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Administrative Rules Report for the Minnesota Department of Economic Security (MDES)

As required by Minnesota Statutes, Section 14.3691, following is a report on all administrative rules covered by MDES. This report covers all recommended repeals and changes, as well as brief justifications for those the agency feels should remain in effect.

I. Maintained Rules

Most rules under MDES administration are recommended to be kept as is. Brief justifications follow for each chapter.

Note that four chapters – 3301, 3305, 3320, and 3330 – consist entirely of rules that have been either repealed already or are recommended for repeal below. While the revisor keeps obsolete chapters as a matter of record, we do not intend to justify maintaining any rules from those chapters in this report.

Chapter 3300 provides for a broad scope of training and community support services, administered mainly through the agency's rehabilitation and workforce services branches:

- 3300.0800 thru 3300.1900 deal with Weatherization programs, which continue to work in providing definitions and other parameters of the program, and will transfer with all Energy programs to Commerce this October.
- 3300.2005 thru 3300.2055 regard the Extended Employment program, and are relatively new and broadly-supported rules defining the program's standards and funding procedures.
- 3300.3100 thru 3300.3270 establish the definitions and procedures required to certify the compliance of Centers for Independent Living with state and federal standards, assurances, and indicators.
- 3300.5000 thru 3300.5060, as noted in amendments section above, relate to the provision, manner, and fee schedules for vocational rehabilitation services.

Chapters 3310 and 3315 relate to unemployment compensation program procedure and relevant employer taxes, respectively. These rules serve as the backbone for the administration of the Unemployment Insurance (UI) program, which the state has established in compliance with federal law. For example, the rules in Chapter 3315 define statutory terms such as "wages" which are subject to unemployment taxes; they also provide for procedures for employers' filing of quarterly tax statements.

Chapter 3321 provides rules for State Services for the Blind (SSB)'s vending stand operations, which are provided for in federal regulations. These rules are under review by key stakeholders, all of whom support the vending stands and associated rules as a key part of SSB's service strategy.

— 2000 Minn. Laws Chap. 469
— Sec. 4 Subd. 1

— Minn. Stat. 14.3691

Chapter 3325 establishes procedures and standards for rehabilitation services for the blind and visually impaired persons in Minnesota. It includes, but is not limited to, definitions of eligibility, conditions governing the provision of services, and client financial participation. The rules were called for by M.S. 248.07, Subd. 14(a), and were developed with significant consumer and advocacy group participation.

Chapter 3350 relates to Community Action Agencies, which as of October 1 of this year will be handled by either the Department of Children, Families, and Learning or the Department of Commerce. We find the rules to be generally in order and do not feel it appropriate to suggest changes in the midst of transition.

II. Obsolete Rules

MDES recommends the following rules for outright repeal:

3301.0180	3301.0220	3315.0545
3301.0190	3301.0230	3320.0010
3301.0200	3315.0510	3320.0020
3301.0210	3315.0535	3320.0030

Rules 3301.0180 thru 3301.0230 are related to Community Investment Programs, which no longer exist. Thus the rules (and entire chapter) are all obsolete.

Rules 3315.0510, 3315.0535, and 3315.0545 all relate to outdated or updated federal regulations regarding Unemployment Insurance. The best avenue for keeping pace with those changes is repeal of the three sections.

Rules 3320.0010 thru 3320.0030 provide guidance to the Federal Jobs Tax Credit, which no longer exists. Its successor (the Work Opportunities Tax Credit) differs significantly from the previous program; for example, the Rehabilitation Services branch no longer performs the functions referenced in the rules and does not charge the relevant fees. We would further recommend repeal of the statutory authority given the agency in M.S. 176.1041.

III. Potential Changes

MDES is in early stages of the rulemaking process for this year, and will determine if the following rules require amendment:

3300.0050	3300.5040	various Ch. 3321
3300.3300	3300.5060	various Ch. 3325
3300.5020	various Ch. 3310	
3300.5030	various Ch. 3315	

Rule 3300.0050 pertains to fees charged by this agency's Rehabilitation Services branch for services provided to injured workers under M.S. Section 176.102, Subd. 9(b). The

relevant services were transferred by the state legislature from this agency to the Department of Labor and Industry. Updating the references and transferring the rule to the appropriate Department's list will keep this rule effective.

Rule 3300.3300 relates to Opportunities Industrialization Centers. Currently, the rules are not clear on the inclusion of some groups currently served by OICs – particularly at-risk youth, homeless, offenders and ex-offenders, and immigrants. This agency will propose changes to bring rules language into line with clearly established customers of OICs.

Rules 3300.5020, 3300.5030, 3300.5040, and 3300.5060 relate to vocational rehabilitation services. In January 2001, the U.S. Department of Education published final federal regulations (Title 34, Code of Federal Regulations, Part 361) which will affect our program operations. We are reviewing possible rule changes to conform to the new regulations. We are also considering proposing changes:

- to lower the family income threshold at which consumers begin sharing service costs (which would increase the amount that some consumers would contribute);
- to change some services involving vehicle modifications (adapted vans);
- to adjust the conditions under which we would assist in paying for transportation-related services and extra living costs for consumers attending college
- to change the amounts the agency will pay for tuition and fees for consumers attending private or out-of-state colleges; and
- to revise the priority categories for the “order of selection” for services.

MDES plans to go through a formal rule amendment process for all considerations above, and will publish a Request for Comments to initiate the formal rulemaking process by September 2001.

Chapter 3310, on UI, contains multiple rules that, while generally sufficient to operate relevant programming, have outdated terminology. This is due to recent changes to state UI Program law (M.S. 268.029 thru 268.23). This agency will work to update the rules to reflect the new statutory language.

Likewise, **Chapter 3315**, on Employer Taxes, contains multiple rules with language that may be outdated by the same statutory changes noted above. (An example here is the rules' use of the term “benefits charged”, whereas new statutory language refers more specifically to “benefits paid used in computing the employer's future tax rate.”) This agency will undertake changes similar to those noted for Chapter 3310, with special attention paid to cross-references to recently renumbered statutory provisions.

Chapter 3321 establishes rules on SSB's vending stands. A committee of blind operators and staff from the Business Enterprises Program of SSB has been reviewing Chapter 3321 since January 2001. Possible changes are mainly geared toward provisions on employment termination, leaves of absence, seniority accrual, and training/work

requirements. After appropriate agency and vendor review, any changes will be submitted through the formal rulemaking process for consideration and adoption.

Chapter 3325 establishes procedures and standards for the provision of rehabilitation services to blind and visually impaired persons present in Minnesota. In the coming year, this agency will undertake an updating effort to reflect some minor changes in relevant federal laws and regulations from the past year.

Due to the complexities that are likely to arise from the departmental restructuring in July 2002 (and the transition team's efforts before that time), this agency would prefer to defer any more specific rule recommendations until some issues of program placement and interagency coordination are resolved.