

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA  
COMMISSIONER OF HEALTH

IN THE MATTER OF RULES RELATED  
TO DISTRIBUTION OF FEDERAL AND  
STATE MATERNAL AND CHILD HEALTH  
FUNDS FOR PROJECT GRANTS.

STATEMENT OF NEED  
AND REASONABLENESS

"The Minnesota Commissioner of Health (hereinafter "Commissioner"), pursuant to Minnesota Statutes, sections 14.05 through 14.12 and 14.22 through 14.28, presents facts establishing the need for and reasonableness of the proposed rules captioned above.

In order to adopt the proposed rules, the Commissioner must demonstrate that she has complied with all the procedural and substantive requirements of rulemaking. Those requirements are that: 1) there is statutory authority to adopt the rule, 2) all necessary procedural steps have been taken, 3) the rules are needed, 4) the rules are reasonable, and 5) any additional requirements imposed by law have been satisfied. This statement demonstrates that the Commissioner has met these requirements.

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1. STATUTORY AUTHORITY.

The statutory authority of the Commissioner to adopt these rules is found in Minnesota Statutes, sections 145.884 and 145.889, which provide the Commissioner with the authority to adopt rules for the administration of Maternal and Child Health grants.

## 2. STATEMENT OF NEED.

The Commissioner adopted temporary rules pursuant to Minnesota Statutes, section 145.889. The temporary rules were adopted in June of 1983 and expired in June of 1984. Because these temporary rules are no longer effective, it is necessary for the Commissioner to now adopt permanent rules.

The Commissioner is required by statute to, "...make grants to public and private nonprofit agencies administering qualified programs of maternal and child health care services." For the purpose of administering these grants, the Commissioner shall promulgate rules which, "...establish and contain at a minimum:

- (a) procedures for grant applications;
- (b) conditions and procedures for the administration of grants;
- (c) criteria for eligibility for grants; and
- (d) other matters the Commissioner finds necessary for the proper administration of the grant program."

Minnesota Statutes, section 145.884.

The proposed rules relate to the administration of maternal and child health grants and have been written with the intent to establish procedures and criteria as mandated by statute. The need of all rules proposed at this time is obvious and well established.

### 3. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS.

The Commissioner has determined that the adoption and amendment of the rules in parts 4700.2600 to 4700.4000 is non-controversial and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.05 through 14.12 and 14.22 through 14.28, which provide for an expedited process for the adoption of non-controversial administrative rule changes without the holding of a public hearing.

#### Procedural Rulemaking Requirements of the Administrative Procedure Act

Minnesota Statutes, section 14.10 requires an agency, which seeks information or opinions in preparation for adoption of rules from sources outside the agency, to publish a notice of its action in the State Register and afford all interested persons an opportunity to submit data or comments on the subject. In the State Register issue of Monday, April 23, 1984, at page 2306, the Commissioner published a notice entitled "Outside Opinion Sought Regarding: 1) Rules Governing Administration of the Special Supplemental Food Program for Women, Infants and Children (WIC); 2) Rules Governing Administration of the Maternal and Child Health (MCH) Grant Programs; 3) an Amendment to a Rule Governing Metabolic Screening, 7 MCAR §1.172 [now 4615.0300 to 4615.0700]; 4) an Amendment to a Rule Governing Family Planning Special Projects, 7 MCAR §1.457 [now 4700.1900 to 4700.2500]; 5) Repeal of a Rule Governing Private Baby Homes and Infant Homes, MDH 171 [now 4615.0200]; and 6) Amendments to Rules Relating to Services for Children with Handicaps and Adults with Cystic Fibrosis and Hemophilia for Eligibility, Cost Sharing and Reimbursement, 7 MCAR §§1.651 to 1.657 [now 4705.0100 to 4705.1400]."

These rules minimize the duplication of statutory language. See Minnesota Statutes, section 14.07, subdivision 3 (1). The implementation

of these rules will not require the expenditure of public money by local public bodies of greater than \$100,000 in either of the two years following their adoption, nor do the rules have any impact on agricultural land. See Minnesota Statutes, section 14.11. The adoption of these rules will not affect small businesses. See Minnesota Statutes, section 14.115.

Pursuant to Minnesota Statutes, section 14.23, the Commissioner has prepared this statement of need and reasonableness which is available to the public. The Commissioner will publish notice of intention to adopt the rules without public hearing in the State Register and mail copies of the notice and proposed rules to persons registered with the Minnesota Department of Health pursuant to Minnesota Statutes, sections 14.22. The notice will include the following statements: a) that the public have 30 days in which to submit comments on the proposed rule; b) that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period; c) giving information pertaining to the manner in which persons may comment and request a hearing; d) that the rule may be modified if modifications are supported by data and the views submitted; and e) other information required by Minnesota Statutes, section 14.22.

If 25 or more persons submit to the Minnesota Department of Health a written request for a hearing of the proposed rule, the agency shall proceed under the provisions of Minnesota Statutes, sections 14.131 through 14.20, and notice of the hearing shall be published in the State Register.

If no hearing is required, the Commissioner shall submit the proposed rule and notice as published, the rule as proposed for adoption, any written comments which have been received, and this statement of need and reasonableness to the Attorney General for approval as to their legality and form to the extent that the form relates to legality.

These rules shall become effective five working days after publication of a notice of adoption in the State Register.



#### 4. GENERAL STATEMENT OF REASONABLENESS

The state of Minnesota receives federal maternal and child health funds for project grants, pursuant to 42 U.S.C. §§701 to 709. These funds are to be used for the provision of health services and related activities, including planning, administration, education and evaluation.

The purpose of this federal program is to enable states:

- (1) to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services.
- (2) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and children (especially by providing preventive and primary care services for low income children, and prenatal, delivery and postpartum care for low income mothers);
- (3) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under subchapter XVI of this chapter, and
- (4) to provide services for locating and for medical, surgical, corrective, and other services, and care for, and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling.



The Minnesota Legislature initially enacted Minnesota Statutes, sections 145.881 to 145.889 for the purpose of administering the distribution of federal maternal and child health funds for project grants. Subsequently, the state funds were also appropriated for maternal and child health project grants.

Section 145.884 enables the Commissioner to promulgate rules for the administration of this program. The rules are to establish and contain at a minimum:

- (a) procedures for grant applications;
- (b) conditions and procedures for the administration of grants;
- (c) criteria of eligibility for grants; and
- (d) other matters the Commissioner finds necessary for the proper administration of the grant programs.

The proposed rules related to distribution of federal and state maternal and child health funds for project grants are intended to carry out this statutory mandate. Because the Commissioner has been given the authority by statute to promulgate these rules, and because the statute also establishes minimum criteria which these rules meet, the rules are reasonable.

## 5. RULE-BY-RULE JUSTIFICATION.

Part 4700.2600 provides an introductory explanation of the rules in order to give the reader broad knowledge of the context in which these rules are to be applied and interpreted.

Part 4700.2700 describes the scope of these rules. These rules apply to maternal and child health project grants which are awarded by the Commissioner. The character of these rules is general and descriptive of a uniform process including notification of availability of funds, receipt, review and evaluation of requests for funds, and other general and specific considerations that must be made to ensure the responsible administration of grant fund allocations.

Part 4700.2800 defines terms used in these rules. These definitional provisions are necessary to effect a uniform and consistent interpretation of these rules in order to avoid ambiguity and uncertainty. Precise meaning is provided for terms used in the rules; thereby reducing to a minimum the chance for misunderstanding.

Part 4700.2800, subp. 1 deals with the scope of these definitions. These definitions shall apply to parts 4700.2600 to 4700.4000 in order to have a uniform and consistent interpretation of terms for all parts related to the distribution of federal and state maternal and child health funds for project grants.

Part 4700.2800, subp. 2 defines the term "application." The Commissioner requires a written application form for grant applicants so that the

application process and the information requested during this process is consistent for every applicant.

Part 4700.2800, subp. 3 defines the term "award." Award has been defined in order to clarify for the mechanics of the grant approval process. An applicant must receive authorization before receiving and expending grant funds.

Part 4700.2800, subp. 4 defines "competitive grant projects" in order to distinguish this category of grant project from formula grant projects. This is necessary because additional requirements apply to formula grant projects.

Part 4700.2800, subp. 5 defines "formula grant projects" in order to distinguish this category of grant project from competitive and pre-block grant projects. This is necessary because additional requirements apply to formula grant projects.

Part 4700.2800, subp. 6 defines the term "local match" to identify which resources could be derived and designated as the applicant's share of the cost of activities funded by grants. Identifying these resources will reduce misunderstandings regarding the funds which are eligible to be counted as local match against a grant from the Commissioner.

Part 4700.2800, subp. 7 defines the term "notice of availability" to clarify for the reader the process which will be used to make potential grantees aware of the availability of funds.

Part 4700.2800, subp. 8 defines the term "notice of intent" in order to specify the procedure an interested party must follow to put the Commissioner on notice of the fact that they intend to apply for maternal and child health grant funds, and to receive an application form and instructions.

Part 4700.2800, subp. 9 defines "pre-block grant projects" in order to distinguish this category of grant project from formula grant projects. This is necessary because additional requirements apply to formula grant projects.

Part 4700.2800, subp. 10 defines the term "technically completed applications" in order to identify the information which the Commissioner shall consider essential to the application process, for the purpose of making a proper evaluation of the proposed activity.

#### AVAILABILITY OF FUNDS AND APPLICATION PROCESS

Part 4700.2900 describes the processes of announcing the availability of funds and soliciting applications for such funds. It is necessary to solicit applications from parties interested in receiving maternal and child health grants in order to ensure an adequate and representative response. Also, Minnesota Statutes, section 145.885 authorizes the Commissioner to set the time, form and manner in which an application is submitted. Therefore, 4700.2900 is necessary in order to implement the requirements of this statute.

Part 4700.3000 is a step of the application process which the Commissioner is authorized to implement by Minnesota Statutes, section 145.884. This

provision makes it possible for the Commissioner to know to whom application materials should be sent and does not place an undue burden upon those parties applying for grants.

Part 4700.3100 is a part of the uniform procedures which assure that interested parties have the forms and information necessary to complete and submit a grant application.

Part 4700.3200 is expressly mandated by Minnesota Statutes, section 145.885. It makes it clear that certain information is required of applicants for all three categories of grant projects (pre-block, formula and competitive), while additional information is required of local boards of health applying for formula grant projects. This part also recognizes that the Commissioner may occasionally require additional information in order to make an informed and proper decision. This provision will in no way inhibit a qualified applicant from receiving grant funds, and is within the Commissioner's authority pursuant to Minnesota Statutes, section 145.884, subdivision 1 (d).

Part 4700.3300 describes the activities that are necessary in order for a local board of health to meet the additional requirements specified in Minnesota Statutes, section 145.885, subdivision 2. Local boards of health will be unable to provide the additional information required of formula grant project applicants unless these local procedures have been conducted prior to submission of the application. Therefore, this part is intended to alert local boards of health to these special requirements and to provide direction in meeting them.

Part 4700.3400 establishes a time frame for submission of comments by regional development commissions, health systems agencies and local boards of health to the Commissioner regarding the grant applications. These requirements assure an orderly and timely processing of applications. Also, this part allows regional development commissions, health systems agencies and local boards of health to comment on proposed activities, thereby allowing valuable input into the Commissioner's selection process.

Part 4700.3500 establishes criteria which must be used in the grant applications review process. The individual criteria are justified as follows.

Item A requires applicants to meet all legal conditions of eligibility, pursuant to Minnesota Statutes, section 145.882, subdivisions 1, 3, 5 and 7, and section 145.883, subdivision 3.

Minnesota Statutes, section 145.882, subdivision 1 allows for the continued funding of pre-block grant projects, provided that they continue to comply with sections 145.881 and 145.882 to 145.888. Subdivision 3 makes local boards of health eligible for formula grant projects. Subdivision 5 establishes eligibility for public or private nonprofit agencies in a city or county not participating in the community health services subsidy program. And, subdivision 7 specifies the types of maternal and child health programs that are eligible for funding under the grants program.

Minnesota Statutes, section 145.883, subdivision 3 defines the term "qualified program." For the purpose of the maternal and child health



grant distribution process, qualified program is defined as, "...a program with professional maternal and child health care staff which is established for the purpose of providing one or more essential services in maternal and child health care to target populations of low income and high risk persons." Grants are awarded only to public and private nonprofit agencies administering qualified programs of maternal and child health care services. See Minnesota Statutes, section 145.884, subdivision 1. Therefore, a legal condition of eligibility is that every recipient must be administering a qualified program.

Item A, therefore, establishes a minimum standard for program participation. In order to meet the perceived goals of the program, which include the provision of essential services in maternal and child health care to a target population of low income and high risk persons, an agency must be able to provide specific services in an effective manner. Therefore, to ensure a high level of program integrity, agencies must meet this minimum standard of eligibility.

Item B requires a determination that the application is technically completed. Because Minnesota Statutes, section 145.886 specifies that technically completed applications will be forwarded for secondary review to the advisory task force, the technical completeness of an application must be one criteria used in the Commissioner's review to determine which activities shall be funded. Therefore, this criteria must be listed under part 4700.3500, which establishes criteria for the Commissioner's review.



Item C requires a determination that formula grant project applicants have followed the local procedures specified in part 4700.3300 and have provided the additional application information specified in Minnesota Statutes, section 145.885, subdivision 2. This item applies exclusively to local boards of health since they are the only entities eligible for formula grant projects.

Item D pertains to the requirement of Minnesota Statutes, section 145.888 that grants "...shall not exceed 75 percent of the estimated annual cost of the qualified program for the fiscal year for which the grant is awarded." Therefore, the Commissioner must determine that applicants have local match available in an amount which is equal to at least 25 percent of the total estimated program cost.

Item E requires the Commissioner to give consideration to the findings submitted by regional review agencies and the advisory task force. This assures that the efforts of regional review agencies will contribute to the Commissioner's decision making process. With regard to the advisory task force, this item assures compliance with Minnesota Statutes, section 145.886 which provides that the "...commissioner shall award grants... only after reviewing the comments and recommendation of the advisory task force on completed grant applications."

Part 4700.3600 describes the application disposition process. This process will ensure that applicants are properly notified of their application's status. If the application is disapproved, applicants will be properly notified of the reason for disapproval.

This part also relates to the notice of award. The notice of award must specify the amount of the award, the source of funds, the duration of the funding period and such conditions as are necessary for assuring the appropriate use of public funds. These requirements are necessary provisions which formally establish the terms of the grant as well as any related conditions which will impact upon the use of grant funds.

Part 4700.3700 requires a member of the Department of Health staff to monitor each grant awarded. The staff person will provide administrative or technical support or arrange for such assistance for the purpose of helping the grantee achieve the goals and objectives of the activity. This requirement is intended to provide grantees a valuable resource to utilize when situations arise which necessitate a broader base of knowledge than the grantee normally has available.

Part 4700.3800 relates to the responsibilities of award recipients. These responsibilities relate to Minnesota Statutes, section 145.885 which establishes application requirements. According to this statute applications must contain among other things, a budget and justification for the amount of grant funds awarded, as well as the reporting and accounting procedures to be followed by the grantee to enable the Commissioner to evaluate the activities of the qualified program.

The provisions of part 4700.3800 are intended to ensure that the local project is being properly administered in accordance with all relevant statutes and state rules. These provisions will enable the Commissioner to monitor grantee activities in a manner which will ensure the proper use of program funds.

Part 4700.3900 will allow the Commissioner to withhold or terminate funding for failure to comply with the terms of the award, with the requirements of the applicable statutes and rules, or for any other just cause. The Commissioner may also request reimbursement from a grantee for unauthorized expenditures identified by a fiscal audit. It is necessary for the Commissioner to have such sanctioning powers in order to compel uncomplying award recipients into abiding with the essential requirements for participation. The Commissioner, who has the authority to oversee the proper administration of grant funds, must have the ability to effectively regulate activities, and recover misspent funds when necessary.

Part 4700.4000 requires recipients to provide uniform reports to the Commissioner, in a timely fashion. The report requirements are reasonable and necessary for the proper administration of the grant program, pursuant to Minnesota Statutes, section 145.884 (d).

  
Sister Mary Madonna Ashton  
Commissioner of Health

Date: 10/13/86

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA  
COMMISSIONER OF HEALTH

IN THE MATTER OF PROPOSED  
REPEAL OF A RULE RELATED TO  
THE CARE OF INFANTS IN PRIVATE  
HOMES.

STATEMENT OF NEED AND  
REASONABLENESS

"The Minnesota Commissioner of Health (hereinafter "commissioner"), pursuant to Minnesota Statutes 14.05 through 14.12 and 14.22 through 14.28, presents facts establishing the need for and reasonableness of the repeal of a rule related to the care of infants in private homes.

In order to adopt the proposed rules, the commissioner must demonstrate that she has complied with all the procedural and substantive requirements of rulemaking. Those requirements are that: 1) there is statutory authority to adopt the rule, 2) all necessary procedural steps have been taken, 3) the rules are needed, 4) the rules are reasonable, and 5) any additional requirements imposed by law have been satisfied. This statement demonstrates that the commissioner has met these requirements.

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1. STATUTORY AUTHORITY.

The statutory authority for the rule related to the care of infants in private homes is found at Minnesota Statutes, section 144.05 and 144.12, subdivision 1.

## 2. STATEMENT OF NEED.

The rule related to the care of infants in private homes was adopted pursuant to Minnesota Statutes, section 144.05 and 144.12, subdivision 1. This latter section provides that the commissioner may adopt reasonable rules pursuant to chapter 14 for the preservation of the public health and for the management of boarding homes for infants. However, 144.05 requires the commissioner to continually assess and evaluate the effectiveness and efficiency of health service systems and public health programming efforts in the state.

After an evaluation pursuant to 144.05 of the rule related to care of infants in private baby homes, it was determined that there is no longer a need for such a rule. This rule is no longer necessary or effective, and no longer services a public health related function. Therefore, it is repealed.



### 3. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS.

The commissioner has determined that repeal of the rule in part 4615.0200 is non-controversial and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.05 through 14.12 and 14.22 through 14.28 which provide for an expedited process for the adoption of non-controversial administrative rule changes without the holding of a public hearing.

#### Procedural Rulemaking Requirements of the Administrative Procedures Act

Minnesota Statutes, section 14.10 requires an agency which seeks information or opinions from sources outside of the agency in preparation for the repeal of rules to publish a notice of its action in the State Register and afford all interested persons an opportunity to submit data or comments on the subject. In the State Register issue of Monday, April 23, 1984, at page 2306, the commissioner published a notice entitled "Outside Opinion Sought Regarding: 1) Rules Governing Administration of the Special Supplemental Food Program for Women, Infants and Children (WIC); 2) Rules Governing Administration of the Maternal and Child Health (MCH) Grant Programs; 3) an Amendment to a Rule Governing Metabolic Screening, 7 MCAR §1.172 [now 4615.0300 to 4615.0700]; 4) an Amendment to a Rule Governing Family Planning Special Projects, 7 MCAR §1.457 [now 4700.1900 to 4700.2500]; 5) Repeal of a Rule Governing Private Baby Homes and Infant Homes, MDH 171 [now 4615.0200]; and 6) Amendments to Rules Relating to Services for Children with Handicaps and Adults with Cystic Fibrosis and Hemophilia for Eligibility, Cost Sharing and Reimbursement, 7 MCAR §§1.651 to 1.657 [now 4705.0100 to 4705.1400]."

The repeal of this rule will not require the expenditure of public money by local public bodies of greater than \$100,000 in either of the two years following its repeal, nor does the rule have any impact on agricultural land. See Minnesota Statutes, section 14.11. The repeal of the rule will not affect small businesses. See Minnesota Statutes, section 14.115.

Pursuant to Minnesota Statutes, section 14.23, the commissioner has prepared this statement of need and reasonableness which is available to the public. The commissioner will publish notice of intention to repeal the rule without public hearing in the State Register and mail copies of the notice to persons registered with the Minnesota Department of Health pursuant to Minnesota Statutes, section 14.14, subdivision 1. The notice will include the following statements: a) that the public have 30 days in which to submit comments on the proposed repealer; b) that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period; c) giving information pertaining to the manner in which persons shall request a hearing; and d) that the rule may be modified if modifications are supported by data and the views submitted, as well as other information required by Minnesota Statutes, section 14.22.

If 25 or more persons submit to the Minnesota Department of Health a written request for a hearing of the proposed repealer, the agency shall proceed under the provisions of Minnesota Statutes, sections 14.13 through 14.20 and notice of the hearing shall be published in the State Register.

If no hearing is required, the commissioner will submit the proposed repealer and notice as published, any written comments which have been received, and this statement of need and reasonableness to the Attorney General for approval as to their legality and form to the extent that form relates to legality.

The repealer shall become effective upon publication of a notice of adoption in the State Register.

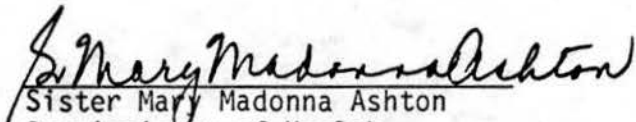
#### 4. GENERAL STATEMENT OF REASONABLENESS.

The rule related to care of infants in private homes is antiquated, and no longer reflects modern pediatric methods. This rule has no current effect on infant care, or on those parties involved with the care of infants. Therefore, repeal of this rule will not adversely impact upon any interested parties. Repeal of this rule will, however, serve to make the rules more concise and refined.

## 5. JUSTIFICATION.

Part 4615.0200 deals with the care of infants in private homes. It is reasonable and necessary to repeal part 4615.0200. This part was promulgated over a decade ago and has limited applicability to the present program. Current methods of postnatal care differ so dramatically from this rule as to render the rule obsolete.

Repealer. Minnesota Rules, part 4615.0200 is repealed.

  
Sister Mary Madonna Ashton  
Commissioner of Health

Date: 11-12-86