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STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38

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June 3, 1991

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

As required by Minnesota Statutes, section 14.23, I forward a Statement of Need and Reasonableness relating to proposed amendments to permanent rules governing Eligibility to Receive Payment as a Provider of Mental Health Services in the Medical Assistance Program, Part 9505.0323, Subpart 31.

If you have any questions on the Statement of Need and Reasonableness, please do not hesitate to contact me at 297 4301.

Sincerely,

Eleanor Weber
Rules and Bulletins Division

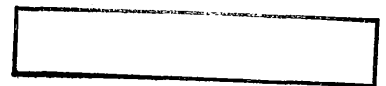
Enclosure

The Legislative Commission to
Review Administrative Rules

JUN - 5 1991



AN EQUAL OPPORTUNITY EMPLOYER



IN THE MATTER OF THE PROPOSED AMENDMENT
OF RULES OF THE DEPARTMENT OF HUMAN SERVICES
GOVERNING ELIGIBILITY TO RECEIVE PAYMENT
AS A PROVIDER OF MENTAL HEALTH SERVICES
IN THE MEDICAL ASSISTANCE PROGRAM, MINNESOTA
RULES, PART 9505.0323, Subpart 31

STATEMENT OF NEED
AND REASONABLENESS

Background

Part 9505.0323 sets standards to receive medical assistance payment as a provider of mental health services to medical assistance recipients. This part became effective January 1, 1990. Part 9505.0323 is a component of the entire set of rules, parts 9505.0170 to 9505.0491, which establish the standards to receive medical assistance payment for health services to a medical assistance recipient.

Subpart 31 is an amendment of part 9505.0323 proposed by the Department of Human Services (Department) as required under Laws of Minnesota 1990, Chapter 568, Article 3, Section 97.

The Minnesota medical assistance program is the joint federal-state program that implements the provisions of Title XIX of the Social Security Act by providing services for the medical needs of low income or disabled persons and families with dependent children. (See United States Code, title 42, section 1396a, et seq.)

In compliance with the requirements of the Code of Federal Regulations, title 42

section 431.10, (42 CFR 431.10), the Department has been designated as the state agency to supervise the administration of the state's medical assistance program and to adopt rules that must be followed in administering the State Plan. The State Plan is the Department's comprehensive written plan to administer and supervise the medical assistance program according to the federal requirements.

Minnesota Statutes, section 256B.04, subdivision 2 requires the Commissioner of Human Services (commissioner) to establish "uniform rules and regulations, not inconsistent with law" to ensure that the medical assistance program is carried out in an efficient, economic, and impartial manner. The Department is further required, under Minnesota Statutes, section 256B.04, subdivision 4, to cooperate with the federal government "in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program...."

Further authority for part 9505.0323 is found in Minnesota Statutes, section 256B.0625, subdivision 24 in regard to "any other medical or remedial care licensed and recognized under state law unless otherwise prohibited."

Small business requirements

Part 9505.0323, subpart 31 applies to certain specified entities that provide mental health services, a branch of medical care. The Department believes, therefore, that part 9505.0323, subpart 31 is exempt from small business considerations in accordance with Minnesota Statutes, section 14.115, subdivision 7, clause (4). Furthermore, the Department notes that parts 9505.0170 to 9505.0491 which establish standards to receive medical assistance reimbursement

for health services provided to medical assistance recipients and of which part 9505.0323 is a component were found by the Office of Administrative Hearings to be exempt from the small business consideration requirements of Minnesota Statutes, section 14.115.

Subpart 31. Medical assistance payment for mental health services by mental health practitioner.

The Minnesota Comprehensive Mental Health Act, Minnesota Statutes, sections 245.461 to 245.486, requires the commissioner to create a "unified, accountable, comprehensive mental health system." Minnesota Statutes, section 245.462, defines "mental health practitioner" in subdivision 17 and "mental health professional" in subdivision 18. At the time part 9505.0323 was proposed and adopted, the definitions of mental health practitioner and mental health professional applicable to mental health services under medical assistance were amended to be consistent with those in the Minnesota Comprehensive Mental Health Act. See part 9505.0175, subparts 27 and 28. Additionally, the amended definition of mental health professional in subpart 28 of part 9505.0175 limited the term for medical assistance reimbursement purposes to a person who was licensed. See Minnesota Statutes, section 256B.02, subdivision 7 which sets minimum professional standards applicable to medical assistance vendors and requires that a vendor be licensed.

Part 9505.0323, subpart 23 requires as a condition of eligibility for medical assistance payment that a mental health service other than day treatment be provided by a mental health professional. (See the definition of mental health service in part 9505.0323, subpart 1, item N.) However, before September 1, 1990, mental health services from a mental health practitioner were eligible for

medical assistance payment if they were provided under the clinical supervision of a psychiatrist, licensed psychologist, or licensed consulting psychologist who was a provider. (See part 9505.0323, subpart 22.) Thus, as of September 1, 1990, mental health services from mental health practitioners that had been eligible for medical assistance payment were no longer covered services and the role of mental health practitioners was narrowed.

The 1990 legislature provided an exception to this restriction in Laws of Minnesota 1990, Chapter 568, Article 3, section 97 which states:

The commissioner of human services shall adopt or amend rules to allow a mental health practitioner with only a bachelor's degree to provide mental health services under clinical supervision when employed by a private, nonprofit agency specializing in mental health services to low income children under age 15. To be eligible the mental health practitioner must have provided outpatient mental health services, with a primary emphasis on family-oriented mental health services, to children under age 15 under clinical supervision for at least ten years after receiving a bachelor's degree.

Thus the amendment is necessary to comply with the 1990 law. The amendment is consistent with the conditions specified in section 97. A bachelor's degree may be in any one of a large number of disciplines, as widely different as art and wildlife management. It is necessary therefore to clarify the type of bachelor's degree required to be a mental health practitioner. It is reasonable to require the bachelor's degree to be in a behavioral science or a related field and from an accredited college or university as these requirements are consistent with the requirements to qualify as a mental health practitioner according to Minnesota Statutes, section 245.462, subdivision 17 and part 9505.0175, subpart 27. Furthermore, requiring the person's degree to be in a behavioral science or a related field assures the person has had training in fields related to mental health.

It is necessary to define the phrase "low income children under age 15" to

clarify its meaning and set a standard. The standard chosen is found in Minnesota Statutes, section 256.936, subdivision 1 which defines the persons eligible for services under the children's health plan. These persons are children "who have gross family incomes that are equal to or less than 185 percent of the federal poverty guidelines...." See also Minnesota Statutes, section 256B.057, subdivision 1 which defines medical assistance eligibility as less than 133 percent of the federal poverty guidelines in the case of a child one through five years of age and 100 percent of the guidelines in the case of a child six through seven years of age who was born after September 30, 1983. Thus the standard is reasonable as it is consistent with statutory criteria for eligibility to receive health services funded through public sources.

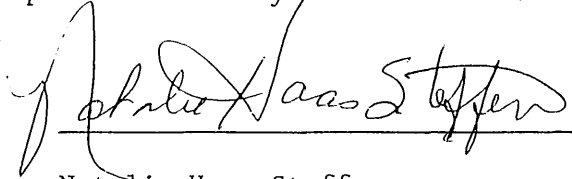
It is necessary to specify the medical assistance payment rate for the mental health services provided by mental health practitioners qualified under this proposed subpart in order to set a standard. Subpart 23 of part 9505.0323 establishes the medical assistance payment rate for mental health services provided by certain mental health practitioners; their provision of the mental health services must be under the clinical supervision of a mental health professional. The medical assistance payment rate for these services is one-half the medical assistance payment rate for the same service provided by a fully qualified person. The mental health practitioners qualified under subpart 31 to provide mental health services have qualifications similar to those specified in subpart 23. Mental health practitioners qualified under subpart 31 do not meet the qualifications to be mental health professionals and will require clinical supervision of the mental health services they provide. Therefore, it is reasonable to establish the same payment rate for their services as the payment rate for mental health services provided by other mental health practitioners as

using this rate assures equity of payment for similarly qualified persons and complies with the requirement of administering the medical assistance program in an impartial manner uniformly throughout the state as specified in Minnesota Statutes, section 256B.04, subdivision 2.

Expert Witnesses

If this rule should go to public hearing, the Department does not plan to have any expert witnesses from outside the Department testify in its behalf.

Dated: April ^{4th}, 1991

A handwritten signature in cursive script, reading "Natalie Haas Steffen", written over a horizontal line.

Natalie Haas Steffen

Commissioner of Human Services



4/22/91 ✓

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April 17, 1991

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131, enclosed is a statement of need and reasonableness relating to Eligibility to Receive Medical Assistance Payment as a Provider of Mental Health Services, Minnesota Rules, part 9505.0323, subpart 31.

If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at 297-4301.

Sincerely,

Eleanor Weber
Rulemaker

Encl.

The Legislative Commission to
Review Administrative Rules

APR 23 1991



AN EQUAL OPPORTUNITY EMPLOYER



DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed
Adoption of Rules of the State
Department of Human Services
Eligibility to Receive Medical
Assistance Payment As A Provider
of Mental Health Services, Minnesota
Rules, Part 9505.0323, Subpart 31

NOTICE OF INTENT
TO ADOPT A RULE WITHOUT
A PUBLIC HEARING

Notice is hereby given that the State Department of Human Services intends to adopt the above entitled rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is in Minnesota Statutes, section 256B.04, subdivision 2 and Laws of Minnesota 1990, Chapter 568, Article 3, Section 97.

All persons have 30 days or until 4:30 p.m. on May 23, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Eleanor Weber
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

Minnesota Rules, part 9505.0323 is a component of the entire set of rules, parts 9505.0170 to 9505.0491, which establish the standards for providers of health services to receive medical assistance payment for health services to a medical assistance

recipient.

Minnesota Rules, part 9505.0323, subpart 31 authorizes medical assistance for mental health services provided by mental health practitioners to children under 15 years of age, under clinical supervision, if they are employed by a private nonprofit entity specializing in mental health services to low income children. Subpart 31 also establishes the payment rate for these services of the mental health practitioners.

A free copy of the rule is available upon request from:

Nancy Bishop
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296 7454.

A copy of the rule may also be viewed at any of the 87 county welfare or human service agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from:

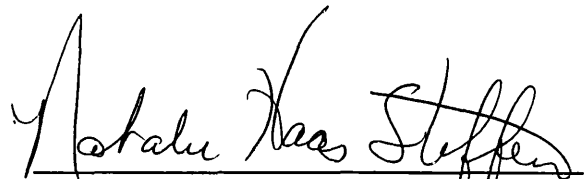
Nancy Bishop
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296 7454

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to :

Eleanor Weber
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816.

Date: April 4th, 1991


NATALIE HAAS STEFFEN
COMMISSIONER OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED AMENDMENT
OF RULES OF THE DEPARTMENT OF HUMAN SERVICES
GOVERNING ELIGIBILITY TO RECEIVE PAYMENT STATEMENT OF NEED
AS A PROVIDER OF MENTAL HEALTH SERVICES AND REASONABLENESS
IN THE MEDICAL ASSISTANCE PROGRAM, MINNESOTA
RULES, PART 9505.0323, Subpart 31

Background

Part 9505.0323 sets standards to receive medical assistance payment as a provider of mental health services to medical assistance recipients. This part became effective January 1, 1990. Part 9505.0323 is a component of the entire set of rules, parts 9505.0170 to 9505.0491, which establish the standards to receive medical assistance payment for health services to a medical assistance recipient.

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In compliance with the requirements of the Code of Federal Regulations, title 42

section 431.10, (42 CFR 431.10), the Department has been designated as the state agency to supervise the administration of the state's medical assistance program and to adopt rules that must be followed in administering the State Plan. The State Plan is the Department's comprehensive written plan to administer and supervise the medical assistance program according to the federal requirements.

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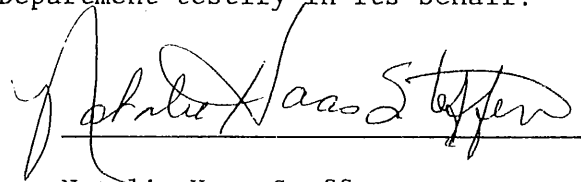
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using this rate assures equity of payment for similarly qualified persons and complies with the requirement of administering the medical assistance program in an impartial manner uniformly throughout the state as specified in Minnesota Statutes, section 256B.04, subdivision 2.

Expert Witnesses

If this rule should go to public hearing, the Department does not plan to have any expert witnesses from outside the Department testify in its behalf.

Dated: April ^{4th}, 1991

A handwritten signature in cursive script, reading "Natalie Haas Steffen", written over a horizontal line.

Natalie Haas Steffen

Commissioner of Human Services