

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

IN THE MATTER OF THE PROPOSED
ADOPTION OF AMENDMENTS TO MINNESOTA
RULES, CHAPTER 4705, GOVERNING
ADMINISTRATION OF THE SERVICES FOR
CHILDREN WITH HANDICAPS PROGRAM

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 amendments to rules captioned above.

In order to adopt the proposed amendments, 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 commissioner's legal authority for adopting these rules is found in Minnesota Statutes, sections 144.05 and 144.07 (1).

2. STATEMENT OF NEED.

The Services for Children with Handicaps (SCH) Program provides financial assistance to assure that children with handicapping, or potentially handicapping, conditions receive appropriate diagnostic and treatment services. SCH's financial assistance is limited to payment for medical services directly related to the handicapping condition that makes the child eligible for the program. Other primary care services are not covered by SCH and, as a result, some children enrolled in the program go without routine well child care or medical treatment for episodic illnesses not related to the child's handicapping condition.

During the 1987 State Legislative Session a new program, known as the Children's Health Plan (CHP), was created. This program, administered by the Department of Human Services, is designed to provide coverage for primary health care services (excluding in-patient care) for children between the ages of one and nine years whose gross family incomes are equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under Minnesota Statutes, Chapter 256B or general assistance medical care under Chapter 256D. CHP thus covers primary care for qualified children, some of whom are also SCH enrollees.

Because SCH and CHP are distinct programs administered by different state agencies, families must enroll their children in both programs in order to receive the combined range of health care

benefits. The requirement for double enrollment creates a barrier for some families because of the confusion created in dealing with operating policies and procedures that differ greatly between the two programs. This barrier could be eliminated if the administrative procedures for SCH and CHP were consolidated and a single enrollment, care authorization and provider reimbursement process is established.

This rule amendment is needed to allow SCH to modify some of its administrative procedures in order to make them consistent with those of CHP for children who meet the eligibility requirements of both programs. After these procedural modifications are made, families will need to enroll only once in order to receive the combined benefits of both programs.

The rule-by-rule justification will explain the need for each part of the rule amendment, as well as justifying the reasons for making these changes.

3. COMPLIANCE WITH PROCEDURAL RULEMAKING REQUIREMENTS.

The commissioner has determined that the amendment of the rules by adding part 4705.1600 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

The commissioner did not seek information or opinions in preparation for adoption of these rule amendments from sources outside the agency and, therefore, did not publish a notice in the State Register pursuant to Minnesota Statutes, section 14.10.

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 fix or adjust fees. See Minnesota Statutes, section 16A.128.

As required by Minnesota Statutes, section 14.115, the

commissioner has considered each of the following methods for reducing the impact of these rule amendments on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

The commissioner has determined that it is not feasible to incorporate any of these methods into the rule amendment because to do so would be contrary to the statutory objectives that are the basis of the proposed rulemaking.

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, section 14.14, subdivision 1 (a). 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 shall 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 on 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 will 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 it 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 administrative aspects of SCH and CHP cannot be consolidated unless existing SCH procedures are modified to make them consistent with those of CHP. It is reasonable to make these procedural modifications because they will not in any way restrict eligibility or limit services provided by SCH.

The manner in which children enroll, care is authorized and medical providers are reimbursed will be altered to be consistent with CHP. It is reasonable to make these changes in order to offer the combined health care services of SCH and CHP as a consolidated benefit package administered jointly by both programs.

Minnesota Rules, Chapter 4705 govern only the administration of the SCH Program. The administration of CHP is governed by Minnesota Statutes, section 256.936; no administrative rules have been adopted for this program. Therefore, the proposed rule amendment applies only to the SCH program.

5. RULE-BY-RULE JUSTIFICATION.

While parts 4705.0100 to 4705.1500 generally will apply to the SCH/CHP consolidated program, some modifications must be made. The proposed rule (Part 4705.1600) describes these modifications and identifies the specific parts to which they apply.

Part 4705.1600, paragraph A modifies the application of Part 4705.0400 which defines the eligibility requirements for SCH treatment services. For purposes of the combined SCH/CHP benefit package, the CHP eligibility requirements are added to those of SCH. This results in a new set of eligibility criteria that include the age and family income requirements of CHP as well as the medical eligibility requirements (child having a handicapping condition as defined in part 4705.0100, subpart 14) of SCH. The CHP eligibility requirements are set out in Minnesota Statutes, Section 256.936, subdivision 1 (a). It is reasonable to add the CHP eligibility criteria because they must be imposed in order to offer the combined SCH/CHP benefit package. Moreover, children with handicapping conditions who do not meet CHP's eligibility requirements will continue to be eligible for SCH Program services.

Part 4705.1600, paragraph B pertains to Part 4705.0500, subpart 1 which states that SCH will provide an application form upon request. The SCH and CHP programs have in the past used their own unique application forms. For purposes of the combined SCH/CHP benefit package, the CHP form will be used instead of creating yet another application document. However, it will be necessary for

applicants to provide additional information not previously required by CHP, such as medical records in order to determine if the child's medical condition meets SCH's definition of "handicapping condition." It is reasonable to use this application process because it is less complicated than completing both existing application documents, but will still provide the information necessary to determine if the applicant meets the combined SCH/CHP eligibility requirements.

Part 4705.1600, paragraph C modifies the application of Part 4705.0600 which requires applicants with SCH adjusted incomes above 60 percent of the state gross median income to share in the cost of treatment services. All families who meet the income eligibility requirements of CHP will have SCH adjusted incomes below 60 percent of the state gross median income. However, the CHP annual enrollment fee of \$25 per child, prescribed in Minnesota Statutes, Section 256.936, subdivision 4, will apply to the combined SCH/CHP benefit package. It is reasonable that the CHP enrollment fee be charged because it is required by state law and all families eligible for the combined program would still pay the fee to CHP if the enrollment processes remained separate. Thus the rule does not fix or adjust fees within the meaning of Minnesota Statutes, section 16A.128.

Part 4705.1600, paragraph D modifies the application of Part 4705.0900 which provides that, within any 12-month period, SCH will pay no more than \$15,000 for the care of an individual. This includes costs for both inpatient and outpatient services. SCH and

CHP both cover certain outpatient services but no cost-effective method exists for separately tracking the reimbursement claims attributable to each program. However, since inpatient care is covered only by SCH, it will be possible to track these reimbursement claims for purposes of applying the \$15,000 limit per 12-month period. Therefore, for purposes of the combined SCH/CHP benefit package, the annual expenditure limit will be applied to inpatient care only. It is reasonable to restrict the expenditure limitation to inpatient care because no expenditure limit exists for CHP outpatient services. Applying the \$15,000 limit to inpatient care only may result in an increase in SCH benefits for some children enrolled under the combined SCH/CHP benefit package. However, the impact will be minimal because very few SCH families actually reach the annual expenditure limit. It is reasonable to make this change in order to avoid a substantial increase in administrative costs that would be required to establish a system to separately track outpatient claims for SCH.

Part 4705.1600 paragraph E modifies the application of Part 4705.1400, subparts 3, 4, and 5, and Part 4705.1500 which defines the responsibilities between SCH and service providers. For purposes of the combined SCH/CHP benefit package, CHP administrative procedures will be used for authorizing care and processing reimbursement claims. This is reasonable because it provides a uniform and efficient method for providing services to children and for reimbursing service providers. Although not required by SCH, service providers must be enrolled as Medical

Assistance providers in order to be eligible for reimbursement by CHP. Therefore, in order to receive reimbursement for services rendered through the combined SCH/CHP benefit package, providers will be required to be enrolled as Medical Assistance providers. This is reasonable because most of SCH's providers are also enrolled as Medical Assistance providers and this additional requirement will not unduly limit access to SCH covered services.

DATE: _____

6/16/89

Sister Mary Madonna Ashton

Sister Mary Madonna Ashton
Commissioner of Health