



Minnesota Department of **Human Services**

December 1, 2014

Governor Mark Dayton

Greg Hubinger, Director
Legislative Coordinating Commission

Michele Timmons, Revisor of Statutes

Senator David W. Hann, Chair
Senator Tony Lourey, Ranking Minority Member
Senate Health and Human Services Committee

Representative Matt Dean, Chair
Representative Thomas Huntley, 2014 DFL Lead
House Health and Human Services Finance Committee

Representative Tara Mack, Chair
Representative Tina Liebling, 2014 DFL Lead
House Health and Human Services Reform Committee

Re: Annual Report from Minnesota Department of Human Services on Obsolete, Unnecessary, or Duplicative Rules, as Required by Minnesota Statutes, section 14.05, subdivision 5

Minnesota Statutes, section 14.05, subdivision 5, states:

“By December 1 of each year, an agency must submit to the governor, the legislative coordinating commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules

identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion."

The Minnesota Department of Human Services has identified the following rules as obsolete.

Minnesota Rules, part 9505.0505, subpart 3, subpart 13, subpart 27, subpart 31, subpart 32, subpart 34; Minnesota Rules, part 9505.0555; Minnesota Rules, parts 9505.0520, subpart 1, subpart 9, subpart 9b, subpart 9c, subpart 10 items D, E, F, and G, subpart 11 item E; Minnesota Rules, part 9505.0530, subparts 2 and 3, Minnesota Rules, part 9505.0540, subpart 3. Minnesota Rules, parts 9505.0501-9505.0545 establishes hospital admission certification as a condition of receiving medical assistance (MA) and general assistance medical care (GAMC) payment for inpatient hospital services to MA and GAMC recipients. The Department has identified obsolete rule references to GAMC, a program for which funding was discontinued in 2009. The Department also needs to update the rule to reflect current federal Centers for Medicare and Medicaid Services (CMS) practices related to hospital inpatient admission order, certification, medical necessity, and industry practices. The Department is planning to amend the rule using the conventional rulemaking process under Minnesota Statutes, Chapter 14, including the repeal of the obsolete provisions.

Minnesota Rules, parts 9525.0004 to 9525.0036. Minnesota Rules, parts 9525.0004 to 9525.0036 sets standards for planning and delivering services to persons with developmental disabilities or related conditions. Rule provisions govern county board responsibilities, case manager qualifications and training, case management responsibilities, diagnosis of developmental disabilities and related conditions, assessment of individual service needs, screening team responsibilities, individual service plan development, provision of services, conciliations, appeals, quality assurance, service development, and need determination. The Department plans to repeal obsolete portions of the rule related to assessment by preparing a bill for the 2016 legislative session that would accomplish this. (Plans for bills in the 2015 session are already in place. Also, other parts of the rule need to be updated to conform to statutes, and the Department is planning to separately amend those using the so-called good cause exempt process established under Minnesota Statutes, section 14.388, subdivision 1(3).)

Status of Rules Identified for Repeal in 2013 Report

Minnesota Rules, part 9505.0340, subpart 3, items A, C, and I; and subparts 6 and 7. The rule governs payment for pharmacy services under the medical assistance program; billing procedures for these services, and maximum payment for prescribed drugs. The provisions of subpart 3, items A, C and I, and subpart 7 are obsolete because these have been superseded by the requirements of Minnesota Statutes, section 256B.0625, subdivision 13. The statutory section addresses the list of drugs included in the medical assistance formulary and establishes the maximum dispensed quantity of a drug, the dispensing fee, and the reimbursement rate. Rule provisions that conflict with the statutory requirements require repeal. Part 9505.0340, subpart 6 is also obsolete because it addresses the steps to take when a national drug code is not printed on the manufacturer's container. However, because a code is now stated on all manufacturer products, medical assistance would not cover any pharmaceutical without the code, so the provision is obsolete. The Department plans to repeal the obsolete rule parts in 2015 using the process established at Minnesota Statutes, section 14.3895.

Minnesota Rules, part 9505.5010, subparts 1 and 3. Part 9505.5010 governs the provider requirements for obtaining prior authorization under the medical assistance and MinnesotaCare programs. Subparts 1 and 3 refer to a specific DHS form that is no longer in use, and the references therefore need to be updated. Because the rule amendment requires a language change in addition to repeal, the Department will amend the rule in 2015 using the conventional rulemaking process under Minnesota Statutes, Chapter 14.

If you have any questions about this report, please call me at (651) 431-4336.

Sincerely,

A handwritten signature in black ink that reads "Beth Scheffer". The signature is written in a cursive style with a large, stylized "B" and "S".

Elizabeth Scheffer
Administrative Law Manager
Management and Policy Division

c: Legislative Reference Library