STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Chemical Dependency Care for Public Assistance Recipients, Minnesota Rules, part 9530.6610

STATEMENT OF NEED AND REASONABLENESS

Background

The 1991 legislature enacted Minnesota Statutes, section 256E.05, subdivision 1a to allow counties more flexibility in administering social services. Known as "mandates reform legislation," the new statutory language was intended to streamline administrative rules and reduce inadequately funded mandates. It authorized the commissioner to **"review social services administrative rule requirements and adopt amendments under chapter 14 to reduce administrative costs and complexity by eliminating unecessary or excessive paperwork, simplifying or consolidating program requirements, or emphasizing outcomes rather than procedures."** (emphasis added)

In August of 1991 the Department of Human Services (DHS) established a Mandates Reform Implementation Team (MRIT) of department staff, county representatives, and advocates to advise the commissioner on implementing the new legislation.

The proposed amendments to part 9530.6610 result from a mandates reform project initiated in 1992 by Cottonwood, Nobles, Rock, and Pipestone counties and DHS. Participants' experience indicated that removing two requirements from Minnesota Rules, part 9530.6610 reduced counties' administrative burdens without reducing quality of service.

DHS now proposes to remove the two requirements by amending the rule part.

Rule Development Process

DHS complied with the Administrative Procedure Act (APA) and followed its own policies to ensure input by affected parties. Counties are the only groups likely to be affected by the proposed amendments. Therefore, DHS asked the rules committee of the Minnesota Association of County Social Services Administrators (MACSSA) to serve as the advisory task force for the proposed amendments.

At the time, members of the rules committee represented Hennepin, Morrison, Ramsey, Blue Earth, Sibley, Chippewa, Anoka, Mower, Wright, Traverse, Isanti, St. Louis, Sherburne, and Wadena counties and the Association of Minnesota Counties. DHS conferred with rules committee members on April 26, 1995 and June 14, 1995; committee members concurred with the concept and language of the proposed amendment.

DHS also invited comment by publishing a Notice of Solicitation of Outside Information or Opinions in the State Register on May 15, 1995 (19 S.R. 2252). An amended notice was published in the State Register on June 26, 1995 (19 S.R. 2505) to correct a typographical error in the May 15 notice.

INFORMATION REQUIRED BY MINNESOTA STATUTES, SECTION 14.131

Minnesota Statutes, section 14.131, clauses (1) to (6), specify that statements of need and reasonableness must address the following information to the extent an agency, through reasonable effort, can ascertain it.

(1) Description of classes of persons likely to be affected by proposed rule, including classers that will bear costs of proposed rule and classes that will benefit. Counties are the affected class and the class that will benefit from the streamlined provisions.

(2) and (5) Probable costs to the agency and any other agency of implementing, enforcing, or complying with the proposed rule and any effect on state revenue. The amendments will not increase costs because they require no additional administrative resources or expenditures. If anything, the amendments will save both DHS and counties small amounts of money in the process of providing relief from unnecessary tasks.

(3) and (4) Determination of whether there are less costly or less intrusive methods of achieving the purposes of the proposed amendments; description of any alternative methods for achieving the purpose of the rule that were seriously considered and why they were rejected. Results of the county-based reform project initiated in 1992 and referenced above under **Background** provided the basis for taking this approach, which is an alternative to a more intrusive and burdensome requirement now in effect.

(6) Assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference. DHS finds no existing federal regulations that differ from the proposed rules.

NEED AND REASONABLENESS OF SPECIFIC PROVISIONS

The specific provisions of the amendments to part 9530.6610 are affirmatively presented by DHS in the following statement of need and reasonableness as required by Minnesota Statutes, section 14.131.

9530.6610 COMPLIANCE PROVISIONS.

Subp. 2. **County records.**

C. The proposed amendment drops the requirement that counties document having a plan for inservice training of assessors and shifts the emphasis to documenting completion of the training.

Department monitoring of county records to determine compliance with part 9530.6610 indicated that only one of the counties monitored had a plan for in-service training. This was the case in part because much of the available and suitable training is not announced in time to allow for an annual plan; any plan developed to meet the annual training requirements likely would have to be revised as new training opportunities were announced.

The monitoring also showed that lack of a plan did not affect county compliance with the requirement that assessors obtain eight hours of continuing education. It is reasonable, therefore, to remove the plan documentation requirement and focus instead on documenting that county assessors' skills are being continually updated as a result of their completing the required training.

Subp. 4. ~~**County designee variance.**~~ **Exceptions.** This amendment does away with the need to request a variance from the commisisoner when a county needs to contract with an agency with which it would be prohibited from contracting under subpart 3. The basic purpose of subparts 3, 4, and 5 is to avoid conflicts of interest between the entity that chooses where a public assistance client receives treatment and the treatment provider.

Avoiding conflicts of interest continues to be a public policy goal. But requiring a county to consult with the commissioner when the county has no choice but to contract for assessments with a treatment provider is an unnecessary step in meeting that goal.

The requirement that the county seek a variance from the commissioner is therefore replaced with the requirement that the county keep the documentation of the reasons for the contract at the county offices. This is the same documentation the county has to include with its variance request under the current provision. The required documentation must be current within the past two years. This represents a reduction in administrative burden, as the current rule requires annual variance requests. Two years is a reasonable time frame as it is the longest period used for human services contracts affected by this provision.

It is necessary to change this requirement because it places an unnecessary administrative burden on the counties. It is reasonable to change the requirement because the change does not affect the larger purpose of the rule part.

REPEALER. It is necessary to delete subpart 5 because it implements portions of subpart 4 that the proposed amendments delete.

Dated: 1/31/96

for MARIA R. GOMEZ
Commissioner