State of Minnesota
Department of Human Services
Human Services Building
444 Lafayette Road N
St. Paul, Minnesota 55155

March 29, 1995

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 conditions for Medical Assistance, General Assistance Medical Care, and MinnesotaCare Payment, Minnesota Rules, parts 9505.5000 to 9505.5030 and 9505.5105.

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

Sincerely,

Eleanor Weber

Eleanor Weber
Rules Division

Encl.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Amendments of Rules of the Department of Human Services Governing Conditions for Medical Assistance, General Assistance Medical Care, and MinnesotaCare Payment, Minnesota Rules, parts 9505.5000 to 9505.5030 and 9505.5105

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

Minnesota Rules, parts 9505.5000 to 9505.5030 were adopted in October 1985 and establish procedures for prior authorization of health services provided to recipient of medical assistance or general assistance medical care. Prior authorization is a condition of payment under the medical assistance and general assistance medical care programs for certain health services as designated under parts 9505.0170 to 9505.0475 and 9505.5025, and Minnesota Statutes, section 256B.0625, subdivision 25. Although it is required for certain health services, the rules allow for after the fact authorization in circumstances such as emergency health services, the recipient's retroactive eligibility for medical assistance or general assistance medical care, and a request for medical assistance or general assistance medical care payment after denial of payment or a partial payment by a third-party payer. (See part 9505.5015, subparts 1 to 4.) These rules were amended in March 1992 to extend after the fact authorization to dental prostheses based on medical necessity and to medical supplies or equipment for a recipient being discharged from a hospital or long-term care facility. (See part 9505.5015, subparts 5 and 6.) These amendments also lengthened the period to 180 days in which to request after the fact authorization for emergencies and third party liability and allowed requests for authorization of dental prostheses based on medical necessity.

Prior authorization and after the fact authorization are one of the systems used in the medical assistance and general assistance medical care programs to safeguard against unnecessary use of health care services as required by Minnesota Statutes, section 256B.04, subdivision 15. Prior authorization and after the fact authorization refer to the Department's issuance of an authorization number to a recipient's health services provider. The procedure provides the Department an opportunity to review and to determine whether the recipient needs the health services, whether all appropriate, less expensive alternatives have been considered by the provider, and whether the proposed service conforms to commonly accepted community standards of the profession

or specialty involved.

Although the proposed amendments do not remove the requirement to obtain authorization of the service as a condition to receive payment, they afford the provider flexibility about when to request the authorization of the service. Thus, the provider may submit the request and supporting documentation either before or after providing the service to an eligible person.

The proposed amendments will assist many eligible persons more readily to obtain medically necessary and appropriate health services as the provision of such services will not depend on the provider's obtaining an authorization number before giving the service but will depend on the provider's professional judgment that the person's health service meets the authorization criteria set forth in part 9505.5030. It will be the provider's choice when to request, and submit the documentation necessary to obtain, the authorization number. Authorization still must be obtained prior to payment.

Authority for the proposed amendments is in Minnesota Statutes, sections 256.9352, subdivision 2; 256.991; 256B.04, subdivision 2; 256B.0625, subdivision 25; and 256D.03, subdivision 7.

The Department did not convene an advisory committee.

PROPOSED AMENDMENTS

CONDITIONS FOR MEDICAL ASSISTANCE AND GENERAL ASSISTANCE MEDICAL CARE PAYMENT.

Throughout the rule, the term "payment" has been substituted for the word "reimbursement" The term "payment" is reasonable because it connotates an established amount while the term "reimbursement" infers a settlement to claimed expenses. Medical assistance payments are fixed amounts, set by the legislature or in rule. For examples, see part 9505.0445 and parts 9500.1090 to 9500.1155. Thus, the amendment is a technical one to clarify the rule.

The amendments are as follows:

page 1: Revise the rule title: Conditions for Medical Assistance and General Assistance Medical Care ~~Reimbursement~~ Payment

page 1, part 9505.5000, replace reimbursement by payment.

page 3, part 9505.5010, subpart 1, replace reimbursement by payment.

page 4, part 9505.5010, subpart 4, replace reimbursed by paid and

reimbursement by payment.

9505.5000 APPLICABILITY.

This amendment adds MinnesotaCare to the programs subject to the requirement of authorization of covered health services. MinnesotaCare, a program established under Minnesota Statutes, sections 256.9351 to 256.9361, provides covered health services to children and adults who are without private insurance coverage, meet the income standards, and pay the required premiums in a timely manner. See Minnesota Statutes, section 256.9353 which defines the covered health services as the health services reimbursed under Chapter 256B with certain exceptions and section 256.9352, subdivision 2 which authorizes the commissioner to adopt rules to administer the MinnesotaCare program. Thus it is reasonable to place the same requirement of authorization on MinnesotaCare services as now is applied to like services under medical assistance and general assistance medical care. Identifying all subject matter and other rules, regulations, and legislation that must be read in conjunction with this rule is reasonable because it informs affected parties.

Part 9505.5005, subparts 16 (Provider) and 17 (Recipient) and part 9505.5010, subpart 1 are also being amended to include MinnesotaCare.

9505.5005 DEFINITIONS.

Subp. 1a. **Authorization number.**

This amendment is necessary to clarify that either the department or an entity under contract to the department will issue the provider an authorization number. The provider will have to have this number for billings submitted to the department.

In response to expected federal changes and the increasing emphasis on cost effectiveness and efficiency, the department is considering the possibility of contracting with a medical review agent to process requests for authorization of services specified in part 9505.5010. Such a procedure would be similar to the department's present contract with a medical review agent that provides a second surgical opinion about the medical appropriateness of a recipient's requested surgical procedure and medical necessity of inpatient hospitalization. The department now has contracts with specialty providers and has had trouble obtaining the services of specialists, which has increased the time necessary to review authorization requests Contracts with a medical review entity allows faster turn-around time for the provider. Thus, the amendment is reasonable because it opens the door to increased administrative efficiency and effectiveness.

The Department notes that, if a provider who is denied an authorization number refuses the recipient the service, the recipient may appeal the denial to the Department. See part 9505.5105.

Subp. 13a. **MinnesotaCare.**

A definition of this term, which is used in the rule, is necessary to clarify its meaning. The definition is reasonable as it relies on legislative direction.

Subp. 15. **Prior Authorization.**

This amendment establishes that the prior authorization requirement is for the authorization of a covered service before payment and removes the requirement that authorization must be obtained before the service is provided. See the SNR for part 9505.5010 for a discussion of the provider requirement to obtain authorization.

9505.5010 PRIOR AUTHORIZATION REQUIREMENT.

Subpart 1. **Provider Requirement.**

The proposed amendments clarify and provide additional provider flexibility about rule requirements. The rule amendments are being proposed in response to requests from the provider community to facilitate better service to recipients of health services. The amendment also updates provider requirements in obtaining authorization. It is reasonable that a provider who requests prior authorization before the service is provided will be assured that the authorized level will be reimbursed after the recipient has received the service. It is also reasonable to assure that when a provider chooses to obtain prior authorization after the service is provided, payment will be made only if authorization is actually given.

Subp. 2. **Expiration of Eligibility.**

This amendment deletes a subpart that was inappropriately placed in this authorization rule. It sets forth a policy related to who is eligible for health services under these programs of public assistance. Eligibility for services is covered under parts 9505.0010 to 9505.0475. Therefore, this subpart is not necessary.

Subp. 3. **Submission of forms.**

This is a technical amendment. Minnesota Statutes, sections 256.01, subdivision 4 (4), and 256B.04, subdivision 3, which require the department to "prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and other such forms as it may deem necessary and

advisable." The Department has revised the forms for requesting authorization to facilitate the entry of the provider submitted data into the Medicaid Management Information System, the Department's data base for billings and authorization purposes. These forms, DHS-3065, DHS-3066, and the American Dental Association (ADA) form are the ones in current use. It is reasonable to revise the rule so that providers are informed about submitting the revised forms.

Subp. 4. **Consequences of failure to comply.**

The amendment to this subpart clarifies that if a provider chooses to provide a service before obtaining prior authorization and subsequently that authorization is denied, the provider bears the impact of that denial of authorization, not the recipient. It is reasonable to revise the rule so that providers are aware of the flexibility allowed by the amendment and also the risk that accompanies the flexibility.

9505.5015 AFTER THE FACT AUTHORIZATION.

Upon the adoption of the proposed amendments this rule part establishing standards for "after the fact prior authorization" will no longer be necessary. The amendments will permit prior authorization to be at the choice of the provider, either before or after the service is provided. The same requirements related to service criteria, form submission, and so on will apply without regard to whether the request is made before or after the service provision. Therefore, it is reasonable to delete this part in its entirety.

9505.5020 DEPARTMENT RESPONSIBILITIES.

Subpart 1. **Notification requirements.**
This amendment eliminates time requirements imposed by the department on providers to respond to necessary documentation. A time limit for requesting prior authorization is no longer necessary as the request may be either before or after the service is provided. The Department notes that part 9505.0450 establishes time requirements for claim submission, an activity that cannot take place unless prior authorization has been obtained when it is required under parts 9505.5000 to 9505.5030.

9505.5025 HEALTH SERVICES PROVIDED OUTSIDE OF MINNESOTA.

This amendment revises language but keeps the requirement of requesting prior authorization before services are provided outside of Minnesota. Currently, if services are medically necessary but not available in Minnesota, recipients are approved

for out-of-state services. It is necessary to make this clarification to inform providers outside Minnesota that authorization for such unique services must still be obtained before the service is provided. This is reasonable because it enables the department to ensure that the medically necessary service is not available in Minnesota, something the provider is unable to assess.

9505.5105 FAIR HEARINGS AND APPEALS.

The amendments to this part are technical changes, adding the current rule cite.

Dated: 20 March 1995

for MARIA R. GOMEZ
Commissioner of Human Services