STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO RULES OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING INPATIENT HOSPITAL REIMBURSEMENT UNDER MA AND GAMC, PARTS 9500.1090 TO 9500.1155.

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

Parts 9500.1090 to 9500.1155 became effective in August, 1985. Their implementation has shown the Department of Human Services and managers of some hospitals that some of those parts need to be amended to compensate hospitals more equitably, to clarify rule language, and to correct inadvertent technical and grammatical errors.

To amend parts 9500.1090 to 9500.1155 the department worked closely with a public advisory committee consisting of hospital representatives. A list of the committee members is attached as an appendix. To solicit additional public input on the amendments the department published a notice to solicit outside opinion in the State Register in February, 1986.

The committee and the department developed and suggested statutory changes needed to authorize some of the amendments. Some of the suggested statutory changes were adopted by the legislature in Laws of Minnesota 1986, chapter 420, section 6. Therefore some amendments are needed because they are required by or are consistent with state law, including the principles of the prospective reimbursement system authorized under Minnesota Statutes, section 256.969. Other amendments are needed because they are required by or are consistent with other Minnesota rules or Federal laws and regulations.

9500.1090 PURPOSE AND SCOPE

The amendment changing "all" to "the" is needed and reasonable because it is a technical amendment relating to grammar and does not change the meaning of the rule.

The amendment indicating that rates for reimbursements shall be partitioned into rates for admissions of persons who receive AFDC (MA/AFDC recipients) and rates for all other admissions (MA/non-AFDC recipients) is needed to establish rates that are more equitable. The amendment is reasonable because past department reimbursements show that Medical Assistance reimbursements for MA/AFDC recipients are much lower than Medical Assistance reimbursements for MA/non-AFDC recipients. As a group, MA/AFDC recipients are less costly for a hospital to serve than MA/non-AFDC recipients. Without the amendment, therefore, a hospital that has served a large percentage of the Medical Assistance/AFDC population would receive reimbursements that are disproportionately higher than reimbursements received by a hospital that served a high percentage of MA/non-AFDC recipients.

The amendment is also reasonable because it reduces the incentive of a private hospital to send MA/non-AFDC recipients to public hospitals.

9500.1100 DEFINITIONS

Subp. 4. Admission certification. Rule parts "9505.0500 to 9505.0540" govern admission certification, which is a required procedure to be elgible for medical assistance payment. Therefore, inclusion of this citation is necessary and reasonable to inform persons affected by these rules of compliance requirements.

Revision of parts 9505.5000 to 9505.5020 (Emergency) to 9505.5000 to 9505.5030 is necessary as these rules superceded the emergency rule.

It is necessary and reasonable to insert "9505.5105", which pertains to appeals regarding prior authorization, because it informs persons affected by these rules of their right to appeal and on how to appeal.

Subp. 4a. Aid to families with dependent children or AFDC. AFDC is a new term used in the amendments to identify for whom separate reimbursement rates are determined for in the amendments proposed in part 9500.1090, Purpose and Scope. The definition is necessary to clarify the meaning of AFDC.

The definition is reasonable because it specifies that AFDC is the federally aided program under Title IV-A of the Social Security Act which has specific eligibility and benefit criteria and because it is consistent with the definition used in rules that govern Minnesota's AFDC program, part 9500.2060, subpart 6.

Subp. 5. Allowable base year cost per admission. Including reimbursable inpatient hospital costs in the cost per admission up to their applicable trim points is necessary and reasonable because it is consistent with the Laws of Minnesota 1986, chapter 420, section 6. Changing the term "which" to "that", deleting the terms "which" and "and", and inserting a comma after "case mix" are necessary and reasonable amendments because they correct grammatical errors.

Subp. 7. Appeals board. The amendments in this definition are needed to clarify that the appeals board can advise on adjustments to any reimbursement under the prospective reimbursement system if the hospital requests adjustments. The amendment is reasonable because it is consistent with Minnesota Statutes, section 256.969, subdivision 4. Changing the term "which" to "that" is necessary and reasonable because it corrects a grammatical error.

Subp. 8a. Arithmetic mean length of stay. This definition is needed because it is a new term used in amendments governing transfer reimbursement. The definition is reasonable because it is consistent with the mathematic principles that guide the computation of means.

Subp. 12. Categorical rate per admission. These amendments are necessary to clarify the equation used to determine categorical rates per admission. The amendments are reasonable because they correct grammatical errors and do not change the equation's outcome.

Subp. 20. Diagnostic categories. This amendment is necessary and reasonable because it corrects a grammatical error.

Subp. 21a. Foreseeable complication. "Foreseeable complication" is a new term used in amendments governing transfer reimbursement. A definition is necessary to clarify its meaning. The definition is reasonable because it is consistent with principles of medical care.

Subp. 24a. Health care financing administration (HCFA). This definition is necessary because it is a term used in part 9500.1125. The definition is reasonable because it clearly identifies the office referred to in part 9500.1125.

Subp. 30. Medically necessary. This definition is needed to change a reference to emergency rules that became permanent after the promulgation of parts 9500.1090 to 9500.1155. The amendment is reasonable because the permanent version of the emergency rules is substantially the same as the emergency rules.

Subp. 30a. Medically needy. "Medically needy" is a term used in the proposed amendment of part 9500.1090. A definition is necessary to clarify its meaning in these rules. The definition is reasonable because it is

consistent with the federal regulations which set the conditions for federal financial participation in the medical assistance program.

33a. Minnesota supplemental aid. "Minnesota supplemental aid" is a term used in these amendments. This definition is needed to clarify its meaning in these rules. The definition is consistent with Minnesota Statutes. Its abbreviation, MSA, is not applicable to these rules.

Subp. 39. Prior authorization. It is necessary to delete "9505.5020 [Emergency]" and insert "9505.5030 and 9505.5105" to convert a reference to emergency rules to the permanent version of those emergency rules. The reference to "9505.5105" is needed and reasonable because it informs affected persons of their rights to appeal and on how to appeal decisions about prior authorization under parts 9505.5000 t0 9505.5020.

Subp. 41. Prospective reimbursement system. This amendment is necessary to clarify that the term "prospective reimbursement system" includes all forms of reimbursement available under parts 9500.1090 to 9500.1155. The amendment is reasonable because it is consistent with the meaning the department originally intended for the term, because it corrects a technical error, and because it will not change the way reimbursements amounts are determined for a hospital.

Subp. 42. Readmission. These amendments are necessary to clarify the definition of readmission. The amendments are reasonable because they do not change how the term "readmission" is used to reimburse hospitals.

Subp. 43a. Recipient resources. This definition is needed to clarify the meaning of a term used in the proposed amendments. The term is reasonable because it is an abbreviation used to avoid burdening the rule with unnecessary words.

Subp. 45. Relative value. Amendment of the definition to exclude inpatient hospital costs in excess of applicable trim points in determining relative values is consistent with the requirements of Laws of Minnesota, 1986, chapter 420, section 6.

Subp. 47. This amendment is necessary and reasonable because part 9505.5030 [Emergency] was replaced by rule parts 9505.5035 to 9505.5105.

Subp. 47a. Supplemental security income. "Supplemental security income" is a term used in the rule amendments. A definition is needed to clarify its meaning. The definition is consistent the definition of the term given at Code of Federal Regulations, title 42, section 435.4 (2).

Subp. 49. Total reimbursable costs. The amendments to this subpart are necessary and reasonable because they are consistent with the Revisor of Statute's rules governing incorporations by reference.

Subp. 51. Trim point. "Trim point" is an abbreviation used in the proposed rule amendments. A definition is necessary to clarify its meaning. The definition is reasonable because it is consistent with and provides an efficient way to refer to the requirement of Laws of Minnesota, 1986, chapter 420, section 6, that the computation of relative values and base year costs include identified outlier cases and their weighted costs up to the point that they become outliers.

Subp. 52. Usual and customary. "Usual and customary" is a term used in the proposed rule amendments. A definition is necessary to clarify its meaning. The definition is consistent with the upper payment limits under Code of Federal Regulations, title 42, section 447.271 (a), and with the way the department has historically used the term.

9500.1110 DETERMINATION AND PUBLICATION OF RELATIVE VALUES OF DIAGNOSTIC CATEGORIES

Subp. 1. Determination of relative values.

D.(1) and (2). These amendments are needed to clarify the source of data used to determine the cost of routine and acilliary sevices.

Inclusion of the source of data is reasonable because affected persons have the right to know the source. The sources of data chosen are reasonable because they are consistent with the department's practice in implementing these rules following their adoption.

E. This amendment is necessary and reasonable to give the department the authority to use a DRG assignment software that is technically feasible and convenient for the department to use, but which is also consistent with the software in use by Medicare. Therefore the amendment gives the department the choice to continue using the DRG Support Group software, which was in use by Medicare until recently, or to use the same software now in use by Medicare.

H. This amendment is necessary and reasonable because it is consistent with of Laws of Minnesota 1986, chapter 420, section 6.

I. The amendment is necessary to clarify the calculation used to truncate a day outlier and thus establish a uniform method. The methodology of the amendment is consistent with Laws of Minnesota 1986, chapter 420, section 6. Use of 0.8 instead of 0.6 for diagnostic category 0 (neonate care) is needed to reflect the difference between the greater resources used for neonate care and all other types of care.

J. and K. It is necessary to include outlier cases in the determination of base rates and relative values up to the applicable trim points for their diagnostic categories to comply with by Laws of Minnesota 1986, chapter 420, section 6. Inserting the parentheses is needed and reasonable to clarify the calculation.

Amending the letters that designate items I to L under this subpart is necessary and reasonable because two items were added to this subpart.

9500.1115 DETERMINATION OF ALLOWABLE BASE YEAR COST PER ADMISSION.

B.(1) These amendments are necessary to ensure consistency with Laws of Minnesota 1986, chapter 420, section 6.

B.(2) These amendments are needed for clarification. Insertion of "inpatient hospital" is reasonable because the term "costs" was used interchangably with the defined term "inpatient hospital costs", therefore the amendment does not change policy or administrative practice. Insertion of the commas is reasonable because they clarify that for the purposes of this subitem, pass-through costs do not include malpractice insurance costs.

C, D(2) and (4). It is necessary and reasonable to include outliers in the determination of base rates and relative values up to the applicable trim points for their diagnostic categories because their inclusion is required by Laws of Minnesota, chapter 420, section 6.

9500.1125 DETERMINATION OF CATEGORICAL RATE PER ADMISSION.

Subpart 1. Pass-through cost reports. The amendments that require submission of total charges, admissions and days are needed to separate a hospital's pass-through costs that are attributable to welfare business from that hospital's pass-through costs that are attributable to non-welfare business. These amendments are reasonable because a hospital would be inappropriately compensated if costs that are not associated with welfare business were submitted as pass-through costs to be reimbursed by medical assistance funds.

Changing "prior to" to "before" is necessary and reasonable because "before" is a more familiar word and therefore clarifies the rule.

Changing the item designations and adding the subitem designations are needed to indicate that subitems (1) to (7) belong to the category of pass-through costs under item A and is reasonable because it clarifies the subpart.

The requirement to submit HCFA Form 2552 is necessary because the department needs the data on the form to determine reimbursement rates. The requirement was reviewed and accepted by the public advisory committee. The HCFA Form is convenient to submit because the form is already required by Medicare. Therefore, the requirement is reasonable because it permits hospitals to use the same form to report the same information needed by two different agencies and thus minimizes the reporting burden placed on the hospitals.

The requirement to submit the worksheets from HCFA form 2552 is needed and reasonable because the department will need the information on the worksheets to determine categorical rates per admission even if medicare stops requiring the worksheets or the information contained on them.

Subp. 2. Determination of budget year pass-through cost per admission. Inserting "inpatient hospital" is needed to clarify the term "reimbursable cost" and thus be consistent in the use of terms that are defined. The change is reasonable because the term "reimbursable costs" was used synonymously with the defined term "reimbursable inpatient hospital costs".

Changing the references under item B is necessary and reasonable because those changes are consistent with the item designation changes under subpart 1.

Deleting "base year" from item C will enable the collection of current data for use in computing pass-through costs. The hospital industry supported this change and the department has determined that the amendment would allow for more acccurate determinations of pass-through costs.

Subp. 3. Categorical rate per admission. These amendments are technical amendments that clarify the formula. They do not change policy or administrative practice.

Subp. 4. Pass-through cost per admission adjustment. Inserting "for Minnesota hospitals" and "for a Minnesota hospital" is necessary and reasonable because it clarifies that this subpart applies only to hospitals in Minnesota.

The remaining amendments are needed to clarify how the department may separate a hospital's MA pass-through costs and GAMC pass through costs from total pass through costs attributable to all payers and to show which documents the department must use to determine the pass-through cost per admission adjustment. Medicare requires the same documents for outpatient cost settlement and as part of its own cost-effectiveness evaluation of the DRG payment system. Therefore the proposed document requirement is reasonable because the proposed rule does not add a significant burden on the hospitals if the department uses those documents to determine pass-through cost adjustments.

The amendments are also reasonable because the department worked closely with the Minnesota Hospital Association to ensure that the amended method is accurate and convenient to use. The amendments also help ensure that the calculation will be done in the same way for all hospitals statewide.

Subp. 5. [see repealer]. It is proposed that this subpart be replaced by the amendment designated as item H. under subpart 4, pass through cost per admission adjustment. Repeal of this subpart is reasonable and necessary if the replacement language is adopted because it would conflict with the proposed language.

Subp. 6. Effective date. Adding the other forms of reimbusement to this subpart is necessary for clarification. The amendment is reasonable because this is what was originally intended by the department and because the amendment does not change policy or administrative practice.

9500.1126 RECAPTURE OF DEPRECIATION.

Subp. 1. Recapture of depreciation. These amendments are necessary to clarify the original rules. The recapture of depreciation is necessary because some hospitals are sold at an appreciated value and is reasonable because it prevents multiple payments for depreciation. The amendment clarifies that the methods used to determine the amount of depreciation recaptured by the state shall be consistent with the method used by Medicare to determine amounts of depreciation to be recaptured. The amendment is also reasonable because it allows the state to adjust its method if the method in use by Medicare changes.

Subpart 2. Payment of recapture of depreciation to commissioner. This amendment is needed and reasonable because it is for clarification purposes only.

The phrase that was deleted is unnecessary because it is redundant. Interest charges are also governed by the last paragraph of this subpart. The deletion does not change rule policy.

9500.1130 REIMBURSEMENT PROCEDURES.

Subp. 2. Required claims. This amendment is needed to prevent a hospital from billing the state more than it bills other payers for the same service. The amendment is reasonable because it helps prevent discrimination against the state, as required by the Code of Federal Regulations, Title 42, section 447.271 and prevents government from paying other costs. The amendment is also reasonable because it requires actual data and thus provides an historical basis for future rates or relative values rather than anticipated or projected amounts. Should a hospital provide incomplete data or "artificially" reduced charges, future rates and relative values would also be lowered artificially.

Subp. 3. Reimbursement in response to submitted claims. These amendments are necessary and reasonable because they are for clarification purposes only.

Subp. 6. Medicare crossover claims. The amendments in the Medicare crossover reimbursement formula are necessary to ensure that Medical Assistance is used only as a co-insurer and and to ensure that medical assistance reimbursements do not exceed Medicare upper payment limits. This is reasonable because such a payment limit is consistent with the upper payment limits under the Code of Federal Regulations, title 42, section 447.271. Medicare reimbursement for a diagnostic related group is considered complete payment for that diagnostic related group. Therefore it is reasonable that Medical Assistance payments be only for deductibles and coinsurance less recipient resources and third party payments.

Subp. 7. Reimbursement for transfers. Inserting the phrase "reimbursements for transfers shall be made according to items A and B" is a technical amendment that is necessary and reasonable because it clarifies that items A and B apply to transfer reimbursements only, not to reimbursements of other admissions.

A. Except for the amendments in the equation, the amendments in this item are necessary and reasonable because they are for clarification only.

The changes in the transfer formula are needed to equitably reimburse hospitals for transfers. Including the hospital cost index (HCI) in the transfer reimbursement formula is reasonable because the HCI compensates a hospital for inflation. Not including the HCI in the formula could result in insufficient reimbursement to a hospital.

It is reasonable to use the arithmetic mean length of stay in the denominator instead of the geometric mean length of stay because the

arithmetic mean is consistent with the arithmetic mean in the numerator.

The amendments to the equation are reasonable because they strengthen the distinction between partial and full medical care under the diagnostic classification reimbursement system. Transfer of a patient from one hospital to another represents partial medical care by each facility involved in the transfer. Therefore each hospital involved in a transfer may not necessarily be entitled to full reimbursement under a diagnostic category.

B. The amendment indicating that the inpatient hospitalization be medically necessary is reasonable because it is consistent with the requirements of rules regarding inpatient admission certification, parts 9505.0500 to 9505.0540, and the Code of Federal Regulations, title 42, section 440.230 (d).

The other amendments in item B are necessary to protect the state from paying for unnecessary inpatient hospital services. The amendments are reasonable because it is possible that a hospital could fail to provide the recipient with available services or admit a recipient to get reimbursement though the hospital knew it could not provide necessary services . The amendments are also reasonable because they are consistent with rules governing admission certification that are based on medical necessity, parts 9505.0500 to 9505.0540.

Subp.8. Reimbursement for readmissions. The amendments clarify the subpart by including a standard that can be used to judge whether a hospital should receive separate reimbursement for an admission and a readmission. Clarification is necessary so that the rule can be uniformly applied to claims for reimbursement. If a person is admitted and readmitted for the same illness or a condition related to that illness, the hospital shall receive only one reimbursement for the admission and readmission. The amendment is reasonable because under the prospective reimbursement system, where reimbursement is not dependent on the length of an inpatient stay, hospitals have an incentive to discharge inpatients as soon as possible. Such incentives could result in under-use of hospital services (such as premature discharge), a second admission, and a second reimbursement for the same illness episode.

The amendments also allow multiple categorical payments to a hospital for an admission that occurs within seven days of a discharge if the second admission within the seven days is for an unrelated illness or a separate episode of an illness. This amendment is reasonable because the base year data set contained similar occurrences and because it is medically possible for separate illness episodes to occur within a seven day period.

Subp. 9. Reimbursement for outliers. Except for the changes discussed for items A and B below, the amendments in this subpart are needed and reasonable because they clarify but do not affect its substance or administration.

A. and B. The amendments to these items are needed and reasonable because they make payments to hospitals more equitable by including the H.C.I. as a factor in the calculation; by substituting the arithmetic mean in place of the geometric mean to make the formula mathmatically consistent; and by including outlier trim points in the data used to determine reimbursements for outliers. Including outlier trim points in the data is reasonable because this is consistent with Laws of Minnesota 1986, chapter 420, section 6.

Subp. 10. Reimbursement to out-of-area hospitals. Except for the amendments in items A, C, D, and F that are discussed below, the amendments in this subpart are needed and reasonable because they are for clarification

only and because they do not change the rule's substance or administration.

A., C., D., and F. It is necessary to delete "allowable" from "adjusted allowable base year cost per admission" in item A because "adjusted base year cost per admission" is the term that is defined - "allowable" was inadvertently included in the term. Deleting "allowable" is reasonable because the deletion is for clarification only. It is necessary to use the HCI to determine the out-of-area categorical rates per admission because out-of-area hospitals have costs that increase because of inflation. Use of the HCI is reasonable because this is the measure of inflation used to determine inflation for hospitals in Minnesota and because use of the HCI is consistent with the requirements of Minnesota Statutes, section 256.969, subdivision 1.

Including outliers in the determination of reimbursements for out-of-area hospitals instead of excluding them is necessary and reasonable because it is consistent with Laws of Minnesota, 1986, chapter 420, section 6.

G. The amendment inserting "budget year" is necessary and reasonable because it clarifies the term "base year" and thereby removes a source of misunderstanding. The amendment does not affect the rule's substance or administration.

Subp. 11. Reimbursement for MSA and non-MSA hospitals statewide that do not have admissions in the base year. Except for the amendments to item E the amendments in this subpart are needed for clarification and are reasonable because they do not affect the rule's substance or administration.

E. Including the HCI in the formula used to reimburse Metropolitan Statistical Area (MSA) and non-MSA hospitals that do not have admissions in the base year is needed to reflect inflationary increases in those hospitals' costs. It is reasonable to use the HCI as an inflation indicator because the HCI is used for all other Minnesota hospitals and because the HCI is consistent with the requirements of Minnesota Statutes, section 256.969, subdivision 1.

9500.1135 DISPROPORTIONATE POPULATION ADJUSTMENT.

Subpart. 1. Determination of disproportionate population adjustment. It is necessary under Minnesota Statutes 1984, Section 256.969; United States Code, title 42, section 1396 (a)(13) and Code of Federal Regulations, title 42, section 447.252 (a)(3)(i)(1982) to offer an annual inflationary supplemental increase to a hospital's base rate when that hospital serves a disproportionate number of low income patients so that it has an unusually high volume of MA or GAMC business in proportion to its total clientele. It is reasonable to exclude admissions of MA and GAMC recipients who participate in prepaid health plans because the costs of providing care to those recipients are included in the determinations of prepayments for health services provided under those health plans. The prepaid health plans should not financially benefit by the ability to negotiate a lower hospital rate because the hospitals receive a supplement from the State, nor should the hospital receive a supplement from both the State and the prepaid health plan.

It is reasonable to redetermine a hospital's disproportionate population adjustment because the proportion of M.A. or G.A.M.C. admissions in a hospital's base year could change. Using the four percentage categories listed under this subpart to redetermine disproportionate population adjustments is reasonable because this enables the department to make objective and consistent redeterminations statewide.

Using the four percentage categories to redetermine a disproportionate

population adjustment for a hospital is also reasonable because the same four categories are used to make an initial determination of a disproportionate population adjustment for a hospital.

9500.1150 REIMBURSEMENT OF ADMISSIONS FOR HOSPITAL FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 1983, UNTIL THE EFFECTIVE DATE OF PARTS 9500.1090 TO 9500.1155

Subp. 4. Determination of allowable rate period costs, allowable rate period for each admission, and allowable rate period cost per day.

I. Deleting "and 9500.1145" from this item is necessary for clarification. The amendment is reasonable because "and 9500.1145" is a reference to part numbers that the department changed when drafting parts 9500.1090 to 9500.1155. The amendment does not change policy or administrative practice.

9500.1150 REIMBURSEMENT OF ADMISSIONS FOR HOSPITAL FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 1983, UNTIL THE EFFECTIVE DATE OF PARTS 9500.1090 TO 9500.1155, subpart 5; and 9500.1155 REIMBURSEMENT OF ADMISSIONS THAT OCCUR ON OR AFTER JANUARY 1, 1982, UNTIL PART 9500.1150 BECOMES EFFECTIVE, Subpart 6.

Subp. 5 and Subp. 6. Determination of reimbursements for Medicare crossover claims. The addition of subpart 5 to part 9500.1155 and subpart 6 to part 9500.1555 is necessary to outline the procedures for settling medicare crossover claims. It is necessary to settle these claims in which the state paid full charges for services that Medicare did not provide. It is reasonable because the methodology is consistent with the procedures the department has been using to settle Medicare crossover claims.

EXPERT WITNESSES AT PUBLIC HEARING

If a public hearing is held on these amendments the department will not use expert witnesses from outside the department to testify at the hearing.

Dated: 10/31, 1986

LEONARD W. LEVINE
Commissioner
Minnesota Department of Human Services

APPENDIX A

INPATIENT HOSPITAL REIMBURSEMENT RULE ADVISORY COMMITTEE

Ken Peterson, Hennepin County Medical Center
Jay Addy, Fairview Hospitals
Vern Silvernale, Minnesota Hospital Association
David Lee, Minnesota Hospital Association
Brian Juaire, Children's Health Center
Al Johnson, Council of Community Hospitals
Marianne Miller, Minnesota Department of Health
Marc Engelhardt, United Hospital
Dick Peterson, North Memorial Hospital