person living in a variety of living situations. The use of waivered services conversion allocations requires a bed decertification for each allocation used. The decertification can be from any ICF/MR, whether it be a privately-owned community ICF/MR or state-operated regional treatment center. Allocations of waivered services are granted according to county proposals describing how this use is an alternative to ICF/MR development and assurances that waiver use will result in ICF/MR bed decertification according to federal requirements and the state waiver plan.

Subpart 2. Contents of county proposal. It is necessary to amend this subpart to be consistent with current practice. This amendment deletes the need for a separate statement of county goals and rather incorporates review of the CSSA plan in order to avoid duplication of effort. By amending this subpart to provide that the department may consider the county goals and objectives set forth in the CSSA plan, the determination of need, and the redetermination of need, duplication of information required is greatly diminished. It is reasonable to amend rule language to provide for a more time-efficient and cost-efficient methodology. This subpart is further reasonable because while avoiding unnecessary duplicative efforts by the county, it at the same time allows enough flexibility for the Department to request additional information where deemed necessary.

Subpart 3. Review and approval of proposal. It is necessary to amend item C by adding the qualifying statement "...located on regional treatment center campuses and in the community;", to provide clarification. With the onset of the department's development of state-operated community services (SOCS), it is necessary to specify that this requirement is applicable to private and state-operated ICF/MR beds in the community as well as those located on regional treatment centers. Since SOCS were not in existence at the time the current rule parts were promulgated, it is reasonable to amend this subpart to be consistent with the current state of services in Minnesota.

PART 9525.1890 ALLOCATION OF HOME AND COMMUNITY-BASED SERVICE MONEY.

Subpart 1. Allocation of diversions. Amendment of this subpart by replacing "state-operated" with "regional treatment centers" is necessary and reasonable for the reasons stated in part 9525.1880.

Subpart 2. Allocation of conversions. Amendment of this subpart by replacing the term "placements" with the term "conversions" is necessary and reasonable for the reasons specified in part 9525.1800, subpart 5b.

Subpart 4. Review of allocation; reallocation. Amendment of this subpart is necessary to incorporate a more effective and practical period of review. Since the promulgation of parts 9525.1800 to 9525.1930, the Department has been advised that from a county perspective, quarterly allocations are not practical. Replacing the quarterly review requirement with the phrase "... at least semi-annually...", provides the Department as well as counties with increased flexibility to reallocate while at the same time allowing the department to better respond to county need. Such ability to adjust the allocations as necessary serves to maximize the use of home and community-based services.

Subpart 6. Special projects. It is necessary to amend this subpart to incorporate provision for the ACS waiver, the Department's management of Enhanced Waivered Services Funding, and other projects that arise in the future. It is reasonable to require the Department to develop procedures and criteria for allocation of home and community-based program funds for each group identified as a special project where the Department manages the allocation process. It is necessary to develop special projects to assist counties in providing services to persons with complex needs for whom counties are unable to provide waived services within the statewide average reimbursement rate. This subpart is reasonable as it provides the commissioner with the ability to establish projects to meet needs of persons with mental retardation or related conditions.

Examples of special projects are: (1) Commissioner's Special Projects, which provide a higher reimbursement rate for individuals who meet the criteria established in the rule. (2) Enhanced Waivered Services funding which provides enhanced rates for the purchase of services to meet the needs of persons moving from regional treatment centers to a community setting with waivered services. The Department manages the average level of reimbursement to facilitate use of the funds for differing levels of services without affecting county average reimbursement rates. (3) The ACS waiver's allowable average is managed by the Department for the same reasons as the Enhanced Waivered Services funding.

The purpose of special projects funds is to better serve very dependent persons with special needs. It is reasonable to establish special projects for this group since because it may be difficult for county boards to serve such persons within the statewide average reimbursement rate. This subpart is reasonable because it provides the commissioner with the ability to establish programs to meet these special needs.

PART 9525.1900 AGREEMENT BETWEEN STATE AND COUNTY.

Subpart 1. Contents of agreement. It is necessary to amend this subpart in order to include provision for written agreements specific to the ACS waiver plan as well as the MR/RC waiver plan. Since the ACS waiver did not exist when the current parts 9525.1800 to 9525.1930 were promulgated, it is necessary to update the rule to reflect the fact that two waiver plans now exist in Minnesota. It is necessary to notify the county board that it must have a legally binding written agreement with the state with respect to each of the waiver plans in order to receive home and community-based services monies. It is reasonable to update rule language as changes occur in federal regulations.

It is necessary to amend item E in order to assure the use of current references to other department rules. Minnesota Rules, parts 9505.1750 to 9505.2150 as referenced in the current language, were repealed and replaced by parts 9505.2160 to 9505.2245. It is reasonable to update rule language as other department rules are repealed or promulgated.

It is necessary to amend item F to update the reference to other department rules. Parts 9525.0015 to 9525.0165 (Rule 185) currently govern county case management services. At the time parts 9525.1800 to 9525.1930 were originally promulgated, Rule 185 was effective in emergency form only. It was later afforded permanent status as parts 9525.0015 to 9525.0165, which became effective in July of 1986. It is reasonable to update rule language to reflect the promulgation of other department rules.

PART 9525.1910 COUNTY BOARD FUNDING OF HOME AND COMMUNITY-BASED SERVICES.

Subpart 4. Cost limitations. It is necessary to amend this subpart by adding the language "...counties may authorize..." for clarification purposes. Counties authorize the level of funding for the MR/RC waiver, whereas the Department authorizes funds for the ACS waiver and special projects, including Enhanced Funding. This amendment is reasonable because it incorporates provision for the ACS waiver and reflects the current status of authorization for waived services.

It is necessary to amend item B to clarify county responsibility to maintain average level of spending for persons receiving waived services. Counties may not exceed the county allowable average reimbursement rate for all persons for whom they have financial responsibility receiving MR/RC waived services, unless authorized to do so by the Department for a person funded through special project funding. This means that the Department may authorize specific levels of spending for specified individuals through certain projects that hold counties harmless for spending that causes them to exceed their average. Examples include Commissioner's Special Project phase-out plans and persons receiving Enhanced Waivered Services Funding. Counties may not exceed the level of spending authorized by the Department for any individual funded through a special project. In addition, counties may not exceed the level of spending that is authorized for each individual receiving ACS waived services funding. This is necessary as the Department must manage the level of funding for special projects and the ACS waiver under certain federally-approved limits.

PART 9525.1920 REQUIRED RECORDS AND REPORTS.

Amendments in this part replacing rule parts 9505.1750 to 9505.2150 with proposed parts 9505.2160 to 9505.2245 are necessary and reasonable for the reasons stated in part 9525.1910, item E.

PART 9525.1930 PENALTIES AND APPEALS.

Subpart 2. Exception. It is necessary to repeal this subpart because the original provision for an exception of until January 1, 1986 has expired. A provision for an exception is no longer required since counties and providers have been notified of the rule since 1985 and have had adequate time to comply with its requirements. It is reasonable to delete exceptions that are no longer necessary and are obsolete in order to make rule language consistent with current requirements.

PART 9525.2010 DEFINITIONS.

Subpart 34. Supported Living Services for Children. It is necessary to amend this definition to assure that parts 9525.1800 to 9525.1930 (Rule 41) and parts 9525.2000 to 9525.2140 (Rule 41) are consistent. This definition is amended by changing the capacity for supported living services for children from three to four children. As stated in part 9525.1800, subpart 26b, this amendment is reasonable because it is consistent with department rules which governs the licensure of family foster care and group family foster care. The need and reasonableness for this amendment is stated further in part 9525.1800, subpart 26b.

EXPERT WITNESSES/SMALL BUSINESS

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

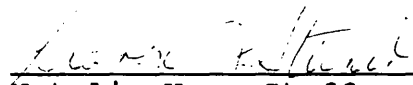
AGRICULTURAL LAND

The proposed rule amendments do not have a direct or substantial adverse effect on agricultural land as defined in Minnesota Statutes, section 17.81, subdivision 3 and referenced in Minnesota Statutes, section 14.11, subdivision 2.

CONCLUSIONS

The foregoing statements address the need and reasonableness of the proposed amendments to parts 9525.1800 to 9525.1930 and 9525.2010, subpart 34. To a great extent the need for amendment of these parts are prescribed by state statute, federal requirements under the MR/RC and ACS waivers, and the responsibility of the Minnesota Department of Human Services to exercise prudent management of waived services funding.

DATE: 5-2-91, 1991



Natalie Haas Steffen, Commissioner
Department of Human Services

