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May 5, 2014

Legislative Reference Library
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Re: In The Matter of the Proposed Rules of the Department of Employment and Economic Development Governing Rehabilitation; Visually Disabled, Minnesota Rules, 3325.0100-3325.0490; Revisor's ID Number RD4224

Dear Librarian:

The Minnesota Department of Employment and Economic Development intends to adopt rules governing Rehabilitation; Visually Disabled. We plan to publish a Notice of Intent to Adopt Rules without a Public Hearing in the May 5, 2014, State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-539-2344.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Natasha Lemler'.

Natasha Lemler, Lead Rule Writer
State Services for the Blind

Enclosure: Statement of Need and Reasonableness

State Services for the Blind

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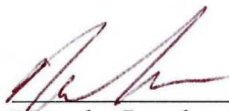
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Minnesota Department of Employment and Economic Development

**CERTIFICATE OF MAILING THE STATEMENT OF NEED AND REASONABLENESS
TO THE LEGISLATIVE REFERENCE LIBRARY**

**Proposed Rules Governing Rehabilitation; Visually Disabled, Minnesota Rules,
3325.0100-3325.0490; Revisor's ID Number RD4224**

I certify that on May 5, 2014, when the Statement of Need and Reasonableness became available to the public, I submitted an electronic copy of the Statement to the Legislative Reference Library via email to sonar@lrl.leg.mn. I mailed this copy to comply with Minnesota Statutes, sections 14.131 and 14.23.



Natasha Lemler, Lead Rule Writer
State Services for the Blind

Minnesota Department of Employment and Economic Development (DEED)

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Governing Rehabilitation; Visually Disabled, Minnesota Rules, 3325.0100-3325.0490; Revisor's ID Number RD4224

INTRODUCTION

State Services for the Blind (SSB), a division within DEED, initiates these rule amendments to achieve three key goals. To:

1. Clarify terms and processes. These areas include clarifying:
 - a. when a certified letter is sent out;
 - b. transition student plan development criteria;
 - c. the concept of most integrated setting and informed choice in regards to service provision;
 - d. cost-effectiveness when providing services;
 - e. the definition of designated representative;
 - f. the concept of family income in relation to financial participation; and
 - g. written contracts now replace the term "operating agreements".
2. Correct oversights that were missed in the 2011 amendments of Rule 3325. These corrections include:
 - a. adding the term "fees" when talking about tuition;
 - b. using the term "program" instead of "plan" when referring to the special education program of transition students;
 - c. incorporating the concept of informed choice to the independent living program at SSB; and
 - d. ensuring that any party can request a review of an impartial hearing officer's decision rather than just the appellant.
3. Add policy that defines the requirements of assistive technology trainers. All other adjustment to blindness fields are defined; however, this area was overlooked in 2011.

SSB provides direct rehabilitation services to those interested in employment by administering the vocational rehabilitation program. For those not interested in employment, but who are still in need of adjustment to blindness services, SSB administers the independent living program. SSB provides Communication Center and the Business Enterprises Program services that are not part of this rule making process.

The 1923 legislature created an agency for the blind administered by what is now known as the Department of Human Services. The agency for the blind was known by several names over the years, ultimately being identified as "State Services for the Blind." (See 1Sp 1985 c 14 art 9 s 12). In 1985 the Minnesota Legislature moved State Services for the Blind from the Department of Human Services to the newly formed Department of Jobs and Training. The Department of SSB Rule 3325 SONAR Dated 4.1.2014

Jobs and Training later became the Department of Economic Security, which merged with the Department of Trade and Economic Development in 2003 to become known as the Department of Employment and Economic Development.

In 2011, the rules were amended for the first time in approximately 25 years. After promulgation, there were housekeeping items identified that warranted an amendment. Each item alone was not urgent or substantial enough to necessitate the rulemaking process, but collectively there are now a number of items that justify the need to amend.

The Request for Comment, including the goals noted above, was published in the State Register on November 18, 2013. An additional notice plan was completed and approved by the Office of Administrative hearings on November 12, 2013.

Because of a history of involving the blind community in developing rules and considering others matters related to the services SSB provides, SSB formed an Advisory Committee and invited representatives from:

- State Rehabilitation Council for the Blind;
- American Council of the Blind of Minnesota (did not participate);
- National Federation of the Blind of Minnesota;
- United Blind of Minnesota;
- BLIND, Inc.;
- Duluth Lighthouse for the Blind;
- Vision Loss Resources;
- Minnesota DeafBlind Association (did not participate);
- The assistive technology vendor community;
- Commission of Deaf, DeafBlind, and Hard of Hearing Minnesotans;
- Client Assistance Program;
- Department of Education; and
- SSB staff

The Advisory Committee was scheduled to meet twice on January 22, 2014, and February 5, 2014; however, all business was concluded on January 22, 2014. The SSB Rule Advisory Committee supports the proposed amendments, unless indicated otherwise in this document.

ALTERNATIVE FORMAT

Upon request, this information can be made available in an alternative format, such as large print, braille, electronic or audio formats. To make a request, contact Natasha Lemler at State Services for the Blind, 2200 University Ave. West #240, St. Paul, MN 55114; Natasha.Lemler@state.mn.us; (651) 539-2344 or (800) 652-9000; FAX (651) 649-5927. TTY users may call State Services for the Blind at (651) 642-0506 or (888) 665-3276.

STATUTORY AUTHORITY

The Department's statutory authority to adopt the rules is set forth in **Minnesota Statutes section 248.07, Subd. 14a**, which provides:

"Subd. 14a.Rules.

The commissioner shall adopt rules to set standards for the provision of rehabilitative services to blind and visually disabled persons. The rules shall, at a minimum, contain program definitions and set standards for basic eligibility, including financial need eligibility and definitions of legal blindness.

The rules shall provide for the development of formal rehabilitation plans for eligible clients and shall govern the provision of direct rehabilitative services to clients, including placement in training programs, and providing tools and equipment. In addition, the rules shall set standards for appeals filed under subdivision 15 and include specific requirements for timely responses by the agency."

This statutory authority was enacted in 1984 (See **1984 c 516 s1**) by the legislature. All sources of statutory authority were adopted and effective prior to January 1, 1996, and so **Minnesota Statutes, section 14.125**, does not apply. See **Minnesota Laws 1995, chapter 233, article 2, section 58**.

Under this statute, the Department has the necessary statutory authority to adopt the proposed rules.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) below quote these factors and then give the agency's response.

(1) A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

- The classes of affected persons by the proposed rule amendments include blind, visually impaired, and deafblind applicants and eligible individuals, including their designated/legal representatives, receiving rehabilitation and independent living services from SSB; SSB staff; and community rehabilitation programs and independent contractors providing services.
- Those that will bear the costs of the proposed rule are tax payers. It should be noted that these rule amendments will not cause an increased tax burden.
- Those that will benefit from the proposed rule include the same classes noted above, as well as the agency by providing current, accurate and streamlined (in some cases) service delivery processes and structure.

(2) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues

- There are negligible additional costs to the agency due to implementation and enforcement.
- There are no costs to any other agency due to implementation and enforcement.
- There is no anticipated effect on state revenues.

(3) A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule

- There are no other methods available for achieving the purposes of the proposed rule amendments.

(4) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule

- The department did not consider any other alternative methods for amending the rule language since these rules do not fall under any of the exempt exceptions under Minnesota statutes and cannot be included in the yearly obsolete rules report since these rules are not, in part, obsolete.

(5) The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

- The rule amendments proposed do not increase costs to affected parties with minor exception. In previous rule there was confusion on when a certified letter is sent out when an individual’s case is closed. The current amendment clarifies that a certified letter is sent out to all individuals whose case is being closed for reasons other than success or death. The impact may be that the agency has a negligible increase in mailing costs due to an increased use of certified letters. See **3325.0165, DEVELOPMENT OF THE INDIVIDUALIZED PLAN FOR EMPLOYMENT, Subp. 3, H,** and **3325.0190, CLOSING THE RECORD OF SERVICES, Subp. 4.**

6) The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals

- The consequences of not adopting the proposed amendments are that in some cases the current rules are vague and unclear; not consistent with federal requirements; and do not reflect current case management practice.

(7) An 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

- There are no differences between the proposed amendments and existing federal regulations. The rules were drafted to incorporate the federal statutes and regulations into Chapter 3325, where they apply.

(8) An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule. . . . ‘[C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

- The proposed rules cover some areas that are not addressed by federal law or other Minnesota state laws. In addition, the rules were drafted to incorporate the federal statutes and regulations into Chapter 3325, where they apply. Therefore, this consideration is not applicable for this rule.

PERFORMANCE-BASED RULES

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency’s regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

Throughout the development of the amended rules and this SONAR, the department made every attempt to develop rules that will be understandable and workable for applicants, eligible individuals and practitioners, resulting in efficient and effective delivery of services while achieving the best possible results.

ADDITIONAL NOTICE

DEED has gone to considerable effort to provide additional notice to persons who might be affected by the proposed rules. The Additional Notice Plan (See **Appendix 1-Additional Notice Plan**) was submitted to the Chief Administrative Law Judge of the Office of Administrative Hearings for review on November 5, 2013, and approved in a November 12, 2013, letter by Administrative Law Judge Jeanne M. Cochran. See **Appendix 2-Letter from Jeanne M. Cochran, Administrative Law Judge.**

DEED proposed and executed the plan to mail the Request for Comments to the following interested or affected parties:

1. Members of the State Rehabilitation Council for the Blind which includes a representative of the State Independent Living Council (19)
2. The Chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over State Services for the Blind (6)
3. All persons on the department’s rulemaking notice list for rehabilitation services (30)
4. Community Rehabilitation Programs and independent contractors primarily providing

- services to the blind and visually impaired (45)
5. Advocacy groups of the blind and visually impaired community (4)
 6. Members and staff of the Commission of Deaf, DeafBlind, and Hard of Hearing Minnesotans (16)
 7. Minnesota Department of Education-Special Education; Resource Center for the Blind and Visually Impaired; and State Vision network (1)
 8. A sample size of (200) SSB vocational rehabilitation and independent living customers
 9. Client Assistance Project (1)
 10. Staff of SSB responsible for implementing the rule (62)

With the exception of “All persons on the department’s rulemaking notice list for rehabilitation services,” who received their notice via postal service mail, the department did send some of the notices via electronic mail, such as to the staff of SSB. In addition, two groups, the State Rehabilitation Council for the Blind and the sample of SSB vocational rehabilitation and independent living customers, received their notice of the Request for Comments in large print and Braille to assure it is in an accessible format. Braille and large print is sent surface mail with the identification of “Free Matter for the Blind” affixed.

DEED intends to provide the “Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing” to the same interested and affected parties noted above.

The Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Department will consult with the Minnesota Management and Budget (MMB). We will do this by sending the MMB copies of the documents that we send to the Governor’s Office for review and approval on the same day we send them to the Governor’s office. We will do this before the Department’s publishing the Notice of Intent to Adopt. The documents will include: the Governor’s Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The agency has determined that they do not because these rules only apply to SSB in relation to the application for and receiving of rehabilitation services by blind and visually impaired individuals. No other part of government in Minnesota has this authority or responsibility.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city. Expenditures for rehabilitation services under these rule parts are only made by SSB with funds provided by Congress and the Legislature for these purposes, and in some cases, the eligible individuals themselves. Small business and cities have no authority or responsibility to provide or expend money for these services.

LIST OF WITNESSES

If these rules go to a public hearing, SSB anticipates having the following witnesses testify in support of the need for and reasonableness of the rules. The witnesses will be available to answer questions about the development and content of the rules.

Staff of State Services for the Blind:

1. Carol Pankow, Director
2. Jon Benson, Workforce Development Unit Director
3. Natasha Lemler, Rehabilitation Counselor Supervisor

RULE-BY-RULE ANALYSIS

3325.0100 PURPOSE AND SCOPE.

Subp. 2. Scope. SSB proposes to replace “operating agreement” or “agreement” with the term “contract” in all instances in this chapter when it is used in relation to vendors who have written contracts with SSB. It is necessary and reasonable, as this change in language occurred in the fall of 2012 when all SSB vendors were required to switch from operating agreements to professional/technical contracts within the state’s standard procurement process. By amending, there will be a consistency in language. See also SONAR **3325.0110 DEFINITIONS, Subp. 12a, Community rehabilitation program**, and **3325.0470 STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS, Subp. 1, Written agreement.**

3325.0110 DEFINITIONS

Subp. 6. Applicant. SSB proposes to consistently use the term “designated representative” in replace of “legal representative” throughout Rule 3325. In all cases the term “legal” will be repealed and “designated” will be used. This is necessary and reasonable because it is consistent with the **Code of Federal Regulations, title 34, section 361.5(b)(32), Individual’s Representative**, which does not distinguish between a legal and designated representative. Designated representative’s definition is amended under **3325.0110 DEFINITIONS, Subp. 15,**

Designated representative. See also SONAR 3325.0110 DEFINITIONS, Subp. 36. **Legal representative.**

Subp. 12a. Community rehabilitation program. SSB proposes to replace “operating agreement” or “agreement” with the term “contract” in all instances in this chapter when it is used in relation to vendors who have written contracts with SSB. It is necessary and reasonable, as this change in language occurred in the fall of 2012 when all SSB vendors were required to switch from operating agreements to professional/technical contracts within the state’s standard procurement process. By amending, there will be a consistency in language. See also SONAR 3325.0100 PURPOSE AND SCOPE, Subp. 2, Scope, and 3325.0470 STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS, Subp. 1, **Written agreement.**

Subp. 15. Designated representative. SSB proposes to further define the term “designated representative” and consolidate the definition with the definition that is currently in place for “legal representative”. The term “designated representative” would then replace all instances of “legal representative”. This is reasonable because it is consistent with the **Code of Federal Regulations, title 34, section 361.5(b)(32), Individual’s Representative**, which does not distinguish between a legal and designated representative. See also SONAR 3325.0110 DEFINITIONS, Subp. 36. **Legal representative.**

Subp. 36. Legal representative. SSB proposes to repeal this statement and further define the term “designated representative” and consolidate the definition with the definition that is currently in place for “legal representative”. The term “designated representative” would then replace all instances of “legal representative”. This is reasonable because it is consistent with the **Code of Federal Regulations, title 34, section 361.5(b)(32), Individual’s Representative**, which does not distinguish between a legal and designated representative. See also SONAR 3325.0110 DEFINITIONS, Subp. 15. **Designated representative.**

Subp. 88. Vocational training services. SSB proposes to include the term “fees” in relation to paying for both “tuition and fees”, as fees are a standard charge included with tuition at an institution of higher learning. This is necessary because fees have always been authorized and paid for and this is not a change in process; this is reasonable because this was an oversight from the 2011 rule promulgation and is supported by the Advisory Committee.

3325.0120 ACCESSING VOCATIONAL REHABILITATION SERVICES.

Subp. 3. Legal representative. SSB proposes to repeal the section defining the signatory requirements for legal representatives. These requirements are included in the proposed definition for designated representatives under SONAR 3325.0110 DEFINITIONS, Subp. 15. **Designated representative.** This is reasonable because it is consistent with the **Code of Federal Regulations, title 34, section 361.5(b)(32), Individual’s Representative**, which does not distinguish between a legal and designated representative’s signatory requirements. See also SONAR 3325.0110 DEFINITIONS, Subp. 36. **Legal representative.**

Subp. 4. Designated representative. SSB proposes to repeal the section defining the designation requirements for assigning a designated representative as this is already addressed in

SONAR **3325.0110 DEFINITIONS, Subp. 15. Designated representative.** The proposed definition consolidates the current terms of “designated representative” and “legal representative”.

3325.0165 DEVELOPMENT OF THE INDIVIDUALIZED PLAN FOR EMPLOYMENT.

Subp. 3. H. and I. Mandatory procedures. SSB proposes to amend the section to provide more clarity that the process for closing a record of services is followed, rather than the process for terminating the individualized plan for employment (IPE), for those instances when an individual is both having an IPE terminated and a record of services closed. This is reasonable because previously this section was misinterpreted by staff and redundant mailings of certified letters were occurring.

Subp. 3. J. Mandatory procedures. SSB proposes to repeal the term “plan” and replace it with the word “program” when talking about the special education program of a transition student. This language is necessary and reasonable because it is consistent with the Department of Education’s definitions and terms under **Code of Federal Regulations, title 34, section 300.320** for an individualized education program. This was amended after discussion with the special education representative on the rule Advisory Committee following the committee meeting.

Subp. 4. Standard for prompt development of IPE. SSB proposes to repeal the term “In addition”. This is to clarify that transition students have separate requirements, not additional requirements, for IPE development. This is necessary and reasonable because it is consistent with the **Code of Federal Regulations, Title 34, section 361.22**. This section states that the development and approval of an individualized plan for employment is done as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for vocational rehabilitation services leaves the school setting or, if the designated State unit is operating under an order of selection, before each eligible student able to be served under the order leaves the school setting.

3325.0175 CONTENT OF IPE

Subp. 4. Coordination of services for students with disabilities who are receiving special education services. SSB proposes to repeal the term “plan” and replace it with the word “program” when talking about the special education program of a transition student. This language is necessary and reasonable because it is consistent with the Department of Education’s definitions and terms under **Code of Federal Regulations, title 34, section 300.320** for an individualized education program. This was amended after discussion with the special education representative on the rule Advisory Committee following the committee meeting.

3325.0180 SCOPE OF SERVICES.

SSB proposes to reiterate **3325.0175, Content Of IPE, Subp. 1, B(2)**, which states that rehabilitation services are “provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the individual”, under **3325.0180 Scope Of Services**. This is to clarify and emphasize that services are provided in the most

integrated setting, and is repeated and reasonable because it is a key concept in the provision of all vocational rehabilitation services.

3325.0190 CLOSING THE RECORD OF SERVICES

Subp. 4. Notice of closing the record of services. SSB proposes to amend the section to provide more clarity on when a certified letter is sent to individuals. The current rule indicates a certified letter is only sent to those eligible individuals whose record of services is being closed who have an IPE. SSB recognizes an individual's case can be closed without having an IPE in place. One such instance is upon determination of ineligibility. SSB's intent is to expand its obligations and provide a certified letter to all individuals whose record of services is being closed for reasons other than successful closure or death. In addition, for those instances when an individual is both having an IPE terminated and a record of services closed, there is clarity that the process for closing a record of services is followed, rather than the process for terminating the IPE. This is reasonable because SSB wants to ensure customers receive the information that the case is closed and the process for appealing that decision.

3325.0205 ACCESSING INDEPENDENT LIVING PROGRAM REHABILITATION SERVICES

Subp. 2. Initial interview. SSB proposes to add the sentence "Each person referred may identify a designated representative". With the repeal of **3325.0205, Subp. 3. Legal representative;** and **3325.0205, Subp. 4. Designated representative,** there was no longer any introduction to establishing a designated representative. See also SONAR **3325.0110 DEFINITIONS, Subp. 15. Designated representative** and **3325.0110 DEFINITIONS, Subp. 36. Legal representative.**

Subp. 3. Legal representative. SSB proposes to repeal the section defining the signatory requirements for legal representatives. These requirements are included in the proposed definition for designated representatives under SONAR **3325.0110 DEFINITIONS, Subp. 15. Designated representative.** This is reasonable because it is consistent with the **Code of Federal Regulations, title 34, section 361.5(b)(32), Individual's Representative,** which does not distinguish between a legal and designated representative's signatory requirements. See also SONAR **3325.0110 DEFINITIONS, Subp. 36. Legal representative.**

Subp. 4. Designated representative. SSB proposes to repeal the section describing the process for designating a representative. With the proposed changes to the definition of "designated representative," this is redundant. See SONAR **3325.0110 DEFINITIONS, Subp. 15. Designated representative.**

3325.0240 INDEPENDENT LIVING CUSTOMER SERVICE RECORD (ILCSR)

Subp. 3. Basis for contents of the ILCSR. SSB proposes adding a statement at the end of the section that links informed choice to independent living. This is to clarify that services are provided consistent with an individual's informed choice. This is reasonable because it is a key

concept in the provision of independent living services. This was an oversight in the previous rule promulgation in 2011 but has already been a standard practice in service provision.

3325.0420 CONDITIONS OF SERVICE

Subp. 2. Conditions governing the provision of all rehabilitation services. SSB proposes to amend 3325.0420 by adding item D to include the requirement that purchased services must be provided in a cost-effective manner and consistent with informed choice. This is reasonable because the concept is already embodied in the definition of “maintenance,” (3325.0110, Subp. 41), a condition of providing “transportation services,” (3325.0420, Subp. 13), and is a generally accepted condition of all governmental purchasing. The rule advisory committee agreed to the changes once “and consistent with informed choice” was added, as there was concern cost effectiveness would be given more importance than consumer choice.

Subp. 16. Rehabilitation Technology-Assistive Technology Services. SSB proposes to define the requirements of assistive technology trainers. SSB already has a long-established, objective system in place to qualify assistive technology trainers that is well accepted by individual and center-based community rehabilitation providers. While this is an added policy, it is also an oversight and should have been included in the previous rule promulgation. The rule advisory committee contributed three additions in the area of teaching assistive technology: include deafblind persons, clarify that the use of screen readers can occur via speech or braille output, and leave it open to include not only current but any emerging electronic aids and devices. This is reasonable because it is objective and consistent with other policy related to qualifying service providers. See 3325.0870, Subp. 8, Orientation and Mobility Services and 3325.0870, Subp. 11, Rehabilitation teaching services.

3325.0440 FINANCIAL PARTICIPATION BY ELIGIBLE INDIVIDUALS IN THE VOCATIONAL REHABILITATION PROGRAM.

Subp. 1. Services exempted from financial participation. SSB proposes to amend this section by adding the term “family” before income to make it clear that when the term “eligible individual” is used in relation to financial participation, we mean to incorporate family income into the equation. This is reasonable because it is consistent with Subparts 3 to 6, which already incorporate the concept of family income. This was an oversight in the previous rule promulgation in 2011 but has already been a standard practice in service provision.

Subp. 2. Services subject to financial participation. SSB proposes to amend this section by adding the term “family” before income to make it clear that when the term “eligible individual” is used in relation to financial participation, we mean to incorporate family income into the equation. This is reasonable because it is consistent with Subparts 3 to 6, which already incorporate the concept of family income. This was an oversight in the previous rule promulgation in 2011 but has already been a standard practice in service provision.

Subp. 7. Variance. SSB proposes to amend this section by adding the term “family” before income to make it clear that when the term “eligible individual” is used in relation to financial participation, we mean to incorporate family income into the equation. This is reasonable

because it is consistent with Subparts 3 to 6, which already incorporate the concept of family income. This was an oversight in the previous rule promulgation in 2011 but has already been a standard practice in service provision.

3325.0470 STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS

Subpart 1. Written operating agreement. SSB proposes to replace “operating agreement” or “agreement” with the term “contract” in all instances in this chapter when it is used in relation to vendors who have written contracts with SSB. It is necessary and reasonable, as this change in language occurred in the fall of 2012 when all SSB vendors were required to switch from operating agreements to professional/technical contracts within the state’s standard procurement process. By amending, there will be a consistency in language. See also SONAR **3325.0100 PURPOSE AND SCOPE, Subp. 2, Scope** and SONAR **3325.0110 DEFINITIONS, Subp. 12a, Community rehabilitation program.**

3325.0478 REVIEW AND MEDIATION OF DETERMINATIONS

D. SSB proposes to amend by striking “appellant” and inserting “party,” and changing “An” to “A”. This is necessary and reasonable because it is consistent with **Code of Federal Regulations, title 34, section 361.57(g)**, which states, “The State may establish procedures to enable a party who is dissatisfied with the decision of the impartial hearing officer to seek an impartial administrative review of the decision under paragraph (e)(3) of this section in accordance with the following requirements:”. This allows SSB, in addition to the appellant, to seek a review of the impartial hearing officer’s decision. Part D (1) was written to reflect federal regulation, but imprecise drafting in the introductory sentence resulted in inconsistency with federal regulations.

LIST OF EXHIBITS (Optional)

In support of the need for and reasonableness of the proposed rules, the Department anticipates that it will enter the following exhibits into the hearing record: Appendix 1- Additional Notice Plan; Appendix 2-Letter from Jeanne M. Cochran, Administrative Law Judge.

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

April 2, 2014
Date

Katie Clark Sieben
Katie Clark Sieben, DEED Commissioner