

STATEMENT OF NEED AND REASONABLENESS

Department of Jobs and Training, Proposed Changes to Permanent Rules Relating To Rehabilitation Services for Blind and Visually Handicapped Persons

3325.0100 PURPOSE AND SCOPE

Subpart 1. Change in this subpart is technical to reflect a change in Part numbering.

Subpart 2. Ibid.

Subpart 3. Ibid.

Subpart 4. This repeal results from the State Rule having been in effect for a period greater than 12 months following initiation of any service. This subpart is no longer needed.

3325.0110

Subpart 1. Change in this subpart is technical to reflect a change in Part numbering.

Subpart 4. This change is necessary and reasonable to clarify potential misunderstanding regarding activities that may be performed with alternative techniques. Those activities include, but are not limited to, homemaking and self-care activities.

Subpart 5. This change is necessary and reasonable as it describes the individual who is requesting a review under the identified subparts.

Subpart 10. This change is necessary to conform with revisions to definitions for 34 CFR 361, (May 12, 1988) relative to the definition of "persons with handicaps." The inclusion of the "Independent Living Program" is made to be consistent with 34 CFR 370.10. Please note that Federal Regulations apply to both the Vocational Rehabilitation program and the Independent Living program. No Federal Regulations apply to the Self-care program or the Child Rehabilitation program.

Subpart 12. This change is necessary to assure that communication skills training is not limited to those items previously listed, but may included one or more of the items listed. One specific item not included in the initial State Rule

promulgation was training in the use of low vision aids as a form of communication skills training. In order to assure that training in low vision aids use and potentially other communication skills training venues are not excluded, the term "includes", is inserted in Subpart 12.

Subpart 12a. This change is necessary to comply with 34 CFR Part 361.47 (B).

Subpart 16. This definition has been modified to clarify that low vision evaluations are viewed as diagnostic evaluation services.

Subpart 18. This change is necessary to permit the rehabilitation counselor--who is the only person authorized under these State Rules to certify eligibility--to determine if an individual has a disability. Nothing in these Rules preclude the rehabilitation counselor from seeking assistance from other professionals in terms of diagnosis, prognosis, or treatment. This definition is reasonable because nowhere in 34 CFR 361.1(c)(2) is there reference to licensed health professionals having any authority for determining the presence of a physical or mental disability. Rather, at 34 CFR 361.35, it is the State unit staff member--the counselor in Minnesota--who certifies the presence of a disability.

Subpart 22. Family income. The repeal of this term is necessary and reasonable because it is no longer used in these State Rules.

Subpart 23. This subpart is modified by inserting the definition of and term "supported employment" to be consistent with 34 CFR 361.1 (C) (2). The use of "persons with handicaps" is added to be consistent with definitions at CFR 361.1. Both of these changes are necessary and reasonable because they are consistent with cited CFR.

Subpart 28. The proposed changes are made to be consistent with revisions to definitions at 34 CFR 365.1 and 34 CFR 361.1 (c)(2)

Subpart 28a. Ibid.

Subpart 28b. Ibid.

Subpart 39. This change is made to be consistent with change made at Subpart 16 - Diagnostic Evaluation Services. By removing "and the functional assessments, ophthalmological or optometric examinations ..." the potential for confusion as to whether assessments are or are not diagnostic services is removed.

Subpart 42. The term "medical consultant" is repealed as it is no longer used in the State Rules.

Subpart 43. This change is necessary to reflect a revision in this Manual. It is reasonable because the DSM-III-R is the most recent update to the DSM.

Subpart 44a. The inclusion of this term in the definitions is needed and because it has a specific meaning within the context of these State Rules and is not commonly understood. The definition is reasonable because it references the statutory provision under which these professionals are licensed in Minnesota.

Subpart 45. Op. Cit. Subp. 10.

Subpart 47. Ibid.

Subpart 54a. The inclusion of this term in the definitions is needed and because it has a specific meaning within the context of these State Rules and is not commonly understood. The definition is reasonable because it references the statutory provision under which these professionals are licensed in Minnesota.

Subpart 55. This change is necessary to comply with definitional change at CFR 361.42, (A)(13).

Subpart 56. Op. Cit. Subp. 43

Subpart 59. Op. Cit. Subp. 10.

Subpart 62a. This change is necessary to comply with a new definition at CFR 361.1 (C) (2).

Subpart 63. Op. Cit. Subp. 10.

Subpart 68. This change is to a usage change only.

Subpart 69. The term "secretary" is repealed as it is no longer used in the State Rules.

Subpart 73. The term "severe disability" is repealed as it is no longer used in the State Rules, or in Federal Regulations but is replaced in these State Rules at Subp. 28a.

Subpart 74. The term "severely handicapped" is repealed as it is no longer used in the Rules, or Federal Regulations but is replaced in these State Rules at Subp. 28b.

Subpart 76. The term "similar benefits" is repealed as it is no longer used in the State Rules, or Federal Regulations but is replaced in these State Rules at Subp. 12a.

Subpart 77. Op. Cit. Subp. 10. In addition, the term "or" is substituted for the term "and" to assure it is clear that Services for the Blind provides services to persons who are blind as well as persons who are visually handicapped. One does not have to be both blind and visually handicapped in order to receive services from the agency.

Subpart 80. These changes are necessary and reasonable to more clearly identify supervisory staff and to avoid the need to amend these State Rules whenever the labor agreements change.

3325.0120

Subpart 3. Changes in this subpart result from the addition of 3325.0500 to the State Rules.

Subpart 5. This change is necessary and reasonable to avoid an undue burden on the agency and unwarranted intrusion into the lives of Communication Center users who voice no interest in other services of the Agency.

Subpart 5(C)(2). Changes in this subpart is technical to reflect a change in part numbering.

Services provided consumers by SSB under these State Rules are organized into four separate and distinct programs. These four programs are the Vocational Rehabilitation Program, Independent Living Rehabilitation Program, the Self-Care Rehabilitation Program and the Child Rehabilitation Program.

There are several changes proposed for each of the four program types of these State Rules:

1.) The consolidation of the Preliminary Evaluation and Thorough Evaluation into a Comprehensive Evaluation of Rehabilitation Potential; 2.) the removal of signature requirements on examinations; 3.) the shift of dates from time of application to time of certification; 4.) the expansion of the type professional personal permitted to make an assessment of personal health of applicants and 5.) a clarification of the professional personnel who certify eligibility.

The need and reasonableness of these changes which apply to all four programs will be stated here for the Vocational Rehabilitation program. This cite will be referenced for the other three programs.

3325.0140

Changes in 3325.0140, Subpart 1 and Subpart 1(B); 3325.0220, Subpart 1 and Subpart 1(B); 3325.0290, Subpart 1 and Subpart 1(B); and 3325.0360, Subpart 1 and Subpart 1(B). Repeal of 3325.0160; 3325.0230; 3325.0360 and 3325.0370.

These changes are all necessary to streamline and clarify the eligibility process while maintaining the intent of Federal Regulations at 34 CFR 361.31 for the Vocational Rehabilitation program and at 34 CFR 365.31 for the Independent Living program. The repeals result from the inclusion of their content in the respective sections for Comprehensive Evaluation of each program.

The need for the section for each program being labeled "Comprehensive Evaluation" rather than "Preliminary Evaluation" and "Thorough Evaluation" results from a need to clarify the intent of 34 CFR 361.31 for the Vocational Rehabilitation program and of 34 CFR 365.31 for the Independent Living program. The changes are also being made to the two State programs to assure consistent procedures across all programs types. Both Federal programs and the two State programs require the Counselor to make a three-phase eligibility determination; 1. there is a visual disability; 2. the disability constitutes a substantial handicap; and 3. there is a reasonable expectation that services will be of benefit to the applicant.

In order to answer the third of these questions--which is required for all programs--it is necessary for the Counselor, in conjunction with the applicant, to explore fully the impact of the visual disability and all other relevant factors on the applicant's ability to function. This exploration requires an identification of services that are likely to be of benefit to the applicant. This process requires a comprehensive evaluation, to the degree necessary, of all factors previously delineated in the subparts headed "Thorough Evaluation" for each program. By clarifying the intent of the eligibility process with changes in the names of the parts and the inclusion of the "Thorough Evaluation" in the Comprehensive Evaluation, confusion by applicants, consumer advocates, and members of the SSB staff is reduced.

The need to repeal 3325.0160, 3325.0230, 3325.0300 and 3325.0370 results from numerous instances where clients and Counselors have been forced, by these Rules, to review and document information that is not at all relevant to the client. For example, reviewing an 85 year old Vocational Rehabilitation program client's relative performance in school, as currently required at 3325.0160, Subpart 2 A, (especially when that client has a very clear desire to retain their role as a homemaker as a vocational goal)

make both the Counselor and the Administrative Rules subject to the criticism of bureaucratic redtape and government inefficiencies. By maintaining authority in these Rules at the Comprehensive Evaluation section for the Counselor to secure any other information needed to determine eligibility, unnecessary procedures are avoided and neither the SSB nor the Administrative Rules are the object of ridicule due to this section.

Subpart 2 (A). This change is necessary to assure State Rule consistency with Federal Regulation regarding a determination of eligibility only by a rehabilitation counselor or coordinator. Certification of Eligibility for the Vocational Rehabilitation Program must be made by an appropriate state unit staff member (34 CFR 361.35, [a]; 34 CFR 361.35 [B]). The determination of eligibility or any part thereof is not made by the ophthalmologic consultant.

Furthermore, in this subpart it is necessary and reasonable to change the term "application" to "eligibility determination" because Federal Regulation requires at 34 CFR 361.35 that individuals accepted for vocational rehabilitation services meet, at the time of certification, the eligibility requirements. Presence of a visual disability as of the date of application is not the issue of concern: a finding of eligibility is based on the presence of the disability at time of eligibility determination. Similar requirements exist at 34 CFR 365.33 for the Independent Living program. The changes are also being made to the two State programs to assure consistent procedures across all program types.

The removal of the signature requirement in this subpart is necessary to avoid unwarranted and unnecessary effort by applicants and counselors when, but for a lack of a signature on a report, the eligibility process is delayed. It is reasonable to conclude if a report labeled "ophthalmologic or optometric examination" is received by SSB on letterhead from an M.D. or O.D. that the M.D. or O.D. conducted the exam, regardless of the absence of a signature.

Subpart 2 (B). The removal of the term "or the medical consultant who reviews the report" is necessary in order to be consistent with Federal Regulation, at 34 CFR 361.35, and 34 CFR 365.33. The changes are also being made to the two State programs to assure consistent procedures across all program types. It is the rehabilitation counselor who is responsible for the Certification of Eligibility or Ineligibility and not the medical consultant.

As cited above, for Subpart 2(A) it is necessary to ensure that an applicant at the date of eligibility

determination, rather than at date of application, has a disability which could limit ability to make improvements. (34 CFR 361.34 [A]; 34 CFR 365.33.

The change from a report of a general medical examination to an assessment of personal health is necessary and reasonable to remove unwarranted and unnecessary barriers to the eligibility process. The current State Rule calls for each applicant to secure a report of a General Medical Examination signed by a physician. That document is currently required for determining if the applicant has any non-visual disabilities that may impact the applicant's ability to benefit from rehabilitation services. Options in addition to the existing requirement are needed in order to expedite the eligibility process. The singular option is unduely restrictive given the Federal requirements at 34 CFR 361.32(c) for the Vocational Rehabilitation program and in light of other means available for the Counselor to make such a determination. Please note that no Federal requirement analogous to 34 CFR 361.32(c) is found at 34 CFR 365 for the Independent Living program.

What is required at 34 CFR 361.32(c) is "...an appraisal of the current general health status of the individual based, to the maximum extent possible, on available medical information..." The Regulations are silent on exactly who should conduct this appraisal of current general health. At 34 CFR 361.32(c) specific requirements are provided for who is to make certain assessments. Given it is the Counselor who signs the Certificate of Eligibility or Ineligibility, it is reasonable for the Counselor to make this determination as well. The State Rules, in both their existing and proposed format, require a report relative to the applicant's eye condition from a member of the health professions. Thus, in all instances, the applicant will have been seen by such professionals as part of the eligibility process. Reports from those professionals, in conjunction with existing medical information, is usually sufficiently detailed for the Counselor to make a determination of general health.

In some instances however, either via Counselor discussion with the applicant or through review of existing information, additional issues and concerns about the applicant's general health may surface that require additional exploration by the Counselor. It is not unusual for most of these issues to be resolved by the Counselor in discussions with the applicant. In rare instances however, the additional exploration requires the Counselor to consult with or arrange for the client to be seen by any number of individuals, including physicians, nurses, or physicians's assistants. Again, the principle is the information needs to be sufficient

for the Counselor to make a determination of the general health of the applicant. The changes in these Rules at 3325.0140, Subpart 2 B, 3325.0220, Subpart 2 B, 3325.0290, Subpart 2 B, and 3325.0360, Subpart 2 B will permit medical practitioners, in addition to physicians, to provide information to the Counselor regarding the applicant's general health. It will also permit the Counselor to conduct the appraisal of general health when such an appraisal would be sufficient for eligibility purposes. This change will allow appropriate individuals to determine the adequacy of existing information for the eligibility process. It will allow the Counselor to proceed without having to secure a General Medical examination when sufficient information is available from the applicant to make the eligibility determination. Finally and most importantly, this change will permit applicants to be served in a much more expeditious manner and remove a major impediment to the rehabilitation process for many applicant's

Subpart 5. These changes are technical to reflect changes in Part headings and numbering.

3325.0170

Subpart 1. This change is technical to assure consistency with language in other parts.

Subpart 2 (F) (3). This change is necessary and reasonable to comply with change in terminology in Federal Regulations at 34 CFR 361.41 (A) (B-9).

Subpart 2 (H). This change is needed to be consistent with modification in Section 3325.0490. It is necessary and reasonable because it is consistent with Federal Regulation at 34 CFR 361.48, as well as Minnesota Statute 248.07, subd. 15.

Subpart 2 (I). This change is necessary and reasonable to comply with Federal Regulations at 34 CFR 361.41(A)(4).

Subpart 2 (L). This change is necessary and reasonable to comply with Federal Regulation at 34 CFR 361.40 (A).

Subpart 2 (M). This change is necessary and reasonable to comply with Federal Regulation at 34 CFR 361.41(A)(13).

Subpart 2 (N). This change is necessary and reasonable to comply with Federal Regulation at 34 CFR 361.41(A)(13)

Subpart 3. this change is technical to assure consistency with language in other parts.

Subpart 5. The first of these two changes is necessary and reasonable because it removes an undue burden on both the client and the counselor to amend a plan when there is a very small and extremely minor change in a clients financial situation or service needs. By requiring a joint amendment when there is only a substantial change, it allows both the client and the counselor to function in a more expeditious manner in meeting needs and in movement towards the rehabilitation goal.

The change removing client signature requirements for the closure amendment is reasonable because it, like other amendments, must contain a summary of the views of the client. The signature, per se, only serves as an additional indication of client participation and agreement with the amendment. If, following receipt of the written closure amendment, the client is dissatisfied with the closure, then contact can quickly be made with the agency to remedy the situation. The Rules, as modified at 3325.0190, Subp. 2(F), requires the agency to advise the client at time of case closure of review rights and means of obtaining assistance from the Client Assistance Program, thus assuring timely access to this source of assistance.

The change removing client signature requirements for agency proposed changes in the written plan is necessary and reasonable to clarify the authority of the agency to initiate changes in written plans. Subpart 6 of 3325.0170 provides ample safeguards of clients rights in situations where the agency proposes changes in the plan.

Subpart 6 (B)(C). This change is necessary and reasonable to assure consistency with 34 CFR 361.48 as well as with definitional and technical corrections to the Rules.

3325.0180

Subpart N. This change is necessary to comply with Federal Regulations at 34 CFR 361.42 (15).

Subpart O. This change is a technical correction.

Subpart P. This change is a technical correction.

Subpart Q. This change is a technical correction.

Subpart R. This change is a technical correction.

Subpart S. This change is a technical correction.

Subpart T. This change is a technical correction.

Subpart 5. The first of these two changes is necessary and reasonable because it removes an undue burden on both the client and the counselor to amend a plan when there is a very small and extremely minor change in a clients financial situation or service needs. By requiring a joint amendment when there is only a substantial change, it allows both the client and the counselor to function in a more expeditious manner in meeting needs and in movement towards the rehabilitation goal.

The change removing client signature requirements for the closure amendment is reasonable because it, like other amendments, must contain a summary of the views of the client. The signature, per se, only serves as an additional indication of client participation and agreement with the amendment. If, following receipt of the written closure amendment, the client is dissatisfied with the closure, then contact can quickly be made with the agency to remedy the situation. The Rules, as modified at 3325.0190, Subp. 2(F), requires the agency to advise the client at time of case closure of review rights and means of obtaining assistance from the Client Assistance Program, thus assuring timely access to this source of assistance.

The change removing client signature requirements for agency proposed changes in the written plan is necessary and reasonable to clarify the authority of the agency to initiate changes in written plans. Subpart 6 of 3325.0170 provides ample safeguards of clients rights in situations where the agency proposes changes in the plan.

Subpart 6 (B)(C). This change is necessary and reasonable to assure consistency with 34 CFR 361.48 as well as with definitional and technical corrections to the Rules.

3325.0180

Subpart N. This change is necessary to comply with Federal Regulations at 34 CFR 361.42 (15).

Subpart O. This change is a technical correction.

Subpart P. This change is a technical correction.

Subpart Q. This change is a technical correction.

Subpart R. This change is a technical correction.

Subpart S. This change is a technical correction.

Subpart T. This change is a technical correction.

3325.0190

Subpart 2. This change is necessary to be consistent with language of 3325.0170, Subp. 5.

Subpart 2 (B),(C). These changes are usage changes only.

Subpart 2 (D). This change is necessary and reasonable to comply with 34 CFR 361.41 (A)(7).

Subpart 2 (E). This change is needed to comply with 34 CFR 361.40 (A). It is reasonable for the client to be aware of and be notified of the closure or termination of his/her case, as well as the reasoning behind the termination by the state agency.

Subpart 2 (F). This change is needed and reasonable to assure rehabilitated clients who wish a review of the decision to terminate service have access to information regarding the review process as well as to the means to contact the Client Assistance Program.

Subpart 3. These changes are usages changes only.

3325.0220 and 3325.0230

For changes in Subparts 1 and 2 and the repeal of 3325.0230, please see statements at 3325.0160.

Subpart 5. It is necessary to change the term "appeal" to "review" to be consistent with changes in headings for Section 3325.0480, 3325.0490 and the addition of a new section, 3325.0500, consistent with 34 CFR 361.48.

3325.0240

Subpart 1. This change is technical only.

Subpart 2(E). These changes are necessary and reasonable to assure consistency with 34 CFR 361.48 and with changes in numbering of the Rules.

Subpart 3. This change is technical only.

Subpart 5. The first of these two changes is necessary and reasonable because it removes an undue burden on both the client and the counselor to amend a plan when there is a very small and extremely minor change in a clients financial situation or service needs. By requiring a joint amendment when there is only a substantial change, it allows both the client and the counselor to function in a more expeditious manner in meeting needs and in movement towards one rehabilitation goal.

The change regarding signature requirements for the closure amendment is reasonable because it, like other amendments, must contain a summary of the views of the client. The signature, per se, only serves as an additional indication of client participation and agreement with the amendment. If, following receipt of the written closure amendment, the client is dissatisfied with this closure, then contact can quickly be made with the agency to remedy the situation. The State Rules, at 3325.0260, Subpart 2(D), require the agency to advise this client at time of case closure of review rights and means of obtaining assistance from the Client Assistance Program.

3325.0250

Item K. This change is necessary to comply with Federal Regulation at 34 CFR 361.42 (15).

Item L. This is a technical change only.

Item M. This is a technical change only.

Item N. This is a technical change only.

Item O. This is a technical change only.

3325.0260

Subpart 2. This change is necessary to assure consistency with 3325.0240, Subpart 5.

Subpart 2 (C). This change is necessary and reasonable to assure compliance with the Federal requirement for joint development or redevelopment of the individualized written plan. Furthermore, it is reasonable for clients whose cases are being terminated to be so notified both of the termination and the basis for the termination.

Subpart 2(D). This change is needed and reasonable to assure rehabilitated clients who wish a review of the decision to terminate services have access to information regarding the review process as well as to the Client Assistance Program.

Subpart 3. These are usage changes only.

Subpart 4. This change is necessary and reasonable to be consistent with changes in the headings for Sections 3325.0480-3325.0490 and the addition of a new section 3325.0500, consistent with Federal Regulation at 34 CFR 361.48. The second change is necessary to assure clients

are aware at time of closure of assistance available from the Client Assistance Program. It places no undue burden on the agency to provide this notice and thus it is reasonable to do so.

3325.0290 3325.0300

For changes in subparts 1 and 2 and repeal of 3325.0300, please see statements at 3325.0160.

Subpart 4. This change is made to be consistent with changes in headings for Sections 3325.0480 - 3325.0490.

3325.0310

Subpart 1. This change is technical only.

Subpart 5. This change is necessary and reasonable because it removes an undue burden on both the client and the counselor to amend a plan when there is a very small and extremely minor change in a clients financial situation or service needs. By requiring a joint amendment when there is only a substantial change, it allows both the client and the counselor to function in a more expeditious manner in meeting needs and in movement towards one rehabilitation goal. By requiring change only in those instances where substantial changes occurred, it permits the agency and the client to quickly and expeditiously assure that appropriate services are provided. Nothing prevents the client from requesting and jointly developing an amendment to a plan in those instances where such is indicated; however, this change would no longer require the client and agency to jointly amend plans, in those instances where only a minor change is to occur.

3325.0330

Subpart 2(C and D). These changes are necessary and reasonable to clear up any misunderstanding about the right of an individual to be consulted, to receive an amendment to their plan reflecting termination, and to be told the basis upon which that determination has been made. It is reasonable for the individual client to be aware of and to be notified of the closure or termination of his/her case as well as the reasoning behind the termination made by the state agency.

Subpart 3. This change is necessary and reasonable to be consistent with changes in the headings for sections 3325.0480 - 3325.0490.

3325.0360 3325.0140

For changes in subparts 1 and 2 and for the repeal of 3325.0370, please see 3325.0140.

3325.0380

Subpart 1. This is a technical change only.

Subpart 3. This is a technical change only.

Subpart 5. This change is necessary and reasonable because it removes an undue burden on both the client and the counselor to amend a plan when there is a very small and extremely minor change in a clients financial situation or service needs. By requiring a joint amendment when there is only a substantial change, it allows both the client and the counselor to function in a more expeditious manner in meeting needs and in movement towards achieving the rehabilitation goal.

3325.0400

Subpart 2. This change is necessary and reasonable in order to assure clients are aware beforehand if the agency plans to terminate service delivery. Futhermore, it's only proper that clients be notified when and why services are being terminated by the agency.

Subpart 3. This is a technical change only.

3325.0420

Subpart 9(A). This change is necessary and reasonable because it is consistent with 34 CFR 361.42(a)(13).

Subpart 12(B). This change is necessary to avoid placing an undue burden on client's who, due to either geography or an existing relationship with a health professional, would best be served by a provider licensed by a state with standards equivalent to those in force in Minnesota. This change is reasonable because it is consistent with language at Minnesota Statutes 147.03 regarding reciprocity.

Subpart 14. The changes in this subpart are necessary in order to maximize the opportunity for clients to derive full benefit from vocational training services.

While the agency, consistent with 34 CFR 361.56, makes maximum use of public or other appropriate community resources for vocational training, clients should not be denied the opportunity, consistent with the purpose of P.L.

93-112 as amended through P.L. 99-506, to maximize their employability, independence and integration into the work place and the community. By placing explicit limits on the situations where non-public institutions may be used with full agency support, an equitable balance between these two concepts is maintained.

The changes in this subpart are reasonable because they are consistent with the expressed position of the Minnesota Council for the Blind (see Appendix 3 at p. 6).

3325.0430

The change in the heading for this part is necessary to be consistent with language in Federal Regulation at 34 CFR 361.47. It is reasonable to use this Federal term for both state and federal programs since no substantive changes in the Rules results from its usage.

Subpart 1. This change is necessary to comply with Federal Regulations at 34 CFR 361.47 and to clarify intent of the Rules.

Subparts 2 and 3. These changes are necessary to comply with 34 CFR 361.47.

3325.0440

Subpart 1 (F & J). These changes are necessary to assure clients have optimal access to services needed to achieve their rehabilitation goals. It is reasonable because these changes are consistent with the expressed positions of the Minnesota Council for the Blind and of SSB (see Appendix 1, pp. 1-6, and pp. 9-10) and as specifically documented in the official record of the proceedings of the Minnesota Council for the Blind (see Appendix 2, pp. 40-41) for November 16, 1989.

Subpart 1 (K). This is a technical addition.

Subpart 1 (L). This change is necessary and reasonable to comply with 34 CFR 361.47(B)(1).

Subpart 3. The changes in this subpart from "family" to "individual" income are necessary to assure familial responsibility for financial support of the blind member's rehabilitation program not be a potential source of dissension within the family unit. It is also necessary to assure the familial responsibility not serve as a barrier to the achievement of the rehabilitation process goal of the client. These changes are reasonable because the Division of Rehabilitation Services as well as several human service programs consider the income of the individual and not the

family when determining individuals financial participation requirements. These changes are reasonable because, as reflected in pp. 11-12 of Appendix 1, this change received the unanimous support of the Financial Task Force, the Minnesota Council for the Blind, and agreement from the Agency.

The change requiring annual income to be determined by annualizing the last six months of a client's income is necessary to clarify the ambiguity of the current subpart's reference to "annual and monthly family income". It is reasonable to annualize based on just the previous six (6) months income in order to be sensitive to significant variations in the clients income in the recent past. This change is reasonable because it is the approach to eligibility used in other elements of the Department of Jobs and Training, including the Targeted Jobs Tax Credit program.

Subpart 4-6. These changes are necessary and reasonable in order to be consistent with changes made in Subpart 3 of this section.

Subpart 7(B)(4). This change is necessary to assure consistency with 3325.0480-3325.0500.

Subpart 8. This change is necessary and reasonable in order to be consistent with changes made in Subpart 3 of this section.

Subpart 9. This change is necessary and reasonable in order to be consistent with 34 CFR 361.39(h) which, when viewed in conjunction with 34 CFR 361.40(c), calls for review at least annually of the individualized rehabilitation program. This change is necessary and reasonable in its application to the two state-funded programs because it is consistent with assessment and amendment requirements at section 3325.0310, Subparts 4 and 5 for the Self-Care Program, and at Section 3325.0380, Subparts 4 and 5 for the Child Rehabilitation Program. It is reasonable to remove language regarding lease payments since no lease payment requirements exist.

3325.0450

Subpart 1 c. This is a technical change only

3325.0460

Subpart 2. This change is necessary and reasonable as no financial obligations exist for the client given the repeal of Subpart 3 of this section.

Subpart 3. The repeal of this subpart is necessary in order to assure optimal access by clients and former clients to equipment needed to derive full benefit from and to sustain rehabilitation gain. It is reasonable because it is consistent with the expressed views of both the Minnesota Council for the Blind and of the SSB as reflected in Appendix 1, pp. 1-6. In the Appendix it is noted the agency derives only minimal income from the lease program as only 14% of clients under lease are participating financially in the lease.

Subpart 4. The first change in this subpart is necessary to permit former clients, consistent with subpart 6 of this part, to renew a lease. The second change in this subpart is necessary to remove any ambiguity concerning conditions for lease renewal. These changes are reasonable because they do not substantially modify the intent of this subpart.

Subpart 5. The repeal of this subpart is necessary given the removal of any requirement for client financial participation in this part.

Subpart 6. The two changes in this subpart are necessary and reasonable to resolve any ambiguity presented by the existing wording of the subpart. It is necessary and reasonable to remove the term "client" since the agency does not wish to place the burden of equipment ownership (including equipment maintenance) on a client who is still involved in the rehabilitation process. Also, the agency wishes to be prudent with its limited resources and not relinquish title to equipment before it has been reasonably determined the client is rehabilitated and needs, wants, and is using the equipment as planned.

Subpart 6 (A). This change in the subpart is necessary to avoid having former clients develop and maintain an overly dependent relationship on the agency. Given that the former client has been successfully rehabilitated for a reasonably long period of time (i.e., two years) it is felt the former client should/can assume responsibility for the equipment without agency assistance. This change is reasonable because it is endorsed in substance by the Financial Task Force, (Appendix 1), by vote of the Council for the Blind, (Appendix 3), and by the agency.

Subpart 6 (B). The change in this part is necessary and reasonable in order to assure that scarce agency resources used to purchase equipment are being used in the most effective manner. It would be ineffective use of the agency resources if equipment were transferred to former clients who do not both want and use the equipment in a manner consistent with its provision.

Subpart 6 (C). This element is deleted since its purpose is met by subpart 6B.

Subpart 6 (D). This element is deleted since no option for lease renewal exists beyond 2 years following successful rehabilitation.

Subpart 7. The repeal of this subpart is necessary and reasonable in light of the Mission of SSB of facilitating the achievement of personal and vocational independence by children and adults who are blind or visually handicapped. As reflected in the minutes of the Council for the Blind (Appendix 3, p.3) clients are provided a sufficient time (two years following rehabilitation) to develop the means to support the maintenance of the equipment rather than being dependent on the agency. This deletion is reasonable because it is endorsed by the Financial Task Force, the Minnesota Council for the Blind and the agency (Appendix 1, pp. 1-6)

Subpart 8. These are technical changes only. Changes in this subpart are necessary to assure consistency with subpart 4 of this part.

Subpart 10 (A). The deletion of this subpart is necessary and reasonable, given that no lease payments are required under these Rules.

Subpart 10 (B). These are technical changes only.

3325.0480

The heading for this part is changed for purposes of clarification and to differentiate the informal review process from the formal review. There are two tracts for consumers dissatisfied with decisions: the informal review and evidentiary hearing for consumers of the State Self-care and Child Rehabilitation programs; the informal review and formal review of rehabilitation counselor decision for consumers of the Federal Vocational Rehabilitation and Independent Living programs.

Subpart 1. These changes are technical changes of language to differentiate the informal review process from the formal review process.

Subpart 2. These changes are technical changes of language to differentiate the informal review process from the formal review process.

Subpart 3. These changes are technical changes in language. They also shorten the period for holding the review conference from 15 days to 10 days after the

conference is requested by the Appellate or supervisory staff conducting the informal review. It is necessary to shorten this time period to permit a timely hearing disposition of the issues. The time period permitted for notification of the Appellate of the time and place before the conference is also being shortened to assure expeditious handling of the matter.

Subpart 4. These changes are technical changes of language to differentiate the informal review process from the formal review process.

Subpart 5. This new section is necessary and reasonable to clarify the relationship between the informal review and the formal review. Furthermore, consistent with Federal Regulation at 34 CFR 361.48, this subpart is necessary.

3325.0490

Subpart 1. The addition of the phrase in this subpart "of the Child Rehabilitation Program or the Self-Care Program" is necessary and reasonable to assure consistency with Minnesota Statute 248.07, Subdivision 15. Additional changes in this subpart are technical language changes only.

Subpart 2. The deletion of the reference to Federal agency review is necessary and reasonable because applicants or clients of the Child Rehabilitation Program or the Self-Care Program do not have rights to any Federal agency review of the Director's decision.

3325.0500

All of this part is necessary and reasonable because it is consistent Federal Regulation at 34 CFR 361.48. It is reasonable because it is an extraction from the Federal Regulation, save for subpart 5. Subpart 5 is necessary as it clearly identifies state policy governing the director's decision to review any impartial hearing officer's decision. It is reasonable because it limits the director's discretion to only prudent areas of concern, yet protects the agency from misapplication of Federal regulation or approved state policy by an impartial hearing officer.