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State of Minnesota
Department of Human Services

Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155

July 21, 1993

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 Family Community Support Services for Children with Severe Emotional Disturbance and their Families, Minnesota Rules, parts 9535.4000 to 9535.4070.

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

Sincerely,

A handwritten signature in cursive script that reads "Eleanor Weber".

Eleanor Weber
Rules and Bulletins Division

Encl.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

**In the Matter of Proposed Rules
of the Department of Human Services
Relating to Family Community
Support Services for Children with
Severe Emotional Disturbance and
Their Families, Minnesota Rules,
Parts 9535.4000 to 9535.4070**

**STATEMENT OF NEED
AND REASONABLENESS**

INTRODUCTION

Minnesota Rules, parts 9535.4000 to 9535.4070, are proposed by the Department of Human Services to establish standards and procedures for family community support services, including standards for supervision, staff orientation and ongoing training. Family community support services are part of children's community based mental health services established under the Minnesota comprehensive children's mental health act, Minnesota Statutes, section 245.487 to 245.4888 that are designed to help each child with severe emotional disturbance to function and remain with the child's family in the community. Under Minnesota Statutes, section 245.4884, subdivision 1, family community support services "must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay than indicated by the child's diagnostic assessment."

AUTHORITY

Authority to adopt parts 9535.4000 to 9535.4070 is contained in Minnesota Statutes, section 245.484, which requires the commissioner to adopt permanent rules specifying program requirements for family community support services.

BACKGROUND

County boards are responsible to provide family community support services either directly or under contract as part of a county's system of mental health services to children. Minnesota Statutes, section 245.4873, subdivision 1 requires coordination of the development and delivery of children's mental health services at the state and local levels to assure that services are available to meet children's mental health needs in a cost effective manner. Thus, if the components of family community support services are provided by more than one entity within a county, the county board must assure coordination among the providers.

Family community support services include a range of services. See Minnesota Statutes, section 245.4871, subdivision 17 for the list of services. The family community support services and the level, frequency, intensity, and duration of the services provided to the child will depend on the child's mental health needs as identified in the child's diagnostic assessment and functional assessment.

Historically, mental health services to children with severe emotional disturbance were limited to outpatient care such as psychotherapy and acute care inpatient hospitalization or residential treatment services. Enactment of the Minnesota Comprehensive Children's Mental Health Act in 1989 focused attention on serving children in community-based programs which provide less restrictive, more normative environments. Although there continues to be a place for mental health services in a restrictive setting such as a residential treatment facility, a goal of family community support services is to offer services in a less restrictive setting within or as close to the child's home community as possible.

NOTICE OF SOLICITATION OF OPINION

The Department published a Notice of Solicitation of Opinion in the State Register on December 7, 1992 (17 S.R. 1410.)

ADVISORY COMMITTEE

The Department was assisted by an advisory committee in developing these proposed rules. The committee met on January 6, 1993, January 28, 1993, February 18, 1993, and March 9, 1993. Appendix A lists persons invited to serve and those attending the meetings. Some advisory committee members also served on a work group to review alternatives and make recommendations about family community support services for children. The work group met January 6, 1993, January 21, 1993, February 18, 1993, and March 9, 1993. Appendix B lists participants at work group meetings.

SMALL BUSINESS CONCERNS

The Department believes that these rules are exempt from the requirement of Minnesota Statutes, section 14.115, subdivision 2 about consideration of the rules' impact on small businesses. Minnesota Statutes, section 14.115, subdivision 7, subsection (2) states that the requirement to consider the impact on small businesses does not apply to "agency rules that do not affect small businesses directly, including, but not limited to, rules relating to county or municipal administration of state and federal programs."

Proposed parts 9535.4000 to 9535.4070 set standards for family community support services provided for children with severe emotional disturbance. These county-administered programs are established in the Minnesota comprehensive children's mental health act and Minnesota Statutes, section 256E.12, subdivision 1. The counties provide these program services, either directly or under contract with providers and use state grant funds and third party-payer funds as specified in mental health plans and

grant applications approved by the commissioner. The counties are responsible to negotiate, administer, and monitor the contracts with the service providers. County responsibilities include setting contract provisions about the amount, duration, scope, and clients of the provider's services, recordkeeping, compliance and reporting standards, deadlines, and quality of care and payment rates.

The Department notes that its Notice of Public Hearing invites anyone who may be affected as a small business to speak to their concerns.

AGRICULTURAL CONCERNS

Proposed parts 9535.4000 to 9535.4070 do not have a direct and substantial adverse impact on agricultural land. Therefore the agency is not subject to the requirements of Minnesota Statutes, sections 17.80 to 17.84 as specified in Minnesota Statutes, section 14.11, subdivision 2.

9535.4000 APPLICABILITY AND SCOPE

Subpart 1. Applicability. This subpart states the purpose of the proposed rule and lists the laws that authorize the Department to adopt this rule and that govern the content of the rule. This subpart is necessary and reasonable because it informs affected persons of the applicable laws and the reason for the rule and thereby assists affected persons to understand the statutory basis for the rule.

Minnesota Statutes, sections 245.487 to 245.4888, comprise the Minnesota comprehensive children's mental health act. Minnesota Statutes, section 256E.09 governs the development and contents of county community social service plans. Mental health services for children are a required component of these plans. See the definition of community social services in Minnesota Statutes, section 256E.03, subdivision 2(a)(5) and the requirements for children's components in section 245.4888.

Minnesota Statutes, chapter 256G (the Minnesota unitary residence and financial responsibility act) applies to all programs administered by the commissioner of human services in which residence is a determining factor in establishing financial responsibility. The components of community social services comprise such a program.

Minnesota Statutes, section 256E.08, subdivision 1 specifies that the "county board of each county shall be responsible for administration, planning, and funding of community social services." Subdivision 1 further states the activities and information that the county board, either singly or in combination with other county boards, is responsible to provide, either directly or by contract, in connection with community social services. Subdivision 1 also states that the services must be provided to persons identified in Minnesota Statutes, section 256E.03, subdivision 2, which in clause (a)(5) lists

emotionally disturbed children and adolescents.

Parts 9535.4000 to 9535.4070 establish a uniform service standard for family community support services to children with severe emotional disturbance, without regard to the child's eligibility for medical assistance or other funding sources. A single standard is reasonable because a single standard assures equitable treatment for persons whose service needs are the same. Further, a uniform standard is reasonable because it facilitates program administration and implementation by the county.

Subp. 2. Family community support services to children with severe emotional disturbance, and their families; scope. This subpart is necessary because it states the scope of the proposed rules, and informs affected persons of the state law that requires the commissioner to ensure a comprehensive and coordinated set of mental health and other necessary services for children.

This subpart specifies that family community support services need to be provided in a manner consistent with the core values and principles endorsed by the Child Adolescent Service System Program (CASSP) of the Children's Services Division of the National Institute of Mental Health, as set forth in A System of Care for Severely Emotionally Disturbed Children and Youth. Hereafter, the above-referenced publication and the values and system it endorses will be referenced as "the CASSP System of Care."

Requiring family community support services to be provided in a manner consistent with the core values and principles recommended by CASSP is reasonable because CASSP is recognized nationally as establishing a good model for the provision of mental health services to children with severe emotional disturbance. The CASSP model involves two core values which are central to the system of care and its operation and which are consistent with Minnesota laws and rules related to children's mental health services.

The first value is that the system of care must be driven by the needs of the child and the child's family. The second core value holds that the system of care for emotionally disturbed children should be community-based. The community-based emphasis extends to the control and management of the system of care as well as the actual services.

Use of the CASSP model also ensures consistency with the core values underlying the outcomes of case management services to children with severe emotional disturbance as specified in part 9520.0904 and ensures the coordination of mental health services required by Minnesota Statutes, section 245.487, subdivision 3.

9535.4010 DEFINITIONS

Subpart 1. Scope. This part is necessary to define terms that are used in parts 9535.4000 to 9535.4070. This subpart and the definitions that follow in subparts 2 to 28

are necessary to clarify the meaning of the terms used in these rules. They are reasonable as they inform persons affected by the rule and provide consistent terminology throughout the rule, thereby avoiding misunderstandings.

Subp. 2. Adult with serious and persistent mental illness. This subpart is reasonable because it relies on the definition set forth by the legislature in Minnesota Statutes, section 245.462, subdivision 20, paragraph (c). Consistency with statutes is reasonable because it complies with the law.

Subp. 3. Case management services. Minnesota Statutes, section 245.4871, subdivision 3, in the case of children, defines the term case management services. Consistency with statutes is reasonable because it complies with the law.

Subp. 4. Child. The definition is consistent with Minnesota Statutes, section 245.4871, subdivision 5 in establishing 18 as the chronological and legal end of childhood and consistent with subdivision 6 in describing "child" in a way that is an abbreviated form of "child with severe emotional disturbance." Consistency with statute is reasonable because it complies with the law. It is necessary that the rule's definition of "child" be sufficiently specific to clarify which children are referenced by the rule and eligible for services under the rule. It is reasonable to make the differentiation by describing the rule-referenced "child" as being eligible for mental health case management and family community support services because those are the characteristics used in statute to describe the specific population of children affected by this rule.

Subp. 5. Child with severe emotional disturbance. This subpart describes the condition of the child who is eligible for family community support services. Defining the term by citing the statute establishing the definition is reasonable because it ensures consistency with the statute set forth in the Minnesota comprehensive children's mental health act. Consistency with statute is reasonable because it complies with the law.

Subp. 6. Clinical supervision. This subpart defines clinical supervision, which by law requires a mental health professional to carry out the oversight responsibility for the individual treatment plans and individual mental health service delivery. Family community support services are a mental health service. The definition of clinical supervision is reasonable as it is consistent with Minnesota Statutes, section 245.4871, subdivision 7.

Subp. 7. Commissioner. The definition of "commissioner" is reasonable because it is consistent with Minnesota Statutes, section 245.4871, subdivision 8. The definition also is consistent with Minnesota Statutes, section 15.06, subdivision 6, which authorizes the commissioner to delegate to any subordinate employee specific statutory powers and authority.

Subp. 8. County board. The definition of county board is reasonable as it is

consistent with Minnesota Statutes, section 245.4871, subdivision 9.

Subp. 9. County of financial responsibility. The definition of county of financial responsibility is reasonable because it refers to the statute which applies to those programs administered by the commissioner for which residence is a determining factor in establishing financial responsibility. See Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 10. Crisis assistance. Crisis assistance is a family community support service available to children with severe emotional disturbance. A definition is necessary to clarify its meaning in these rules. The definition also is necessary to differentiate between crisis assistance and emergency services because there is often confusion about the differences and similarities between the two services. See subpart 13 and its SNR. The definition of crisis assistance, which includes crisis placement and respite care, is reasonable because it is consistent with Minnesota Statutes, section 245.4871, subdivision 9a, and Minnesota Statutes, section 245.4871, subdivision 17 (6).

Subp. 11. Day treatment. Day treatment is a family community support service available to children with severe emotional disturbance. A definition is necessary to clarify its meaning in these rules. It is reasonable to define the term by citing the statutes in which it is defined as it ensures consistency with the statutes.

Subp. 12. Diagnostic assessment. Defining the term "diagnostic assessment" by citing the statutes in which it is defined is reasonable as it ensures consistency with the statutes.

Subp. 13. Emergency services. Defining the term "emergency services" by citing the statutes in which it is defined is reasonable as it ensures consistency with the statutes.

Subp. 14. Emotional disturbance. It is reasonable to define the term "emotional disturbance" by citing the statute in which it is defined because this approach ensures consistency with the statute.

Subp. 15. Family. Relying on Minnesota Statutes, section 245.4871, subdivision 16 to define "family" is reasonable because it ensures consistency with the Minnesota comprehensive children's mental health act. Adding the reference to statutes related to Indian family preservation in the case of Indian children is reasonable as it ensures consistency with the applicable statutes. See Minnesota Indian family preservation act, Minnesota Statutes, section 257.35 to 257.3579. This definition is the same as that in part 9520.0902, subpart 19, which applies to case management services to the same population of eligible children.

Subp. 16. Family community support services. This term necessarily defines the

services governed by the rule parts so that those affected by the rule parts know what services they are entitled to receive or expected to provide. The definition is reasonable because it is consistent with Minnesota Statutes, section 245.4871, subdivision 17, avoids confusion by specifying what are not family community support services, and explicitly describes the services in question by referring to other parts of the rule relating to each type of family community support service.

Subp. 17. Foster care with therapeutic supports or therapeutic support of foster care. This subpart defines a family community support service available to children with severe emotional disturbance and their families. A definition is necessary to clarify its meaning. It is reasonable to define the term "foster care with therapeutic supports" by citing the statute in which it is defined to ensure consistency with the statute.

Subp. 18. Functional assessment. This subpart defines a term used in these proposed rules. A definition is necessary to clarify its meaning. The definition is reasonable because as it is the same as that in Minnesota Statutes, section 245.4871, subdivision 18.

Subp. 19. Individual family community support plan. "Individual family community support plan," a term used in these proposed rules, identifies the services needed by a child with severe emotional disturbance and the child's family. Defining the term by citing the statute containing the definition is reasonable as it ensures consistency with the statute.

Subp. 20. Individual treatment plan. "Individual treatment plan" is a term used in these rules to refer to a written plan of treatment for mental health services for a child with emotional disturbance or severe emotional disturbance. Defining the term by citing the statute containing the definition is reasonable as it ensures consistency with the statute.

This plan is different from an individual family community support plan or IFCS (see subpart 19). An IFCS is an umbrella plan that identifies all of the services needed by the child and the child's family. See Minnesota Statutes, section 245.4871, subdivision 19. Also see part 9535.4020, subpart 10. The number of services identified on an IFCS depends on the number of services the child needs. The services may be outpatient mental health treatment services such as psychotherapy for the child; family community support services such as crisis assistance for the child or the child's family; or assistance to obtain transportation services which may be needed by the child or the child's family. The mental health treatment services identified in the child's IFCS are provided according to an individual treatment plan developed by a mental health service provider. A child may have more than one individual treatment plan depending on the number of mental health treatment services needed by the child; the child will, however, have only one IFCS.

Subp. 21. Legal representative. Minnesota Statutes, section 525.619 sets forth the powers and duties of a child's guardian appointed by a court. Minnesota Statutes, 525.619 (c) empowers a guardian appointed by the court "to authorize medical or other professional care, treatment or advice" and specifies the limitations applicable to the guardian's authority. Minnesota Statutes, sections 260.242 and 260.015 of the juvenile court act specify a guardian's responsibilities and define "custodian." Minnesota Statutes, section 257.351, subdivision 8, a provision of the Indian family preservation act, specifies who may act on behalf of an Indian child if the parent's rights have been voluntarily transferred or terminated under state law. The term "legal representative" is used in this rule as an abbreviation for such persons who are authorized to decide on services for a child with severe emotional disturbance. Use of an abbreviation is reasonable as it shortens the rule. Defining the abbreviation by citing the statutes is reasonable because it ensures consistency with the statutes.

Subp. 22. Local agency. This is the agency which administers the medical assistance program and mental health services such as family community support services and case management services provided by a county board on a day to day basis under the supervision of the Department of Human Services. The term is used in this rule and is defined solely for identification purposes.

Subp. 23. Mental health professional. This term is used in these rules to describe the qualifications of the professional who provides clinical supervision of family community support services. Defining the term by citing the statutes containing the definition is reasonable as it ensures consistency with the statutes.

Subp. 24. Minority race or minority ethnic heritage. Part 9560.0020, subpart 9a defines "minority race or minority ethnic heritage" within the context of the Minnesota adoption program and the social services supportive of the adopted child's integration into the new family. The adoption program is implemented by a local social service agency, which is a county agency, or a child placing agency licensed by the commissioner. Because family community support services are part of a county's social service program, it is reasonable to use the definition applicable to another social service program and thereby assure consistency and avoid confusion. The Department notes that, although Minnesota Statutes, section 259.255 and 259.455 both refer to consideration of a child's minority racial or minority ethnic heritage when placing a child for adoption or attempting to recruit an adoptive family, they do not define the term. It is reasonable to refer to the definition in the rules setting forth standards for the Minnesota adoption program pursuant to the authorization in Minnesota Statutes, section 245A.09; section 259.40, subdivision 10; and section 259.45, subdivision 9 as a definition which is a part of the rules and is an authorized legal standard. The definition is the same as that in part 9520.0902, subpart 32 which sets case management standards for children with severe emotional disturbance, the same population of children served by this proposed rule. Therefore, the definition also is reasonable as it assures consistency between the programs of services to children with severe emotional disturbance.

Subp. 25. Parent. The definition clarifies who is a parent for purposes of this rule. It is reasonable because it provides an abbreviation for "birth or adoptive mother or father" and this shortens the rule. Consent to services for a child and to release of information about the child is a right and responsibility of the child's parent or parents. Parts 9535.4000 to 9535.4070 and Minnesota Statutes, section 245.486, subdivision 5 require such consent in order for the child to receive family community support services and for the release of information about the child to the child's other service providers. See part 9535.4023. The decision to terminate parental rights can only be made by a court. Therefore, it is reasonable to exclude from the definition a person whose parental rights in relation to the child have been terminated by a court, as such a person no longer has the right or the responsibility to make decisions on behalf of the child.

Subp. 26. Professional home-based family treatment. Professional home-based family treatment is an intensive mental health service available to children with emotional disturbance who are at risk of out-of-home placement or who are in out-of-home placement or who are returning from out-of-home placement. Defining the term by citing the statute containing the definition is reasonable as it ensures consistency with the statute.

Subp. 27. Service provider. This term is used in these rules to indicate the individual or agency that provides mental health services including family community support services. Defining the term by citing the statutes establishing the definition is reasonable as it ensures consistency with the statute.

Subp. 28. Special mental health consultant. A special mental health consultant is a term used in these rules to describe a person who has special expertise in providing mental health services to a child of minority race or minority ethnic heritage. Defining the term by citing the statute establishing the definition is reasonable as it ensures consistency with the statute. Quoting the statute is reasonable because the statute references the criteria of a special mental health consultant as a practitioner or professional with special expertise in treating children from a particular cultural or racial minority group. The role of the special mental health consultant is defined under Minnesota Statutes, section 245.4874, clause (13).

9535.4020 FAMILY COMMUNITY SUPPORT SERVICES; GENERAL PROVISIONS.

Subpart 1. Design of family community support services. This subpart is necessary to set forth the responsibility of the county board to provide family community support services as required under Minnesota Statutes, sections 245.4875, subdivision 2, clause (5). Minnesota Statutes, section 245.4874, subdivision 1 requires the county board to develop a system of locally available and affordable children's mental health services. Minnesota Statutes, section 245.4876, subdivision 1 sets forth criteria for the mental health services to be provided by the county, including the requirements that the services

be based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served [clause (2)] and be provided in the most appropriate, least restrictive setting available to the county board to meet the child's treatment needs [clause (4).] The county board is also required to assure that special mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage. Minnesota Statutes, section 245.4884, subdivision 1 requires family community support services to be designed to "reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay."

Minnesota Statutes, section 245.4886, subdivision 1 states that services to children with severe emotional disturbance must be designed to "help each child to function and remain with the child's family in the child's community" and specifies in clause (1) that "family community support services including crisis placement and crisis respite care" are to be given the first priority for funding when they cannot be reimbursed through medical assistance.

Minnesota Statutes, section 245.4873, subdivision 6 states that each of the services described in Minnesota Statutes, section 245.487 to 245.4888 must be developed within available resources and lists providing locally available mental health services to all children with severe emotional disturbance as the number two priority. [The number one funding priority is emergency services.] Minnesota Statutes, sections 245.486 and 256E.081, subdivision 4 set forth the authorized service limitations applicable to county provided mental health services, one category of county provided social services, when a county's fiscal resources are insufficient.

Thus, this subpart is reasonable as it is consistent with the statutory provisions applicable to county provided mental health services to children with severe emotional disturbance.

Subp. 2. Joint county provision of services. Minnesota Statutes, section 245.4875, subdivision 4 encourages counties to join with one or more county boards, to enter into multicounty mental health agreements, and to establish acceptable ways of apportioning the cost of mental health services to children. This subpart is necessary to inform counties of this statutory provision. It is reasonable because it is consistent with statute.

Subp. 3. Denial of service. Minnesota Statutes, section 256E.081, subdivisions 2 and 3 state the conditions of plan approval and implementation that must exist for a county to deny social services to eligible individuals. Mental health services including family community support services are social services that are components of the required county social services plan. When the county demonstrates a reasonable effort as required under subdivision 2, has an approved plan and exhausts the funds identified in the plan to pay for services under the plan, and completes the documentation required in Minnesota Statutes, section 256E.081, subdivision 4, the county may deny an otherwise

eligible child family community support services. This subpart is necessary to inform affected persons of the statutory provisions authorizing a denial of service. The subpart is reasonable as it is consistent with the statutes cited within it.

Subp. 4. Notice of eligibility for family community support services. Only children who have been determined to have severe emotional disturbance are eligible for family community support services. See the definition of family community support services in Minnesota Statutes, section 245.4871, subdivision 17 and the availability of family community support services in Minnesota Statutes, section 245.4884, subdivision 1. Minnesota Statutes, section 245.4881, subdivision 2, paragraph (b) requires the county to send a written notice about a child's potential eligibility for family community support services. Paragraph (b) specifies what the notice must contain. This subpart is necessary to inform affected persons of the statutory requirement. It is reasonable as it relies on the statutory requirements determined by the legislature as necessary for compliance.

Subp. 5. Availability of special mental health consultant. This subpart is consistent with Minnesota Statutes, section 245.4874, clause (13) which requires the county board to assure that special mental health consultants are used as necessary to assist "in assessing and providing appropriate treatment for children of cultural or racial minority heritage." It also is consistent with Minnesota Statutes, section 245.4876, subdivision 1, clause (2) which requires children's mental health services to be based on "individual clinical, cultural, and ethnic needs, and other special needs of the children being served." Consistency with statute is reasonable to assure compliance with the law.

Subp. 6. Procedures to assure coordination. This subpart requires the county board to assure ongoing contact and coordination between the providers of the child's mental health services, including case management services, and other educational and social services to the child. This subpart is reasonable because it is consistent with Minnesota Statutes, section. 245.4873 subdivision 3, paragraph (a), which states, in part:

Each agency represented in the local system of care coordinating council, including mental health, social services, education, health, corrections, and vocational services as specified in section 245.4875, subdivision 6, is responsible for local coordination and delivery of mental health services for children. The county board shall establish a coordinating council that provides at least . . . written interagency agreements with the providers of the local system of care to coordinate the delivery of services to children.

Additionally, Minnesota Statutes, section 245.4881, subdivision 5 requires the county board to establish "procedures that ensure ongoing contact and coordination between the case manager and the family community support services as well as other mental health services for each child." See also part 9520.0903, subpart 1 which requires a county

board to assure coordination of case management services with the delivery of a child's mental health services and the services of other agencies serving the child and the child's family. This subpart is necessary to inform affected persons of the statutory and regulatory requirements. If the child has a case manager, it is reasonable to assign the case manager responsibility for coordination because coordination is one of the case manager's functions (see Minnesota Statutes, section 245.4881, subdivision 5.)

Subp. 7. Referral of child for case management services. This subpart requires a family community support service provider to inform a child and the parents or legal representative of a child who has a severe emotional disturbance and who does not have a case manager about the availability and potential benefits of case management services. This requirement is set forth in Minnesota Statutes, section 245.4876, subdivision 4. The subpart is necessary to inform affected persons. Citing the applicable statute is reasonable as it assures consistency with the required statutory standard and procedures.

Subp. 8. Refusal of case management services. As set forth in part 9520.0907, a child or the parent or legal representative of a child who is determined eligible for case management and thus is also eligible for family community support services may refuse the case management services, but consent to other mental health services for which the child is eligible. (See part 9520.0910, subpart 5 and Minnesota Statutes, section 245.4881, subdivision 2, paragraph (c).) Subpart 8 is necessary to inform affected persons of the eligibility of a child for family community support and other mental health services if case management services have been refused for a child determined eligible for case management services. The subpart is reasonable because it is consistent with part 9520.0910, subpart 5 and Minnesota Statutes, section 245.4881, subdivision 2, paragraph (c).

This subpart is both necessary and reasonable because it clarifies who is responsible for the required coordination in the case of a child who does not have a case manager. Family community support services are provided either directly by the county or through contracts with the county board. Thus, it is reasonable to require family community support service providers to provide the required service coordination for a child without a case manager as the county board which has the final responsibility and accountability for service coordination is in the best position to set the policies or contract terms necessary to assure coordination. Also see Minnesota Statutes, section 245.4876, subdivision 1, clauses (7) and (9) about required continuity and coordination of services to the child.

Subp. 9. Clinical supervision of family community support services. Minnesota Statutes, section 245.4871, subdivision 17, requires family community services to be provided under the clinical supervision of a mental health professional. This subpart is necessary to inform affected persons of the statutory requirement of clinical supervision. Minnesota Statutes, section 245.4871, subdivision 7 sets forth the standards for clinical

supervision. Citing the statute which sets forth the standard is reasonable as it assures consistency with the applicable statutes.

Subp. 10. Services needed and required plan. This subpart sets forth the basis for planning family community support services for a child with severe emotional disturbance and the child's family. The Department notes that the document specified under this subpart is not intended to duplicate a child's individual family community support plan or any other plan that could be modified to become this plan. Rather it is intended to supplement an individual family community support plan or to encompass individual treatment plans, if any, by specifying the goals, outcomes, and measures of each component of family community support services needed by the child.

A plan of service is necessary to provide a record for both the service provider and the child and the child's family. Requiring the plan to identify the goal and outcomes of the services is reasonable as this information will establish an understanding between services provider and services recipient of what is expected and afford a means of measuring whether the service has benefited the child.

Requiring the child's community support services to be based on the mental health needs identified from the child's functional assessment, diagnostic assessment, and strengths is reasonable as it assures the child's services will be designed to meet the unique needs of the child as required in Minnesota Statutes, sections 245.487, subdivision 3, clause (3)(ii) and 245.4876, subdivision 1, clause (2). See Minnesota Statutes, section 245.4881, subdivision 4 which requires the child's individual family community support services plan to be based on the child's diagnostic assessment and functional assessment. Minnesota Statutes, section 245.4881, subdivision 4 also requires, to the extent appropriate, the child and the child's family to be involved in developing the child's individual family community support plan. Similarly, Minnesota Statutes, section 245.487, subdivision 3, clause (7) requires the child and the child's family to be included in planning the child's program of mental health services, unless clinically inappropriate to the child's needs.

It is reasonable to emphasize focusing on the child's strengths as well as needs because this focus is consistent with Minnesota Statutes, section 245.4871, subdivision 11 which notes that a child's history of current mental health problems should include important developmental incidents, strengths, and vulnerabilities. The emphasis on strengths is also consistent with current research and practice in education for children with emotional or behavioral disorders or children with developmental disabilities.

Educational assessment, too, emphasizes identifying strengths. One example of this emphasis is found in a monograph jointly published in 1991 by the Minnesota departments of human services and education. Entitled Minnesota Identification and Eligibility for Children and Youth Experiencing Emotional or Behavioral Disorders, the document is available from The Minnesota Curriculum Services Center, Capitol View

Center, 70 W. County Road B2, Little Canada, MN 55117-14902. The monograph authors indicate that focusing on strengths as opposed to problems significantly decreased the amount of conflict between parents, children, and agencies because the building process was unifying.

Item A. Under Minnesota Statutes, section 245.4871, subdivision 3 and section 245.4881, subdivision 4, a child's case manager is responsible for developing a child's individual family community support plan. It is therefore reasonable to assume that a child receiving case management has such a plan. It is also reasonable to allow such a plan to serve as the plan required by the subpart under discussion because the substitution has the potential of avoiding duplication and being cost effective and administratively efficient.

In the interest of maintaining uniform standards, it is also reasonable to indicate conditions that must be met before the substitution is allowed. Requiring compliance with part 9520.0918 is reasonable because that part sets the standards a case manager must meet in developing the individual family community support plan.

It is also reasonable to limit the substitution to situations where the child's family community support services provider has participated in the planning as the family community support services provider is in the best position to know how to provide the services in a way that meets the child's unique mental health needs and will be the one held accountable for providing these services. See CASSP System of Care, page 18 for a discussion of individualized service plans for the child.

Item B. A child with a severe emotional disturbance who does not receive case management services is eligible for and may receive family community support services. Because the child does not have a case manager responsible for developing the child's individual family community support plan, it is necessary to clarify what planning is necessary in connection with the services the child does receive. Minnesota Statutes, section 245.4881, subdivision 5 requires the county board to establish procedures that assure ongoing contact and coordination between the family community support services and other mental health services for each child. That is the statutory basis for subpart 6 referenced in item B. It is reasonable to hold the planning in item B to this standard because it is consistent with statute. See subpart 6 and its SNR for more on the requirement that county boards establish procedures for coordination of services. Item B also is reasonable because it recognizes that counties are in the best position to develop coordination procedures applicable to their methods of service delivery and the needs of their clients.

The final sentence of the subpart in particular and the entire subpart in general is reasonable because it tries to lighten the planning burden placed on providers and county staff by permitting the use of existing plans of services for the child if the existing plans already meet or can be supplemented to meet the required standards. Substituting

another plan that meets the requirements of this subpart is reasonable as it is cost effective and administratively efficient and is consistent with the goal of coordinating the child's services as required under Minnesota Statutes, sections 245.487, subdivision 3, clause (3)(iii) and 245.4881, subdivision 5.

Subp. 11. Review and revision of plan required under subpart 10. Because a child's mental health needs may change over time and the changes have implications for dropping or adding services, it is necessary to establish a review and/or revision process. To support consistency and uniformity of services, it is further necessary to specify who must review and revise the child's plan and the basis for and frequency of the review.

It is reasonable to require family community support services staff to participate in plan review and revision because these are the people who are knowledgeable about the services currently being provided and the extent to which the services are meeting the child's needs. It is also reasonable to require participation by the child and child's representatives because this participation is consistent with Minnesota Statutes, section 245.4881, subdivision 4 which requires, to the extent appropriate, the child and the child's family to be involved in developing the child's individual family community support plan.

Minnesota Statutes, section 245.487, subdivision 3, clause (7) also requires the child and the child's family to be included in planning the child's program of mental health services, unless clinically inappropriate to the child's needs. Thus requiring the involvement of the child and the child's parent is consistent with the statutory requirement.

Requiring community support services staff to participate in plan review and revision is also reasonable because this participation assures the coordination of services required by Minnesota Statutes, sections 245.487, subdivision 3, clause (3)iii and 245.4876, subdivision 1, clause (9). At the same time, it is necessary to set a reasonable standard for how often review and revision must occur. Some counties provide family community support services through a single agency which might have one set of the specific goals, outcomes, and measures of the child's family community support services. With this arrangement, only one agency would carry out the review process. Other counties, however, provide family community support services needed by a child through several providers, some of whom may provide only one of several service components for the child and family. With this arrangement, each provider would have to participate in the required review and, if necessary, revision. Therefore, determining how often to require the review and revision of the child's plan required under subpart 10 must consider the burden conducting the review places on the providers and the child and the child's parent, and the time available for the provider's direct services to the child.

A frequency of 180 days is a reasonable balance as it sets a minimum standard that may be exceeded if an earlier or more frequent review is necessary to reflect changes in the

child's goals, strengths, and needs and in community resources. Because the need for revision is related to what is necessary to reflect changes in the child's needs, it is reasonable to require more frequent reviews and revision if the child's condition changes. See Minnesota Statutes, section 245.4876, subdivision 1, clause (2) which requires services to children to be based on the individual needs of the child.

Reviewing and/or revising every 180 days is also reasonable for this particular kind of plan because it reflects the child's progress towards the outcomes of the service being provided. Children with mental health needs may be resistant to services when they are first provided; unrealistic expectations of immediate progress may doom the interventions to failure and cause needless frustration for the child and child's family. Allowing 180 days of service before assessing progress toward the goals and outcomes expected of the service gives the provider time to engage the child and the child's family in the therapeutic process.

It should be noted that the interval allowed between reviews of the Individual Family Community Support Plan required under part 9520.0918, subpart 2 is only 90 days as opposed to the 180 days required for reviews of the plan specified in subpart 10. It is reasonable to expect a more stringent standard for the Individual Family Community Support Plan because it reflects the child's and the child's parent's needs across other systems of care and addresses other services provided to the child and the family besides mental health services. To ensure timely access to the broader range of services encompassed by the Individual Family Community Support Plan, a case manager needs to review the plan every 90 days. The 90 day requirement is also consistent with Minnesota Statutes, section 245.4881, subdivision 3.

9535.4023 PERSONS TO RECEIVE INFORMATION AND PLAN CHILD'S FAMILY COMMUNITY SUPPORT SERVICES.

Subpart 1. Persons to receive information and plan child's services. The rule parts necessarily address who has the right to receive information, participate in planning, and make decisions about a child's services because these rights are central to the provision of services governed by the rule. Those governed and affected by and those monitoring compliance with the rule parts need to know and follow the same standards in order for the rule to be uniformly and consistently administered. The rights established in subpart 1 are reasonable because they are consistent with Minnesota Statutes, sections 245.4881, subdivision 2, and 245.4876, subdivisions 4 and 5.

Subp. 2. Child's receipt of information and inclusion in planning services. The statement of need for subpart 1 above applies to subpart 2 as well. Extending the right to be notified and to participate to a child of at least 12 and allowing the option for a child under 12 while writing in safeguards to protect the child whose situation makes receiving information potentially difficult is a reasonable way to address the question of how much

to involve the child. Restricting the process of "protecting" the child by requiring a mental health professional to rule on appropriateness and to document the determination adds a further element of reasonableness by protecting the child's right to know. Subpart 2 is also consistent with Minnesota Statutes, sections 245.4881, subdivision 2, paragraph (b), and 245.4876, subdivisions 4 and 5 which require information about mental health services to be given to a child.

Subp. 3. When only the child has the right to receive information, plan, and decide on child's family community support services. The statement of need for subpart 1 again applies, with the additional note that it is also necessary to anticipate and provide for the eventualities under which the rights for parents and/or legal representatives established in subparts 1 and 2 would not apply.

Item A provides for a situation in which it is reasonable not to apply the customary right of the parent to receive information and act for the child because the parent or legal representative is not acting in the child's best interest by interfering with the child's receiving services.

Using age 16 as the point at which a child's right to act begins is reasonable because it is consistent with Minnesota Statutes, section 253B.03, subdivision 6 which allows a minor 16 years of age or older to consent to hospitalization, routine diagnostic evaluation, and emergency or short-term acute care. If a child committed to a residential treatment facility (as is the case in the citation) is authorized by statute to consent to treatment at age 16, it is reasonable that the rule permit a child of age 16 to receive information about and plan family community support services.

Item B It is reasonable in the four situations specified to allow the child to act on the child's own behalf because the child's independence of parents and legal representatives in these situations has been established by the statutes cited.

Subparts 1, 2, and 3 are also reasonable because they are consistent with the provisions established in parts 9520.0900 to 9520.0926 governing case management services for children with severe emotional disturbance. It is reasonable for the rules governing a system of services to have the same requirements and restrictions on such points as right to receive information.

Subp. 4. Petition filed or court order issued. The statement of need for subpart 1 again applies, as does the point made earlier that the rule needs to provide for a variety of eventualities. Giving notice that the option of getting a court order exists is reasonable so that those affected by and those governed by the rule are aware of the option. The provisions in subpart 4 are also reasonable because they are consistent with the provisions in the case management rule that address the same eventuality.

9535.4025 DETERMINATION OF CHILD'S ELIGIBILITY FOR FAMILY

COMMUNITY SUPPORT SERVICES.

Subpart 1. Determining eligibility. Only children who have been determined to have severe emotional disturbance are eligible for family community support services. See Minnesota Statutes, section 245.4871, subdivision 17 and Minnesota Statutes, section 245.4884, subdivision 1. Minnesota Statutes, section 245.4871, subdivisions 6 and 15 between them establish the criteria for determining both whether there is emotional disturbance and how severe it is. It is necessary for the rule to follow statute in establishing eligibility criteria. It is reasonable to reference the statutory requirements rather than repeat them to help streamline the rule parts.

Subp. 2. Request or referral for family community support services. This subpart specifies the actions to be taken when a family community support service provider receives a request or referral for services to a child. The subpart is necessary to assure a standard procedure in determining who is eligible for services and thereby assure client equity. This subpart also is necessary to inform affected persons about statutory requirements to obtain an authorization of the release of information about the child. See part 9535.4023 and its SNR about consent to services. It is reasonable to require the family community support service provider to determine whether the child meets a criterion of eligibility as Minnesota Statutes, sections 245.4871, subdivision 17 and 245.4881, subdivision 1 specify who is eligible for family community support services. Service eligibility is based on the finding of a diagnostic assessment that the child has a severe emotional disturbance. Therefore, the provider needs access to information about the child's diagnostic assessment. Minnesota Statutes, section 245.4876, subdivision 5 sets forth the requirements to obtain a consent for services or release of information. Citing the statute setting forth the requirements to obtain consent or authorization of release of information is reasonable because it assures compliance with the statute. This subpart does not require a completely new diagnostic assessment if it is possible to update a recent diagnostic assessment. Updating a previous diagnostic assessment for a child whose mental health status has not changed markedly since a previous diagnostic assessment within 180 days before the request for services is consistent with Minnesota Statutes, section 245.4876, subdivision 2. Updating the previous diagnostic assessment under this circumstance also is reasonable as it safeguards against unnecessary services while at the same time providing the opportunity to obtain a new diagnostic assessment if the child's health status has changed markedly since the previous assessment.

9535.4028 TERMINATION OF FAMILY COMMUNITY SUPPORT SERVICES.

This part is necessary to specify when a child's family community support services will terminate for purposes of this rule. The provisions of proposed items A, B, and C are similar to the provisions for termination of case management services to children with severe emotional disturbance established in part 9520.0924, items A, B, and C. Case management services and family community support services are mental health services

established under the Minnesota comprehensive children's mental health act, Minnesota Statutes, section 245.487 to 245.4888. These mental health services are designed to serve the same population of eligible children and many children receive both case management services under parts 9520.0900 to 9520.0926 and family community support services under proposed parts 9535.4000 to 9535.4070. Eligibility for these services is determined by the same criterion, i.e., a determination of severe emotional disturbance by means of a diagnostic assessment. It is reasonable for the termination standards of the two rules to be consistent as well because the conditions affecting termination of case management services are similar to those affecting termination of family community support services. A single set of standards is reasonable as it avoids confusion and fosters uniform decisionmaking.

A. It is reasonable to terminate a family community support service when a qualified mental health professional indicates that the child no longer meets the eligibility criteria established in statute.

B. It is reasonable to terminate a family community support service when there is mutual agreement among the child or the child's parent or legal representative and the service provider that the child no longer needs the service or that the child has achieved the goals and outcomes specified on the plan or agreement. Termination under these circumstances will avoid unnecessary services.

C. It is reasonable to terminate a family community support service when the child or parent or legal representative refuses because the child or the child's parent or legal representative has the right to refuse family community support services.

D. The Minnesota comprehensive children's mental health act, Minnesota Statutes, sections 245.487 to 245.4888, defines "child" in section 245.4871, subdivision 5 as a person under 18 years of age. This definition applies to children who receive family community support services under Minnesota Statutes, section 245.4871, subdivision 17. At 18, then, a person is no longer eligible for family community support services for children with severe emotional disturbance. Accordingly, it is reasonable to use age 18 as a criterion for terminating children's services. The client who is determined to have serious and persistent mental illness may receive community support services for adults.

9535.4030 OUTCOMES OF FAMILY COMMUNITY SUPPORT SERVICES.

In keeping with department policy to have an outcome-based approach to improve service delivery to clients, and to allow for flexibility in providing the services in a manner consistent with client needs and county circumstances, proposed parts 9535.4000 to 9535.4070 set forth client and service outcomes for family community support services. However, these proposed rules do not set forth outcome measures as the Department believes these are more appropriately established through discussions between the state

and the individual counties and between a county and its service providers.

This part requires persons assigned by or under contract with the local agency to provide family community support services to use a process designed to assist the child with severe emotional disturbance to pursue the outcome of the child's improved or maintained functioning and mental health and to assist the child to remain in the child's family in the community. This part of the rule is necessary to establish the overall standard for the provision of client services. It informs affected persons of a family community support services provider's responsibility to assist the child to pursue these outcomes. They are consistent with Minnesota Statutes, section 245.4871, subdivision 17, which defines family community support services as ". . . services. . . designed to help each child with severe emotional disturbance to function and remain with the child's family in the community."

The outcomes are also consistent with Minnesota Statutes, section 245.4884, subdivision 1 which requires that family community support services be designed to improve the ability of children with severe emotional disturbance to: (1) manage the activities of daily living; and (2) function appropriately in home, school, and community settings. Subdivision 1 also requires that family community support services be "designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay. . ."

These outcomes also are consistent with those specified for case management services, a mental health service available to the same population of children who are eligible for family community support services. See part 9520.0904. The children's work group of the rule advisory committee reviewed and recommended proposed part 9535.4030.

Item A. The emphases specified in item A, subitems (1) to (6) are reasonable because they are consistent with the requirements of Minnesota Statutes, section 245.4884, subdivision 1.

Item B. Identifying transition between mental health and educational services is reasonable because emotionally disturbed children often receive special education service outside the regular classroom setting. Children with disruptive behaviors may have particular difficulty in the regular education classroom, but as their behaviors improve, they must have access to coordinated services as they move through the system of services in accordance with their changing mental health and educational needs. Focusing on smooth transitions between service systems is also reasonable because the emphasis is explicitly required in Minnesota Statutes, section 245.4884, subdivision 1.

It is reasonable to include vocational rehabilitation services in the mix of services to be coordinated because children with severe emotional disturbance are eligible to receive vocational rehabilitation services because of their disability. Accessing

these services in connection with education and mental health services supports the goal of assisting the child to live and function independently within the community.

Item C. Requiring an outcome to ensure the child receives coordinated services including vocational rehabilitation and education services is reasonable because transition planning is consistent with a required component of the child's Individual Education Program for Minnesota students no later than age 14 if the child is eligible to receive special education (see Minnesota Statutes, section 120.17, subdivision 3a.) Children with severe emotional disturbance are eligible for special education services and may also be eligible for the independent living skills component of family community support services. Transition coordination efforts need to avoid duplication and fragmentation by the multiple providers. To accomplish the outcome of coordination requires agency and provider collaboration.

Item D. Members of the children's work group recommended that, to emphasize the importance of providing continuity of needed services, this requirement of Minnesota Statutes, section 245.487, subdivision 3, clause (8), be listed as a separate item. The statutory requirement is for the commissioner to create a children's mental health service system that, "when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age."

Minnesota Statutes, section 245.4871, subdivision 5 defines child as a person under 18 years of age. Family community support services are available only to children. Thus, a person is no longer eligible for family community support services upon reaching age 18. If the person is expected to be eligible for and to need some or all of the community support services available to adults with serious and persistent mental illness, it is reasonable to plan ahead so that needed services will be available without delay. Assessing the person's need and eligibility for service may require the person to receive a diagnostic assessment to determine whether the person meets the criterion of serious and persistent mental illness [see Minnesota Statutes, section 245.462, subdivision 20, paragraph (c)] and a functional assessment to determine the person's functioning, needs and problems [see Minnesota Statutes, section 245.462, subdivision 11a] for purposes of developing an individual community support plan [see Minnesota Statutes, section 245.462, subdivision 12.] Allowing at least six months to complete these tasks is reasonable so that there is sufficient time to consider fully the person's unique situation, to develop the necessary plan, and to assure timely access to needed services.

Item E. Minnesota Statutes, section 245.4884, subdivision 1 states that "family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs..." This item is the same as the statutory requirement. Including item E is reasonable because it informs affected persons of the policy direction established by the legislature.

Items F. and G. It may be in the best interest of some children with severe emotional disturbance to reside in an out-of-home placement. The out-of-home placement may be necessary for crisis assistance including crisis placement and respite care, for foster care with therapeutic supports, for permanent placement in a setting other than with the child's family, or for residential treatment. This item is necessary to inform affected persons of the requirements of Minnesota Statutes, section 245.487, subdivision 3, clause (4)(i) that mental health needs of children be identified and treated in the least restrictive setting appropriate to their needs and clause (5) that mental health services be provided to children and their families in the context in which the children live and go to school. Also see Minnesota Statutes, section 245.4882, subdivision 1 about placement of a child in a residential treatment facility. It is reasonable to place the child in a setting as similar to and as geographically near the child's community and family as possible in order to cause the least disruption of the child's links to family, friends, school, community activities, and service providers. Moreover, keeping the child as geographically near to home as feasible maximizes the possibility of family involvement in the child's treatment process. See Minnesota Statutes, section 245.487, subdivision 3, clause (7) about including the child's family in planning the child's program of mental health services. See also Minnesota Statutes, section 245.4885, subdivision 1 which addresses both the possibility that effective provision of treatment in the child's home might not be possible and the emphasis on least restrictive setting.

9535.4035 CRISIS ASSISTANCE SERVICES.

Subpart 1. Crisis assistance services, including crisis placement and crisis respite care. This subpart clarifies that crisis assistance services including crisis placement and crisis respite care must not duplicate emergency services. The requirement is reasonable because it works toward avoiding unnecessary services and recognizes that the two services have different purposes, different service methods, and usually different providers. See the definition of crisis assistance in Minnesota Statutes, section 245.4871, subdivision 9a and part 9535.4010, subpart 10 and the definition of emergency services in Minnesota Statutes, section 245.4871, subdivision 14 and part 9535.4010, subpart 13. The subpart is consistent with the statutory requirements found in both subdivisions 9a and 14.

It is reasonable to require coordination of crisis assistance and emergency services because a crisis within the family may lead to an emergency requiring emergency services for the child. Examples of a crisis that could result in the child's experiencing an acute mental health crisis and the need for emergency services are the death of the parent who cares for the child and the child's isolation from or rejection by peers.

Subp. 2. Crisis assistance placement. This subpart is necessary because Minnesota Statutes, section 245.4871, subdivision 9a does not define crisis assistance

placement. A child who experiences a crisis may not be able to remain in his or her own home. For example, the child may be out of control to the extent that the child may be in danger of harming self or family members. A variety of crisis settings in addition to acute care hospitals may be available within the community to help the child and the child's family. These settings include crisis shelters, crisis respite homes, and crisis stabilization units, which are free-standing facilities independent of a hospital setting. If it is not in the child's best interest to remain in the child's home, the child's family may need and want assistance to locate and access a crisis setting appropriate to meet the child's needs. Thus, crisis assistance may include helping the child and the child's parent to access necessary and appropriate inpatient care. That this subpart does not define how the provider will assist the child and the child's parent or legal representative to access a setting appropriate to the child's needs is reasonable as it provides counties the flexibility and opportunity to design this service to meet county and client circumstances and stay within county resources.

Subp. 3. Crisis respite care services. Crisis respite care is a family community support service that provides temporary or periodic care of a child in order to provide relief to the child's caregiver. Persons who provide day-in, day-out care of children, whether the care is on a 24 hour basis or limited to a specific period within the 24 hour day, bear a heavy responsibility for the safety, health, and well being of the child. That such persons benefit from time away from this responsibility either to refresh themselves or to carry out other necessary tasks is recognized in many programs supported with public funds which permit payment for respite care. For example, medical assistance funds are available to pay for respite care under parts 9505.3110 and 9505.3580. Allowing the crisis respite care to be given either in the child's own home or in another setting is reasonable as it provides a choice which may be exercised based on the availability of caregivers and the best interests of the child.

9535.4038 CLIENT OUTREACH SERVICES.

Minnesota Statutes, section 245.4871, subdivision 17 lists client outreach to each child with severe emotional disturbance and the child's family as a family community support service. However, the Minnesota comprehensive children's mental health act does not define the service or specify the standards for it. This part is therefore necessary to establish and clarify how county boards can provide the service required by statute so that uniform standards are applied. The American Heritage Dictionary of the English Language, page 934, defines outreach as "1. to reach or go beyond; 2. to extend (something) outward." This part's interpretation of "outreach" is reasonable because it is consistent with the commonly accepted definition. It places on the county board, the body responsible under statute, the burden of reaching beyond or extending outward a service that will inform children who may be eligible for family community support services and their families and assist them to access those services. If family community support services are to be accessed by a child and the family of a child who may be

eligible for these services, it is necessary first to locate the child and the child's family and provide information about the availability and benefits of both case management and family community support services, and assure they have access to these services.

Item A. Requiring services to be conducted throughout the calendar year is reasonable as the need for information about and access to family community support services is not limited to any one time of year, mental health services are available throughout the year, and children with severe emotional disturbance require an opportunity to access services in a timely manner.

Item B. It is reasonable to set a standard requiring the outreach provider to meet at a site requested by the child and the child's parent or legal representative because the child or parent may be unable to reach or may feel uncomfortable in the usual service setting. In such a situation, honoring the request is consistent with the concept of outreach and, moreover, may make the difference in how the child or child's parent receives and understands the information about services.

Item C. Requiring services to be provided in a manner that promotes involvement of the child and the child's family is reasonable because this involvement encourages the child and the child's parent to take part in learning about and accessing services the child may need.

The standards in items B and C are also reasonable because they are consistent with the mission statement of the Minnesota comprehensive children's mental health act. [Minnesota Statutes, section 245.487, subdivision 3, clauses (3)(v), (4)(i), and (7)].

Item D. Having face-to-face meetings is a standard applicable to other mental health services such as case management and mental health services under medical assistance. See part 9520.0914, subpart 1, item A, clauses (6) and (7), and 9505.0322, subpart 9, items A, C, F, and G. Requiring the meeting to face-to-face whenever possible recognizes that, in some circumstances such as an informational meeting with a group of parents, face-to-face contact on an individual basis does not occur. It is reasonable to provide counties with flexibility in providing the required service which the item as written does.

Item E. It is reasonable to expect services to be provided in a manner that is sensitive to cultural differences and special needs because the requirement is consistent with Minnesota Statutes, section 245.487, subdivision 3, clause (3)(v). This standard is also reasonable because it is consistent with the standard required by part 9520.0904, item B, governing case management services for children with severe emotional disturbance.

Item F. The requirement to provide the child and the child's parent or legal representative certain written information is reasonable because it informs affected

persons of information required in statute. See part 9535.4070 which specifies the information to be given the child and the child's parent or legal representative. The rights The required information is consistent with Minnesota Statutes, section 245.4887.

Requiring outreach services to include the development and distribution of information on the availability of family community support and case management services is consistent with the definition of outreach cited above and also with Minnesota Statutes, section 245.487, subdivision 3, clause (3)(i) which requires the commissioner to develop a mental health system that assures access to a continuum of services that educate the community about the mental health needs of children. See also Minnesota Statutes, section 245.4874, clause (4) and clause (7) relating to county boards' duties to disseminate information to parents and providers about gaining access to services provided under the Minnesota comprehensive children's mental health act.

9535.4041 MEDICATION MONITORING SERVICES.

Some children receiving family community support services are taking psychotropic medication prescribed by a physician for the purpose of controlling or alleviating their severe emotional disturbance. Medication monitoring is a family community support service specified in Minnesota Statutes, section 245.4871, subdivision 17, clause (2). However, statutes do not set a standard for the service. Thus this part is necessary to clarify the meaning of the services and set a standard.

The proposed part has been reviewed and recommended by the children's work group of the Rule Advisory Committee as setting forth reasonable requirements of the provider. Medication monitoring is not the same as medication management which is medication prescription and evaluation and is limited to persons licensed as physicians. This proposed part does not authorize a family community support service provider to carry out functions that statutes limit to physicians. Rather its intent is to make sure the child for whom medication is prescribed is referred to and obtains medical care when it is needed because of an observable behavioral or physical change. Family community support providers through their frequent contacts with children who are receiving prescribed psychotropic medication have an opportunity to observe physical or behavioral changes in the child. Thus, they are in a position to assist the child and the child's parent or legal representative to access the child's source of medical care for a determination of the need for or an evaluation of the prescribed medication (items B and C). The child, child's representatives, or caregiver can themselves better follow the child's progress with a medication and better interact with the source of medical care if they have the information about the psychotropic medication that item A requires the monitoring services to assist in providing. This part also requires the consent of the child or the child's parent or legal representative in regard to contact with other persons who provide direct care to the child. See part 9535.4065 and its SNR about consent for the release of information.

9535.4044 ASSISTANCE IN DEVELOPING INDEPENDENT LIVING SKILLS.

Assistance in developing independent living skills is specified as a family community support service in Minnesota Statutes, section 245.4871, subdivision 17, clause (3). The statutes, however, do not define the term or specify a standard for providing this assistance. This rule part is therefore necessary to clarify what independent living skills are and to set service standards.

Minnesota Statutes, section 245.487, subdivision 3, clause (3)(iv) requires the commissioner to assure that the mental health system provides services that are appropriate to the developmental needs of children. Clause (5) requires the services to be provided in the context in which the children live and go to school. See also Minnesota Statutes, section 245.4876, subdivision 1, which sets criteria for children's mental health services and in clause (6) requires the services to be appropriate to the developmental age of the child. As children grow in age, they need to learn the skills necessary to lead independent lives.

It is reasonable to specify that transition services be included as part of independent living skills services because this inclusion is consistent with recent federal legislation that added a definition of transition services to students' individual education plans (PL 101-476, Individuals with Disabilities Education Act (IDEA)). Although the law specifically addresses requirements in the context of education, it also emphasizes coordination by requiring a statement of the interagency responsibilities or linkages that will be in effect after the child leaves the school setting.

Beth Stroul and Robert M. Friedman, writing on the CASSP System of Care published in A System of Care for Severely Emotionally Disturbed Children and Youth, July 1986, CASSP Technical Assistance Center, Georgetown University Child Development Center, Washington, D.C. 20007, state on pages 53 and 54:

Recently there has been increased recognition of the importance of developing specific services to help adolescents make the transition to live more independently. . . . The types of 'transition services' that are needed involve both preparation to live more independently (particularly for youngsters who have no viable family to live with and who cease to be eligible for the services they are receiving when they turn 18) and preparation for paid employment. . . . Such skills are needed to manage financial, medical, housing, transportation, social/recreational, and other daily living needs.

The skills and tasks listed in this part are related to the areas mentioned by Stroul and Friedman. The authors continue, on page 54, that there is much work needed in preparation for the transition to independent living.

These can be very difficult goals to achieve for any youngster at the age of 18 or 19 but are particularly difficult for youngsters with emotional problems who have been without strong family support. . . . Yet without specialized services to assist in this transition, many youngsters will remain unnecessarily dependent upon families . . . as they enter adulthood.

It is reasonable not to specify the exact services to be provided or to prescribe how they are to be carried out given individual differences among children according to the children's ages, circumstances, needs, and amount of family support. Thus this part specifies outcomes the services are to be designed to achieve and further specifies that the methods and strategies are to be appropriate to the child's developmental age. Providing service flexibility related to the child's developmental age and needs is reasonable because it puts the service focus on the child's needs rather than on the need to achieve procedural compliance.

Two fundamental tenets of the CASSP System of Care are that children should not be expected to conform to the service system and services should be designed and configured to fit the child's needs. The requirement that family community support services providers attempt to coordinate the child's services with other providers and with the child's school is consistent with Minnesota Statutes, sections 245.487, subdivision 3, clause (iii); 245.4876, subdivision 1, clause (9); and 245.4873, subdivision 3.

Children with severe emotional disturbance are eligible for special education services as specified in their individual education plans. A school district must provide transition services for these children by grade 9 or age 14 (see Minnesota Statutes, section 120.17, subdivision 3a, clause (1) to assist the child's transition from secondary services to post-secondary education and training, employment, community participation, recreation and leisure and home living. It is reasonable that independent living skills include transition services that promote movement from school to post-school activities as the family community support provider of independent living skills has the information about the child's skill needs and strengths in the area of independent living and has the qualifications needed to assist the child to develop the needed skills. This requirement is consistent with the concept of interagency cooperation and coordination set forth in Minnesota Statutes, sections 120.17, subdivision 3a, clause (1), 245.487, subdivision 3, clause (3)(iii), and 245.4873.

9535.4047 ASSISTANCE IN DEVELOPING PARENTING SKILLS NECESSARY TO ADDRESS THE NEEDS OF THE CHILD.

Assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance is specified as a component of family community support services in Minnesota Statutes, section 245.4871, subdivision 17, clause (4). However, statutes do not define the term or specify the standard. This part is necessary to clarify its meaning and set service standards. This part prescribes the outcomes that the

services are to be designed to achieve but does not specify the particular services or procedures. Rather, it requires the assistance to be designed to address the individual and unique needs of the child and the child's parent.

Parents of children with severe emotional disturbance may have to cope with situations that require knowledge and training about how to address the behaviors of a child with severe emotional disturbance. This training may include information about child development, health, safety and other child-rearing issues specific to the child with severe emotional disturbance, effective parenting of children at risk, behavior modification techniques appropriate to the child's behaviors, how to follow up on services the child receives, how to improve the interaction between other family members and the child, and how to alleviate the symptoms of or the likelihood of an emotional disturbance crisis. It provides flexibility so that the provider may focus on the child and the child's family. Thus, this part is consistent with Minnesota Statutes, sections 245.487, subdivision 3, clauses (3)(ii) and (5) and section 245.4876, subdivision 1, clauses (2), (3), (10), and (11).

9535.4050 ASSISTANCE WITH LEISURE AND RECREATIONAL ACTIVITIES.

Assistance with leisure and recreational activities is a family community support service specified in Minnesota Statutes, section 245.4871, subdivision 17, clause (5). However, statutes do not define the term or specify the standard. This part is therefore necessary to clarify its meaning and set service standards. This part prescribes the outcomes that the service is to be designed to achieve but does not specify the particular services or procedures used to deliver the services. Leisure and recreational activities serve several functions for children, including children with severe emotional disturbance. The child may learn new skills that build self-confidence and enhance the child's self image. Leisure and recreational activities also may offer the child an important opportunity for the development of social skills such as cooperation and good sportsmanship. The activities may relieve the isolation of the child from his or her peers through the child's participation in play with peers who are similar in developmental age to the child.

Item A. Requiring the provider to assist the child and the child's family in locating, accessing, and participating in leisure and recreational activities is reasonable because a child with severe emotional disturbance or the child's family may be unaware of or have difficulty accessing leisure and recreational activities that are age appropriate for the child. This item is also consistent with Minnesota Statutes, section 245.487, subdivision 3, clause (3)(ii).

Item B reasonably focuses on assistance in gaining skills necessary to participate in age-appropriate activities because developing these skills is of critical importance to all phases of the child's development. The emphasis on age appropriate is consistent with Minnesota Statutes, section 245.4876, subdivision 1 (6).

Item C reasonably promotes the use of community recreation and community education programs or activities. These programs and activities are open to the public on an equal access basis and offer a wide choice of leisure and recreational activities, often at a very low cost if any. It is reasonable that the child's individual family community support plan or other plan prepared in accordance with part 9535.4020, subpart 10 identify these activities in order to ensure coordination of services and pursuit of goals, objectives, outcomes, and activities that are suited to the child. See Minnesota Statutes, section 245.487, subdivision 3, clause (3)(iii) on coordination.

Item D. Specific leisure and recreational activities may be needed for a child with severe emotional disturbance to address a "therapeutic" objective. For example, as noted on page 52 of the publication cited earlier as setting forth the CASSP System of Care, a child with a severe emotional disturbance may benefit from therapeutic camp services. Such an experience, the authors write, may emphasize encouraging each child "to be a contributing member of the group in order to take care of the basic necessities of living including food and shelter." The group is thus used to help individual children who are experiencing problems in being responsible for their actions and their own needs. Another example of a therapeutic objective might be a focus on strengthening the child's positive behaviors.

The emphasis on specific therapeutic objectives, then, is reasonable because of the potential in the examples cited above. The item as written is also reasonable because it allows the provider the flexibility to decide the appropriate objective based on the child's needs.

9535.4052 ASSISTANCE IN LOCATING RESPITE CARE AND SPECIAL NEEDS DAY CARE.

Assistance in locating respite care and day care for children whose severe emotional disturbance creates special care needs is a family community support service specified but not defined in Minnesota Statutes, section 245.4871, subdivision 17, clause (10). This part is therefore necessary to indicate conditions under which assistance must be provided (sentence one) and to include an example of a form such assistance might take (sentence 2). Particular services or procedures have not been specified in order to allow counties flexibility in achieving the overall outcome of providing assistance that meets individual circumstances and needs.

Allowing flexibility is particularly reasonable in this instance because the special needs of children and their families vary. Respite care, for example, offers a break for parents or others who are caring for a child with difficult behaviors. Some caregivers may want and need it while others do not. Respite care is provided in a variety of ways: in or outside the child's home, for a day, or for several days. It may be unplanned and occur in response to a crisis between the parent and child or a crisis requiring the parent or other caregiver to be gone.

Parents and caregivers responsible for children with severe emotional disturbance need day care services for the same reasons as other users of day care. The difference is that children with severe emotional disturbance may experience unexpected physical and behavioral changes and emergencies and crises resulting from their environment or interaction with other people. The behavioral changes may be difficult to manage. Recognizing and appropriately responding to these changes requires special training, experience, and an appropriate setting. Not all day care providers have the necessary training, experience and setting. Thus, the proposed rule reasonably recognizes that a child's parent or legal representative may need assistance in locating a provider of special needs day care. Furthermore including the recruitment and training of a special needs day care provider as a family community support service reasonably recognizes that such persons with the necessary training and experience may be hard to locate and assures a means for the county to provide locate the service needed by the child and the child's parent.

Some counties may have difficulty finding people with the skills, training, and willingness to provide this care. It is therefore reasonable for the rule part to include recruiting and training providers of special needs respite and day care as an example of services because recruiting and training would develop and maintain a cadre of people trained to provide needed services.

It is also reasonable for the rule part to specify when assistance must be provided to clarify the provider's role. The two criteria established as conditions of when assistance must be provided are reasonable because they rely both on the parent's or caregiver's perception of need and on the assessment of need identified in the child's plan of care.

9535.4053 ASSISTANCE IN OBTAINING POTENTIAL FINANCIAL RESOURCES.

Assistance in obtaining potential financial resources, including those benefits listed in Minnesota Statutes, section 245.4884, subdivision 5, is a family community support service specified in Minnesota Statutes, section 245.4871, subdivision 17, clause (11). Minnesota Statutes, section 245.4884, subdivision 5 requires the county board to "offer help to a child with severe emotional disturbance and the child's family in applying for federal benefits, including supplemental security income, medical assistance, and Medicare."

This part is necessary to set service standards.

Item A requires the service to inform the child or the child's parent or legal representative but does not specify the means so that the service provider has the flexibility to choose the method appropriate to the circumstances of the child, child's parent or legal representative and the county. It is reasonable to require that the information be given because the child or the child's parent or legal representative may be unaware of the availability of these potential resources. It is also reasonable to

require, as item A does, that help in applying for benefits be offered to ensure that parents and children know that assistance is available. People are unlikely to ask for a service if they are unaware of its availability.

In addition to the potential resources specified in Minnesota Statutes, section 245.4884, subdivision 5, this item also requires information to be given about food stamps, aid to families with dependent children, and "other federal benefits if appropriate." Although these potential resources are not specified in Minnesota Statutes, section 245.4884, subdivision 5, it is reasonable to include them in the rule because they are similar in the assets and incomes standards applied to determine eligibility. Moreover, the statute language clearly anticipates the possibility of assisting with other benefits by referring to "federal benefits, including. . . ." Also, a person may be eligible for more than one potential resource. For example, a child's parent may meet the eligibility standards for aid to families with dependent children, medical assistance, food stamps, and medicare. Thus it is reasonable to list all potential financial resources so the child and the child's parent or legal representative who need financial assistance are fully informed.

Item B. This item and item C require the service to assist the child or the child's parent or legal representative apply for programs and benefits if requested. It is reasonable to require providers to offer to assist because clients and representatives would have no way of knowing assistance is available without the offer. Offering to assist the child, parent, or legal representative would include contacting a special mental health consultant for persons of cultural, ethnic, or racial minority heritage who do not read or speak English. The application will include information in five languages and will note that the application has important welfare or health information. The provider offering to assist will provide the child, child's parent, or legal representative with the level of help needed.

It is reasonable for the provider to assist if requested because the application process is complex, involving obtaining and completing prescribed forms, providing proofs of age and relationships, documenting income and assets. A child or the child's parent or legal representative may be unaware of how to contact the appropriate agencies, how to complete and file an application, or how to obtain documentation of income and assets. Access is denied without assistance.

To avoid misunderstanding, it is also necessary to clarify, [see the sentences at the end of paragraph after item C], that the provider's obligation to "assist" does not extend to completing an application for the child or the child's parent or legal representative. An application for public assistance such as medical assistance or food stamps requires the applicant to complete an application and sign a statement that the information given by the applicant on the application is accurate. For example, see part 9505.0085, subpart 1 which requires the applicant [for medical assistance] or the applicant's authorized representative to complete the application on a form prescribed by the commissioner. It

is therefore reasonable to exclude from "assist" the provider's completion of the form because it is the applicant who has the responsibility to complete the form and to provide accurate information.

Item C. Item C also lists additional assistance programs that are not specified in subdivision 5 of section 245.4884 or in item A above. The eligibility standards for these programs differ from each other and from those listed in item A. The programs offer financial assistance in paying for medical services (general assistance medical care, TEFRA, and MinnesotaCare) but the services available differ somewhat from those available under medical assistance and medicare. One program, general assistance provides public assistance in meeting daily living expenses. These programs serve populations of people who are different from those served by the programs in item A. Therefore, it is reasonable to require the provider to assist, if requested, the child or the child's parent or legal representative apply for these programs as these potential financial sources will benefit eligible persons and are consistent with the statutory intent in subdivision 5 of section 245.4884.

Item D. This requirement is reasonable because it is consistent with Minnesota Statutes, section 245.4884, subdivision 5 which requires county boards to provide help in "applying" for federal benefits. Appealing a denial, suspension, reduction, or termination of benefits is consistent with the action of applying in the first place, since the goal is to access potential financial benefits. At this stage of accessing benefits, as at the application stage, requiring assistance from the provider as requested helps ensure that a child or the child's parent or legal representative obtains information that may assist the person in accessing a potential financial resource.

9535.4056 DAY TREATMENT SERVICES.

Day treatment is a family community support service specified in Minnesota Statutes, section 245.4871, subdivision 17, clause (9). Minnesota Statutes, section 245.4884, subdivision 2, paragraph (a) sets forth the requirements for the design of day treatment services and paragraph (b) authorizes the county board to request a waiver from including day treatment services if the county can document it meets certain requirements. This part is necessary and reasonable because it informs affected persons of the statutory requirements.

To avoid confusion, it is also reasonable to specify that a county's obligation to provide day treatment services to a child with severe emotional disturbance who is eligible for day treatment under medical assistance continues regardless of waiver status. Day treatment services to medical assistance recipients are eligible for medical assistance payment under part 9505.0323, subpart 15. Part 9505.0323, subpart 26, sets forth the documentation applicable to mental health services established under part 9505.0323 that is required to obtain medical assistance payment. Minnesota Statutes, section 256B.04, subdivision 4 requires the state agency 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...." Thus requiring records about day treatment services to a medical assistance eligible child to meet the medical assistance standards is reasonable as it complies with Minnesota Statutes, section 256B.04, subdivision 4.

9535.4059 PROFESSIONAL HOME-BASED FAMILY TREATMENT.

Professional home-based family treatment is specified in Minnesota Statutes, section 245.4871, subdivision 17, clause (7) as a family community support service and defined in Section 245.4871, subdivision 31. Minnesota Statutes, sections 245.4884, subdivision 3 and 245.4871, subdivision 31, require professional home-based family treatment to be available to each child with severe emotional disturbance who is at risk of out-of-home placement, is in out-of-home placement due to the child's emotional disturbance, or is returning home from out-of-home placement.

Subdivision 3 specifies what professional home-based family treatment must be designed to provide, who shall provide the service, when it shall be provided, and the treatment plan the treatment team must develop. Proposed part 9535.4059 is reasonable as it is consistent with the statutory requirements cited above.

Professional home-based family treatment provided to medical assistance eligible children is a mental health service eligible for medical assistance payment as set forth in part 9505.0324. (The Department notes that, for purposes of part 9505.0324, professional home-based family treatment is called home-based mental health services. See the definition of home-based mental health services in part 9505.0324, subpart 1, item D.) Minnesota Statutes, section 256B.04, subdivision 4 requires the state agency 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...." Thus the requirement that professional home-based family treatment to a medical assistance-eligible child meet the standards of part 9505.0324 is necessary and reasonable as it fulfills the requirement of Minnesota Statutes, section 256B.04, subdivision 4.

9535.4062 FOSTER CARE WITH THERAPEUTIC SUPPORTS.

Foster care with therapeutic supports or therapeutic support of foster care is defined in Minnesota Statutes, section 245.4871, subdivision 34 (see Part 9535.4010, subpart 17) and is specified as a family community support service in Minnesota Statutes, section 245.4871, subdivision 17, clause (8). Minnesota Statutes, section 245.4884, subdivision 4 requires a county board to provide or contract for foster care with therapeutic supports.

Minnesota Statutes, section 245.4871, subdivision 34 defines therapeutic support to mean "the mental health training and mental health support services and clinical supervision

provided by a mental health professional to foster families caring for children severe emotional disturbance to provide a therapeutic family environment and support for the child's improved functioning." Proposed part 9535.4062 is consistent with the requirements in these cited statutes.

9535.4065 RELEASE OF INFORMATION ABOUT A CHILD.

Minnesota Statutes, section 245.4876, subdivision 5 sets forth the requirements about the consent for services and release of information that must be obtained for services under the Minnesota comprehensive children's mental health act, Minnesota Statutes, sections 245.487 to 245.4888. Family community support services are mental health services to children established under the Minnesota comprehensive children's mental health act. Proposed part 9535.4065 is necessary and reasonable because it informs affected persons about the applicable statute and thereby assists their compliance.

9535.4068 ORIENTATION AND TRAINING.

Subpart 1. Orientation. This subpart is necessary to define the local agency as the agency responsible for ensuring that providers of family community support services receive training and orientation. It is reasonable to require orientation to a new situation. The requirements specified are reasonable because they have been reviewed and recommended by the children's work group of the advisory committee.

Orientation is defined in The American Heritage Dictionary of the English Language as "introductory instruction concerning a new situation."

Item A addresses instruction that is necessary to orient providers to the new situation of providing family community support services to a child with severe emotional disturbance. Subitem (1) of Item A cites statutes related to collecting, disseminating, and accessing government data, Minnesota Statutes, sections 13.01 to 13.48. Knowledge of these requirements is necessary and reasonable to assure that information about the children receiving the services is handled according to statute. Subitem 1 also requires a person to receive information about reporting and investigative requirements of child protective services before beginning to work with children with severe emotional disturbance and about these rules governing family community support services.

Item A, subitem 2 reasonably requires a family community support services provider to have training in responding to a child's crisis before being placed in the position of having to respond to such a crisis. Some children with severe emotional disturbance may from time to time experience emotional problems that are disabling. For example, the child may behave in a manner that endangers the child or other persons or behave in a manner that is judged to be extreme or out of proportion to the

provocation or an inappropriate age reaction. Coping effectively with such behavior depends on knowing effective strategies and how to use them.

Item B. This item is necessary to specify additional training that is related to providing family community support services to children.

Subitem (1) requires instruction about the different diagnostic classifications of emotional disturbance and their characteristics. Minnesota Statutes, section 245.4871, subdivision 15, defines emotional disturbance and subdivision 6 defines child with severe emotional disturbance. See also part 9535.4010 subparts 5 and 15 for the corresponding definitions applicable to these proposed rules. Many conditions fall within the broad definition of severe emotional disturbance. Each condition has an associated set of behavioral symptoms and may include physical symptoms. See the disorders listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III.

How to work effectively with the children will depend, at least in part, on the nature of the child's severe emotional disturbance. It is therefore reasonable to require provider staff to have training in severe emotional disturbance to increase their effectiveness.

Subitem (2) requires training in the use and side effects of psychotropic medications. Some children who have severe emotional disturbance are taking medication prescribed by a physician for the purposes of improving their ability to function or alleviating their emotional disturbances. Such medications may have side effects which need to be evaluated by the physician prescribing the child's medication to determine whether to adjust or change the medication. Newly employed family community support staff are not required to be qualified as physicians and therefore cannot be expected to have knowledge of psychotropic medications and their potential side effects. However, family community support staff are in a position to observe changes in the behaviors and physical appearance of the children with whom they work. Therefore, it is reasonable to require family community support services staff to have training about the use of psychotropic medications and their potential side effects because the training will assist them to determine when a child may need a physician's services related to psychotropic medication.

Subp. 2. Continuing training. Continuing training is a commonly accepted requirement in fields where new knowledge is being found, new and improved methods are replacing outmoded ones, and statutory and regulatory revisions are frequent. Such requirements apply to the persons who practice disciplines related to mental health services including family community support services. These persons include social workers, case managers, and mental health professionals. As an example, see Minnesota Statutes, section 148B.22, subdivision 2 which requires a social worker to complete the

equivalent of at least 30 clock hours of continuing professional education in a two-year period to maintain licensure. Also see part 9520.0912, subpart 5 which requires at least 30 hours of continuing education in a two-year period for a case manager providing case management services to children with severe emotional disturbance. Requiring 20 hours of continuing training in a two-year period, then, is reasonable because it does not add to the continuing education requirement already in place for family community support staff who are social workers or case managers and it falls within an accepted community standard. The Department notes that the training required under this subpart and the training required for case managers under part 9520.0912, subpart 5 are similar enough that the same training components would satisfy both requirements.

Items A to H are reasonable as they provide continuing education in work-related areas that may undergo new advances or changes during a person's years of employment as a provider of family community support services. It is reasonable to expect a family community support service staff to become aware of new information and to remain up to date so that the children and their families receive services that are the current community standard of practice.

Additionally Item G. is reasonable as it is consistent with the requirements of Minnesota Statutes, section 245.487, subdivision 3, clauses (3)(ii), (3)(iv), and (3)(v) and will assist the person to comply with the requirements. It is reasonable not to expect training required by item G. to be part of the initial training because the number of trainers available is limited and arranging training within 30 days of a provider's being hired might not be possible. Requiring documentation of completion of the required training in the person's personnel record is reasonable as it provides evidence of compliance with the rule.

9535.4069 PROVIDERS' RECORDS OF SERVICES TO A CHILD.

This part is necessary to set a standard for records about family community support services to the child. Keeping records about a child and the services to the child is necessary to assure that providers have the information needed to properly serve the child and that the county and state will have the information necessary to hold providers accountable for compliance with the required standards of care. See Minnesota Statutes, section 245.487, subdivision 3 which requires the commissioner to create and ensure an accountable children's mental health service system. Also see Minnesota Statutes, section 245.4876, subdivision 1 which requires children's mental health services to be delivered in a manner that provides accountability to the child for the quality of service delivered.

Proposed part 9535.4069 attempts to provide a balance by meeting the requirements of the statutes cited above without prescribing record-keeping standards that might be unduly burdensome on the family community support service providers. The

requirements proposed are reasonable as they identify the minimum records needed to hold the provider accountable. The Department notes that a family community support service provider may keep any additional records the provider believes are necessary to assure the child the delivery of appropriate services. It is reasonable to keep a copy of the child's individual family community support plan and the plan(s) required under part 9535.4020, subpart 10. These documents note the services the child is to receive, the goals and outcomes to be achieved, and the child's progress toward goals and outcomes and thus are a means to hold the provider accountable.

9535.4070 APPEALS.

This part is necessary to inform affected persons of information that is to be provided to them and that they may appeal. Citing the statutory provision setting forth the circumstances under which a child or the child's family may appeal is reasonable as it assists compliance with the requirements.

EXPERT WITNESSES

At the public hearing held on these rule parts, the department does not plan to present expert witnesses other than department staff to testify in support of the proposed rule provisions.

DATE: 28 June 1993

for DAVID SLOTH
NATALIE HAAS STEFFEN
Commissioner

