

620451

**Report on All Minnesota Department of Human Services Rules**

**August 1, 2002**

**Made to the Governor and the Legislature**

**As required by Minnesota Statutes, section 14.3691**

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**Cost of preparing this report.** In compliance with Minnesota Statutes, section 3.197, the cost of preparing this report is approximately \$2,800.

**Executive Summary**

**Requirement to report on all DHS rules.** Minnesota Statutes, section 14.3961, states in pertinent part:

“An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1... The report must:

- (1) list any rules that the entity recommends for repeal;
- (2) list and briefly describe the rationale for rules that the entity believes should remain in effect; and
- (3) suggest any changes in rules that would improve the agency’s ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties...”

**Rules recommended for repeal.** This is a list of rules we recommend for repeal. The basis for our recommendations is discussed in the body of this report. We recommend repeal of:

- Minnesota Rules, parts 9505.0185
- Minnesota Rules, parts 9505.0491, subparts 7 and 8
- Minnesota Rules, parts 9505.3045 to 9505.3140
- Minnesota Rules, parts 9505.3680 to 9505.3700

**Rules that should remain in effect.** We recommend that the majority of DHS rules remain in effect. The rules, along with the rationale for our recommendations, are listed in the body of this report.

**Suggested rule changes.** Our recommendations for changes to DHS rules are contained in the body of the report.

**Organization of this report.** This report is organized by chapter and subject area. There is a paragraph or two discussing the rationale for and our recommendations with respect to each group of rule provisions governing a specific program area.

— Minn. Stat. 14.3691 Subd. 1 —

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

## **CHAPTER 9500. ASSISTANCE PAYMENT PROGRAMS**

### **Parts 9500.1090 to 9500.1155 -MA and GAMC Payments to Hospitals for Inpatient Services**

Minnesota Rules, parts 9500.1090 to 9500.1155, establish standards for making payments to hospitals for inpatient services provided to Medical Assistance (MA) and General Assistance Medical Care (GAMC) – eligible patients. These provisions govern the method of determining prospective payment rates for hospitals based upon diagnosis-related groups and the admission experience of each hospital and ensure that the rates paid are sufficient to cover the cost of medical care in an efficiently run hospital. The rule also provides for an appeal procedure. The rule was amended in January 2002, to bring it into compliance with statutory changes and to allow for a process of statistical averaging to determine rates for hospitals with fewer than 5 admissions. We recommend that this rule be retained to provide uniform procedures for the reimbursement of hospital services, which also recognize the varying costs of medical care in different parts of the state and the conditions in each case.

### **Parts 9500.1200 - 9500.1272 – General Assistance**

Minnesota Rules, parts 9500.1200 to 9500.1272, govern the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance as they pertain to the administration of the general assistance program. This rule establishes standards for providing general assistance (GA) and emergency general assistance (EGA) to persons and families eligible under statute for such assistance. It provides for application and eligibility guidelines, income and property limits, recipient responsibilities and assistance standards. This rule implements the general policies and guidelines stated in Minnesota Statutes, Chapter 256D. We recommend that this rule remain in effect to ensure that GA is uniformly administered throughout the state.

### **Parts 9500.1450 to 9500.1464 – Prepaid Medical Assistance Project**

Minnesota Rules, parts 9500.1450 to 9500.1464, govern the provider payments made under the Prepaid Medicaid Demonstration Project (PMAP). The rule establishes the standards for provider participation in the project. It sets guidelines for record keeping, benefit coordination and complaint and appeal procedures, and identifies covered services. Some changes are necessary to bring the rule language into compliance with recent statutory changes. We recommend that this rule be retained, as it continues to provide the framework for administering the PMAP program consistent with the federal waiver.

### **Parts 9500.1650 to 9500.1663 – Commissioner’s Consent to Lump Sum Paternity Suit Settlements**

Minnesota Rules, parts 9500.1650 to 9500.1663, set the procedures and standards followed in approving lump sum settlements on compromise agreements in paternity actions. The Commissioner of Human Services is a required party to all such settlements pursuant to Minnesota Statutes, section 257.60. These rules provide a clear listing of the requirements that

must be met prior to approval by the Commissioner. The rules ensure that consistent standards are applied to all settlements and provide the public with notice of the Commissioner's requirements. Therefore, we recommend that this rule remain in effect.

## **CHAPTER 9502. LICENSING OF DAY CARE FACILITIES**

Minnesota Rules, parts 9502.0030 to 9502.0445, govern the licensure of providers of child care in a setting other than a day care center. These rules provide the standards applied to settings such as private residences that provide child care for less than 24 hours a day. These rules ensure the care and safety of the children being cared for. The rules are in need of updating. Pending the development of revised standards, we recommend that these rules remain in effect to provide minimum standards for the safety and wellbeing of the children receiving day care in residential settings.

## **CHAPTER 9503. LICENSING OF CHILD CARE CENTERS**

Minnesota Rules, parts 9503.0005 to 9503.0175, govern the licensure of child care centers including programs that provide day care, night care, drop-in and sick care for less than 24 hours a day. These rules do not cover child care provided in private residences. These rules ensure the care and safety of the children being cared for. The rules are in need of general updating. Pending the development of revised standards, we recommend that these rules remain in effect to provide minimum standards for the safety and wellbeing of the children receiving care in centers.

## **CHAPTER 9505. HEALTH CARE PROGRAMS**

### **PARTS 9505.0010 TO 9505.0150 – Medical Assistance Eligibility Policy**

Minnesota Rules, parts 9505.0010 to 9505.0150, set standards under MA concerning eligibility, the application process, county determination procedures, third party liability, and assignment of rights to medical support. This rule ensures that procedures for determining eligibility and enrolling participants are in compliance with the requirements of federal law and are consistent throughout the state. The rule was updated in 2002 through the repeal of several obsolete provisions. We recommend that these rules remain in effect to ensure uniformity in the eligibility standards and enrollment procedures applied throughout the state for the over 200,000 Minnesota families who annually receive services through this program.

### **PARTS 9505.0170 TO 9505.0475 – Medical Assistance – Provider Services**

Minnesota Rules, parts 9505.0170 to 9505.0475, define the services and providers that are eligible to receive MA payments. This rule also provides the basis for benefit coverage for GAMC and MinnesotaCare. It includes the criteria for general coverage as well as specific criteria for many services. The rule provides information to the public regarding what services are covered, who can provide these services and how coverage decisions are made. The rule also provides guidance to providers regarding covered services, billing procedures, payment rates, record keeping, and utilization review and control.

This rule is continually being updated to reflect changes in the provider community and practice standards. Amendments to part 9505.0390, governing rehabilitative and therapeutic services, were effective in 2001 and amendments to parts 9505.0323 through 9505.0327, regarding family community support services, were effective in 2002. Part 9505.0270, governing dental services was amended in 2002 to reduce the administrative burden on providers and increase access to recipients. DHS is in the process of amending provisions governing physician service coverage (part 9505.0345) and payment limits for mental health hospitalization (part 9505.0323).

We are recommending the repeal of Minnesota Rules, parts 9505.0185. This provision establishes the guidelines and requirements of a professional services advisory committee to provide consultation to the commissioner on the medical necessity of services. By statute, the commissioner is authorized to make determinations of medically necessary services using either a professional services committee or a health care consultant. The statutory authority to establish and utilize this committee will expire in June, 2003. Historically, the commissioner has used health care consultants to fill this role and the committee has not been established. Further, the benefits to be derived from the input of this committee are duplicative of those already provided to the commissioner through the input of the Medicaid Citizens Advisory Committee. The Medicaid Citizens Advisory Committee is an existing group, required by federal regulation, that has both a broader focus and a broader membership base than the committee authorized by 9505.0185.

With the exception of the provision recommended for repeal, these rules are essential to define the scope of coverage paid for by MA, as well as MinnesotaCare and GAMC. We recommend that these rules remain in effect to allow for the efficient administration of the programs.

**PARTS 9505.0491, SUBPARTS 7 AND 8 – Determining Medical Assistance Hourly payment amount for case management services.**

Minnesota Rules, parts 9505.0491, subparts 7 and 8, set the parameters within which MA payment rates were set for case management services for persons with serious and persistent mental illness and children with severe emotional disturbance. The rates are now established pursuant to legislation enacted in 2001, therefore, we recommend that these provisions be repealed.

**PARTS 9505.0500 TO 9505.0540 – Hospital Admission Certification**

Minnesota Rules, parts 9505.0500 to 9505.0540, establish admission certification as a condition of receiving MA or GAMC payment for inpatient hospital services to MA or GAMC recipients. The rule details the procedures to obtain certification and to appeal a denial of certification. Revisions were made to the rules in 1996 to clarify and simplify the certification process. We recommend that these rules remain in effect to ensure that inpatient hospital services paid for through MA or GAMC are medically necessary and consistent with current medical practice standards.

### **PARTS 9505.1693 TO 9505.1748 – Child and Teen Checkups**

Minnesota Rules, parts 9505.1693 to 9505.1748, establish standards for administering the Child and Teen Checkups Program of preventative health care for children ages 0 to 21 who are eligible for MA. This program was formerly known as Early and Periodic Screening, Diagnosis, and Treatment (EPSDT). This program was adopted pursuant to federal guidelines to encourage the use of health care services for children as a preventative measure. Amendments to the rule are being considered which would reduce administrative burdens by removing the requirement of separate provider agreements related only to this program. Some technical updates are also needed to make the rule consistent with changes in legislation and other agency rules. We recommend that these rules remain in effect to encourage the use of preventative health care for children and thereby promote the long-term health of our citizens.

### **PARTS 9505.2160 TO 9505.2245 – Surveillance and Integrity Review System**

Minnesota Rules, parts 9505.2160 to 9505.2245, establish procedures for investigating exceptional use, suspected fraud, or suspected abuse by recipients and providers in the MA or GAMC programs. Some changes to the rule are being considered to address new types of providers and to provide for greater accountability without undue burden for providers and recipients. We recommend that these rules remain in effect to deter fraud and abuse and to maintain the fiscal integrity of the MA and GAMC programs.

### **PARTS 9505.3045 TO 9505.3140 – Community Alternatives for Disabled Individuals under Age 65**

Minnesota Rules, parts 9505.3045 to 9505.3140, set standards for home and community based services for disabled individuals under age 65 who would otherwise require care in a nursing facility. The rule is not consistent with recent statutory changes nor does it comply with the terms of the federal waiver granted to the state. We recommend the repeal of this rule.

### **PARTS 9505.3680 TO 9505.3700 – Community Alternatives for Chronically Ill Individuals under Age 65**

Minnesota Rules, parts 9505.3680 to 9505.3700, set standards for home and community based services for chronically ill individuals under age 65 who would otherwise require hospitalization. The rule is not consistent with recent statutory changes nor does it comply with the terms of the federal waiver granted to the state. We recommend the repeal of this rule.

### **PARTS 9505.5000 TO 9505.5105 – Conditions for MA and GAMC Reimbursement**

Minnesota Rules, parts 9505.5000 to 9505.5105, establish the procedures for second medical opinion and authorization prior to payment programs as conditions of MA, GAMC and MinnesotaCare reimbursement. These provisions ensure that the medical services provided to program recipients and paid for with State resources are necessary, appropriate and consistent with current medical practice standards. Therefore, we recommend that this rule remain in effect.

## **PARTS 9505.5200 TO 9505.5240 – Provider Participation in Public Assistance Programs**

Minnesota Rules, parts 9505.5200 to 9505.5240 establish requirements provider must meet to participate in MA, GAMC and MinnesotaCare programs. This rule requires that providers participating in these programs do not deny necessary services to eligible participants. We recommend that this rule remain in effect to ensure the availability of medical care to all eligible recipients..

## **CHAPTER 9506. MINNESOTACARE PROGRAM**

### **PARTS 9506.0010 TO 9506.0110 – Administration of MinnesotaCare Program**

Minnesota Rules, parts 9506.0010 to 9506.0110, govern the administration of the MinnesotaCare Program including managed care for MinnesotaCare enrollees. MinnesotaCare provides basic health care coverage to more than 100,000 Minnesotans. This rule sets out the guidelines for eligibility, outlines the application process and sets the premium structure. This rule is essential to provide effective and uniform administration of the MinnesotaCare program statewide. Therefore, we recommend that it remain in effect.

## **CHAPTER 9510. RATES FOR HEALTH CARE FACILITIES**

### **PARTS 9510.1020 TO 9510.1140 – SPECIAL NEEDS RATE EXCEPTION FOR VERY DEPENDENT PERSONS WITH SPECIAL NEEDS**

Minnesota Rules, parts 9510.1020 to 9510.1140, establish the procedures for counties and providers to follow in requesting and obtaining a rate exception for a very dependent person with special needs. Rate exceptions established pursuant to this rule provide temporary adjustments to facility payment rates to cover the specific needs of individual clients for staff interventions or adaptive equipment. We recommend that this rule remain in effect to ensure that providers have the resources necessary to address changes in the needs of individual clients.

### **PARTS 9510.2000 TO 9510.2050 – Medical Care Surcharge**

Minnesota Rules, parts 9510.2000 to 9510.2050, implement the provider surcharges imposed under Minnesota Statutes, section 256.9657. This rule governs the imposition and collection of the surcharges and establishes an appeals process for providers who must pay the surcharges. These provisions are the minimum necessary to implement the surcharge law and impose no unnecessary burdens on the providers who pay the surcharges. We recommend that this rule remain in effect to allow the uniform application of the surcharge program.

## **CHAPTER 9515. REGIONAL TREATMENT CENTER ADMINISTRATION**

### **PARTS 9515.0200 TO 9515.0800 – Use of Electroconvulsive Therapy and Referrals for Psychosurgery for Persons Residing in State Facilities**

Minnesota Rules, parts 9515.0200 to 9515.0800 establish the procedures required when state facility staff proposes treating a patient with electroconvulsive therapy. The rule also clarifies the very limited circumstances under which referrals for psychosurgery can be made. This rule was amended in 2001 to reflect changes in medical practice standards and the use of treatments that are considered “intrusive”. We recommend that this rule remain in effect to ensure consistency in treatment standards.

### **PARTS 9515.1000 TO 9515.2600 – Determining Reimbursement for Cost of Care Patients in State Facilities**

Minnesota Rules, parts 9515.1000 to 9515.2600 establish the procedures for reimbursing the cost of care of clients in state facilities. The rule sets procedures for reaching a determination on a client’s ability to pay cost of care; identifies the resources considered as income to the client; sets parameters regarding the liability of responsible relatives; and establishes appeal procedures. This rule, applied in conjunction with Minnesota Statutes, sections 246.50 to 246.55, is necessary to determine the amount that the state may recover from clients receiving services in our facilities. We recommend that this rule remain in effect.

### **PARTS 9515.3000 TO 9515.3110 – Licensure of the Minnesota Sexual Psychopathic Personality Treatment Center**

Minnesota Rules, parts 9515.3000 to 9515.3110, govern operation, maintenance and licensure of the secure treatment facilities at Moose Lake and St. Peter Security Hospital for persons committed as sexual psychopathic personalities or as sexually dangerous. This rule, adopted in 1995, was promulgated to address the unique treatment needs and issues related to this population. We recommend that this rule remain in effect to ensure that these programs meet at least the minimum standards for providing treatment to the persons committed, while ensuring the safety of staff and the public.

## **CHAPTER 9520. PROGRAMS FOR MENTALLY ILL**

### **PARTS 9520.0010 TO 9520.0230 – Community Mental Health Services**

Minnesota Rules, parts 9520.0010 to 9520.0230 provide methods and procedures for the operation of area-wide, comprehensive, community based programs related to mental health, mental retardation and chemical dependency. Community support programs are a key form of mental health treatment for helping adults with serious or persistent mental health issues to function in the community. Minnesota Statutes, section 245.61, authorizes grants for the purpose of establishing such community based mental health programs. We recommend that this rule remain in effect in order to promote the development of community mental health programs that coordinate existing local resources with newly created resources.

**PARTS 9520.0500 TO 9520.0690 – Licensing of Residential Facilities for Adults with Mental Illness**

Minnesota Rules, parts 9520.0500 to 9520.0690 establish the standards for mental health programs providing residential treatment and rehabilitation services to adults with mental illness on a 24 hour basis. The rule established two categories of care based on whether the primary services are offered within the program or are a combination of in-house and community based services. We recommend that this rule remain in effect to provide minimum standards for the treatment and basic needs of the adults in these programs.

**PARTS 9520.0750 TO 9520.0870 – Standards for Certifying Mental Health Clinics for Insurance Reimbursement**

Minnesota Rules, parts 9520.0750 to 9520.0870 establish the treatment, staffing and quality assurance standards for mental health centers and clinics seeking approval for insurance coverage. The department is considering changes to this rule that would merge the standards with the standards relating to Community Health Centers contained in parts 9520.0010 to 9520.0230. This consolidation would simplify the regulatory structure for mental health providers. We recommend that this rule remain in effect, pending such changes. This rule is necessary to establish which mental health clinic and centers qualify for insurance reimbursement for outpatient services.

**PARTS 9520.0900 TO 9520.0926 – Mental Health Case Management Services**

Minnesota Rules, parts 9520.0900 to 9520.0926 establish standards and procedures for case management services for children with severe emotional disturbance and adults with serious and persistent mental illness and serves as a guide for counties in developing these services. This rule implements the case management requirements outlined in the Childrens' Mental Health Act and the Adult Mental Health Act. (See Minnesota Statutes, Chapter 245.) We recommend that this rule remain in effect to ensure that the mental health services provided to children and adults with the greatest mental health needs are coordinated and responsive to the assessed needs of each individual.

**CHAPTER 9525. PROGRAMS FOR PERSONS WITH MENTAL RETARDATION AND RELATED CONDITIONS**

**PARTS 9525.0004 TO 9525.0036 – Case Management Services to Persons with Mental Retardation or Related Conditions**

Minnesota Rules, parts 9525.0004 to 9525.0036, set standards for planning and delivering services to persons with mental retardation or related conditions. The rule provisions govern county board responsibilities, case manager qualifications and training, case management responsibilities, diagnosis of mental retardation and related conditions, assessment of individual service needs, screening team responsibilities, individual service plan development, provision of services, appeals, quality assurance, service development, and need determination. We

recommend that this rule remain in effect to ensure the effective coordination of services provided to these individuals.

#### **PARTS 9525.0900 TO 9525.1020 – Grants for Providing Semi-Independent Living Services to Persons with Mental Retardation**

Minnesota Rules, parts 9525.0900 to 9525.1020, set the standards for allocating state grants to county boards that provide semi-independent living services (SILS) to persons with mental retardation. The SILS program provides flexibility for the counties and the clients to make choices within the allocated funds. It also assists county boards in reducing unnecessary use of intermediate care facilities for persons with mental retardation or related conditions and home- and community-based services. This rule establishes standards for providers, program locations and reimbursement. It also defines eligibility criteria and program benefits. We recommend that this rule remain in effect to ensure the availability of services that allow persons with mental retardation to live as independently as possible in the community.

#### **PARTS 9525.1200 TO 9525.1600 – Training and Habilitation Reimbursement Procedures**

Minnesota Rules, parts 9525.1200 to 9525.1330 implement legislation to reimburse day training and habilitation vendors for services provided to residents of ICFs/MR using MA funds. This rule governs the county selection and administration of these providers, the criteria for eligible providers, the types of services, the determination of reimbursement rates and appeal procedures. Minnesota Rules, parts 9525.1580 and 9525.1600 govern control and location of services and minimum staffing requirements for day training and habilitation providers. We recommend that these rule provisions remain in effect to promote the availability of quality day training and habilitation services in order to maximize the level of self sufficiency for individuals residing in ICFs/MR.

#### **PARTS 9525.1800 TO 9525.1930 – Funding and Administration of Home and Community-Based Services.**

Minnesota Rules, parts 9525.1800 to 9525.1930, set standards for funding and managing the home and community-based waiver programs for persons with mental retardation and related conditions available through the MA program. This rule implements federal regulations along with our state plan. Pursuant to this rule, we administer the waiver programs that enable eligible individuals to remain in the community and receive services, rather than being institutionalized. We recommend that this rule remain in effect to ensure the retention and development of community services that reduce our reliance on higher cost institutional care and promote quality of life for persons with mental retardation.

#### **PARTS 9525.2700 TO 9525.2810 – Use of Adversive and Deprivation Procedures in Facilities Serving Persons with Mental Retardation or Related Conditions**

Minnesota Rules, parts 9525.2700 to 9525.2810 govern the use of adversive or deprivation procedures with persons who have mental retardation or a related condition and who are served by a license holder licensed by the commissioner under Minnesota Statutes, chapter 245A and

section 252.28, subdivision 2. This rule prohibits the use of certain procedures in these facilities and identifies procedures that are permissible, but controlled. The rule specifies the consents, reviews, and standards required for using permitted procedures. It also establishes the roles and responsibilities of internal review committees and expanded interdisciplinary teams. We recommend that this rule remain in effect to direct the use of potentially intrusive procedures on a very vulnerable population.

**PARTS 9525.3010 TO 9525.3100 – Public Guardianship for Adults with Mental Retardation**

Minnesota Rules, parts 9525.3010 to 9525.3100, set standards governing responsibility of the state and county boards in providing public guardianship or conservatorship services to adults with mental retardation. Minnesota Statutes, Chapter 252A, authorizes the commissioner to supervise adults with mental retardation who are unable to fully provide for their own needs and for whom no other appropriate person is willing and able to accept the responsibility to act as private guardian or conservator. We recommend that this rule remain in effect to ensure that responsibility for safeguarding persons with mental retardation is assigned and assumed when no qualified person is available to act as a private guardian.

**CHAPTER 9530. CHEMICAL HEALTH PROGRAMS**

**PARTS 9530.XXXX TO 9530.XXXX- Licensure of Detoxification Programs (IN DEVELOPMENT)**

This rule is in the process of development to separately identify the licensing requirements of detoxification facilities. This effort evolved from recognition that detoxification services are different from chemical dependency treatment services: clients are more vulnerable, services must be provided in residential settings and the term of the stay is short. The development of separate licensing requirements to address the unique needs and services of these programs will improve our ability to meet our regulatory objectives of ensuring the health and safety of program participants. It will also reduce unnecessary burdens for providers by more effectively matching the standards to the nature of the programs.

**PARTS 9530.XXXX TO 9530.XXXX – Licensure of Chemical Dependency Treatment Programs (IN DEVELOPMENT)**

This rule is in the final stages of development. It will combine the licensing standards for all chemical dependency treatment programs, regardless of whether or not a residential component is included. This rule will determine minimum basic standards for the essential aspects of treatment, regardless of intensity or component services. The consolidation of standards will reduce the burden on providers by requiring only one license to provide chemical dependency treatment. It will also improve our ability to provide effective treatment programs by increasing the number of programs that offer a full continuum of treatment options and intensities.

**PARTS 9530.4100 TO 9530.4450 – Licensure of Chemical Dependency Rehabilitation Programs**

Minnesota Rules, parts 9530.4100 to 9530.4450, establish licensing standards for chemical dependency rehabilitation programs, including detoxification services, primary residential treatment, extended care and halfway houses. This rule will be repealed when the above-proposed rules are adopted. Until then, this rule provides the necessary standards for residential treatment programs for chemical dependency. We recommend that this rule remain in effect until the new rules are adopted.

**PARTS 9530.5000 TO 9530.6500 – Outpatient Alcohol and Drug Treatment Programs**

Minnesota Rules, parts 9530.5000 to 9530.6500, set standards for licensing outpatient chemical dependency treatment programs. These programs serve, at any one time, five or more persons experiencing problems related to alcohol or drug use. These programs are licensed to provide both primary and post-primary care. This rule will be repealed when the above-proposed rules become effective. Until then, this rule provides the necessary standards for outpatient treatment programs for chemical dependency. We recommend that this rule remain in effect until the new rules are adopted.

**PARTS 9530.6600 TO 9530.6655 – Chemical Dependency Care for Public Assistance Recipients**

Minnesota Rules, parts 9530.6600 to 9530.6655, establish criteria that counties must apply to determine the appropriate level of chemical dependency care for a client seeking treatment for chemical dependency and abuse problems which requires the expenditure of public funds for treatment. This rule governs the staff, method and documentation required in assessing the treatment needs of prospective clients and establishes the criteria for determining the level of treatment. We recommend that this rule remain in effect to ensure that the public funds are expended for appropriate and economical chemical dependency treatment options.

**PARTS 9530.6800 TO 9530.7031 – Rules to Govern Implementation of the Chemical Dependency Consolidated Treatment Fund**

Minnesota Rules, parts 9530.6800 to 9530.7031, establish criteria for client eligibility and vendor eligibility for the use of the CD Consolidated Treatment Funds established by Minnesota Statutes, Chapter 254B. This rule also governs the client's obligation to pay for services and sets the amount of any fees. Parts 9530.6800 and 9530.6810 address the process for determining need for the development of new treatment programs and define the counties' role and the commissioner's role in this process. We recommend that these rule provisions remain in effect to ensure the effective administration of the consolidated fund and to promote statewide consistency in the availability of CD treatment services.

## **CHAPTER 9535. GRANTS FOR PROGRAMS FOR MENTALLY ILL PERSONS**

### **PARTS 9535.1700 TO 9535.1760 – Grants for Community-based Mental Health Services for Children with Severe Emotional Disturbance and Their Families and Adults with Serious and Persistent Mental Illness**

Minnesota Rules, parts 9535.1700 to 9535.1760, govern the administration of grants to counties for adult and children's mental health community support services. This rule sets the reporting requirements and guidelines for awarding the grants for services to children with severe emotional disturbance and adults with serious and persistent mental illness. The department does offer counties the option of converting these grants to Adult Mental Health Integrated Fund grants governed by Minnesota Statutes, section 245.4661, which offer increased flexibility. Many counties still elect to have their grants administered under this rule. We recommend that these rule provisions remain in effect to ensure that state fund expenditures reflect the policies and goals outlined in statute.

### **PARTS 9535.2000 TO 9535.3000 – Residential Services for Adult Mentally Ill Persons**

Minnesota Rules parts 9535.2000 to 9535.3000, set standards for grant applications, approval of applications, allocation of grants, and maintenance of service and financial records. The grants are made to county boards to ensure the provision of services to adult mentally ill persons. The rule requires the collection of data for compliance, monitoring and evaluation purposes and sets out reporting requirements. We recommend that this rule remain in effect to specify the criteria and accountability measures for receipt of grant moneys designated for program development in residential facilities for mentally ill adults.

### **PARTS 9535.4000 TO 9535.4070 – Standards for Family Community Support Services for Children with Severe Emotional Disturbance and their Families**

Minnesota Rules, parts 9535.4000 to 9535.4070, establish standards and procedures for the provision of family community support services for children with severe emotional disturbance (SED) that are critical for the delivery of quality, accountable, and measurable outcomes of community-based mental health services for children and their families. These standards direct county social service agencies to design community-based services to reduce the need for more intensive, costly or restrictive out-of-home placements, such as residential treatment facilities or regional treatment centers. Community-based mental health services are essential for children with severe emotional disturbance and their families to reside in the community. The design, development, and delivery of community based services is consistent with the nationally recognized core values of the Child and Adolescent Service System Program (CASSP).

Standards and procedures within the rule must be implemented and coordinated through the children's mental health case management system described in Minnesota Rules, parts 9520.0900 to 9520.0926, which contain standards and procedures for providing case management services to children with severe emotional disturbance. We recommend that this rule remain in effect to ensure that family support services are effectively delivered in the community.

## **CHAPTERS 9543 AND 9545. LICENSING OF FACILITIES AND AGENCIES**

### **PARTS 9543.0010 TO 9543.0150 – Family Day Care, Adult Foster Care, and Child Foster Care: Licensing Functions of County and Private Agencies**

Minnesota Rules, parts 9543.0010 to 9543.0150, establish licensing requirements for county and private agencies that license the activities and functions of family day care, adult foster care and child foster care under delegations from the commissioner pursuant to Minnesota Statutes, section 245A.16. This rule promotes uniform enforcement of rules governing licensure of family day care, adult foster care, and child foster care programs by the various delegated authorities. It also establishes minimum standards for performing licensing functions related to those rules. We recommend that this rule remain in effect to ensure uniformity in the enforcement of licensing functions that are delegated to local agencies.

### **PARTS 9543.1000 TO 9543.1060 – Generic Licensing Rule**

Minnesota Rules, parts 9543.1000 to 9543.1060, set basic standards for functions and activities such as the application process that appear in all DHS licensing rules. Individual rules refer to this general rule for these basic guidelines. This rule governs the content of license applications, procedures for review, approval and denial of applications, along with procedures for licensing actions. We recommend that this rule remain in effect to ensure uniformity in the basic standards applied to all licensed programs.

### **PARTS 9545.0010 TO 9545.0260 – Licensure of Family Foster Care and Group Family Foster Care**

Minnesota Rules, parts 9545.0010 to 9545.0260, set the standards governing licensure of foster homes for children. These standards are being amended in the development of the “Umbrella Rule” and this rule will be repealed upon its adoption. (See discussion below.) Pending the completion of the rulemaking process, we recommend that this rule remain in effect.

### **PARTS 9545.0755 TO 9545.0845 – Licensure of Private Agencies that Provide Foster Care and Adoption Services**

Minnesota Rules, parts 9545.0755 to 9545.0845, define what it means to receive children for care, supervision or placement in foster care or adoption. It also guides the planning of placement of children in foster care or adoption. The rule establishes licensing standards to be met by agencies that perform these functions, including requirements for agency funding, staffing, record keeping, and legal structure. The rule needs some revision to address relative placement of adopted children and to reflect some statutory changes. We recommend that this rule remain in effect to establish levels of accountability in licensed agencies that perform these functions.

**PARTS 9545.0905 TO 9545.1125 - Licensure of Residential Treatment Programs for Children with Severe Emotional Disturbance**

Minnesota Rules, parts 9545.0905 to 9545.1125, establish the minimum standards for licensing of residential treatment centers for children with severe emotional disturbance and shelter-based programs for children. More than 2000 children are served annually in these programs. The standards are being amended in the development of the “Umbrella Rule”. Parts 9545.0905 to 9545.1125 will be repealed upon the adoption of the Umbrella Rule. (See discussion of the Umbrella Rule, below.) Pending the completion of the rulemaking process, we recommend that this rule remain in effect.

**PARTS 9545.1200 TO 9545.1320 – Maternity Shelters**

Minnesota Rules, parts 9545.1200 to 9545.1320, set licensing standards for homes or institutions providing residential care to three or more pregnant women. These standards are being amended in the development of the “Umbrella Rule” and this rule will be repealed upon its adoption. (See discussion below.) Pending the completion of the rulemaking process, we recommend that this rule remain in effect.

**PARTS 9545.1400 TO 9545.1480 – Group Homes Licensing**

Minnesota Rules, parts 9545.1400 to 9545.1480, set licensing standards for group homes that provide residential care on a 24-hour a day basis for 10 children or less. These standards are being amended in the development of the “Umbrella Rule” and this rule will be repealed upon its adoption. (See discussion below.) Pending the completion of the rulemaking process, we recommend that this rule remain in effect.

**PARTS 9545.2000 TO 9545.2040 – Day Care and Residential Programs Licensing Fees**

Minnesota Rules, parts 9545.2000 to 9545.2040 establish procedures for the department to determine and collect fees for issuing and renewing licenses for residential and nonresidential programs and agencies. The fees collected pursuant to the procedures and fee formula provided in this rule generate approximately \$700,000 per year in general fund revenue. We recommend that this rule remain in effect to ensure uniformity in the determination and collection of fees.

**PARTS 2960.0010 TO 2960.3340 – “ Umbrella Rule” (IN DEVELOPMENT)**

This rule has been in development for a number of years and it is expected that it will be adopted by the end of the year. The rule is a comprehensive rewrite of all children’s residential licensing rules. DHS developed the rule in conjunction with the Department of Corrections. The rule includes licensing guidelines for all out of home placement options regardless of the reason for the placement or the agency that initiates the placement. This rule will improve our ability to meet our regulatory objectives by providing consistent standards for all settings in which children are placed for residential care. It will also reduce the burden on regulated providers, because it will allow them to be licensed based upon the type of care they provide, rather than the source of the child placement.

## **CHAPTER 9549. PAYMENT RATE DETERMINATION IN LONG-TERM CARE FACILITIES**

### **PARTS 9549.0010 TO 9549.0080 – Payment Rate Determination**

Minnesota Rules, parts 9549.0010 to 9549.0080 set standards for determining the daily payment rates for care provided in nursing facilities. This rule establishes the individual payment rates for any Minnesota nursing homes that participate in the MA program and elect to have a cost based payment rate. It provides for allowable costs, annual reporting requirements and appeal rights. Approximately 100 nursing homes still have their rates established based upon the principles and requirements of this rule. Portions of this rule have been superceded by legislation. In addition, a study to develop a new reimbursement system is in progress. Until an alternative payment model fully replaces the determination of cost based payment rates applying these provision, we recommend that this rule remain in effect to serve as a guide in the determination of payment rates for certain facilities.

## **CHAPTER 9550. GENERAL ADMINISTRATION OF SOCIAL SERVICES**

### **PARTS 9550.0010 TO 9550.0092 – Administration of Community Social Services**

Minnesota Rules parts 9550.0010 to 9550.0093, establish the standards for administering publicly funded social services in Minnesota. These provisions direct counties with respect to community social service plans, client application and eligibility, purchasing services, charging fees and providing appeal procedures. We recommend that this rule remain in effect to ensure the uniform administration of social service programs throughout the state.

### **PARTS 9550.0300 TO 9550.0370 – Title IV-E Funding Allocation**

Minnesota Rules, parts 9550.0300 to 9550.0370 provide a uniform system for allocating federal funds received as reimbursement for administrative and training costs under Titles IV-E and XIX. The department receives federal funds from Titles IV-E and XIX as reimbursement for costs incurred by local agencies in providing community social services. This rule establishes the reporting requirements for local agencies and the disbursement formulae to distribute these funds to the local level. Some changes are being considered to reflect new programs. At this time we recommend that this rule remain in effect to enable the equitable distribution of these funds to local agencies.

### **PARTS 9550.6200 TO 9550.6240 – Parental Fees for Children in 24-Hour Out of Home Care**

Minnesota Rules, parts 9550.6200 to 9550.6240 establish standards for assessing and collecting fees from parents of children who are placed out of home in 24-hour care. We recommend that this rule remain in effect to ensure that parental fees are uniformly and fairly assessed.

## **CHAPTER 9553. PAYMENT TO INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED**

### **PARTS 9553.0010 TO 9553.0080 – Determination of Payment Rates for Intermediate Care Facilities for Persons with Mental Retardation**

Minnesota Rules, parts 9553.0010 to 9553.0080, establish standards for determining the daily cost based payment rates for care provided in intermediate care facilities for the mentally retarded (ICFs/MR). It provides for allowable costs, annual reporting requirements and appeal rights. This rule has limited applicability because the reimbursement system for ICFs/MR was established in Minnesota Statutes, section 256B.5011 effective October 1, 2001. The rule continues to apply to a small number of facilities that entered into closure agreements prior to October 1, 2001. We anticipate that the rule will be obsolete in about a year and will be repealed at that point. Until then, we recommend that the rule remain in effect to provide standards for determining payment rates in specified facilities.

## **CHAPTER 9555. SOCIAL SERVICES FOR ADULTS**

### **PARTS 9555.0100 TO 9555.1600 – Senior Companion Program**

Minnesota Rules, parts 9555.0100 to 9555.1600, set standards for administering the Senior Companion Program, which provides part-time volunteer opportunities for low income older persons and gives person-to-person support services to adults with special or exceptional health, education or welfare needs. The services are intended primarily for person in their own homes, however, those in group homes, nursing homes, or other public or private institutions may also be served. The rule establishes the criteria for selecting, employing and paying senior companions. It also provides guidelines on selecting the adults to be served. There is federal legislation pending that would change the eligibility guidelines for companions by lowering the age limit to 55 and eliminating the income restrictions. Currently, we recommend that this rule remain in effect to provide meaningful part time opportunities to low-income older persons and to provide one-to-one support for adults with special needs.

### **PARTS 9555.5105 TO 9555.6265 - Administration of Adult Foster Care Services and Licensure of Adult Foster Homes**

Minnesota Rules, parts 9555.5105 to 9555.6265 set standards for licensing, administering and providing social services to functionally impaired adults in adult foster care homes so they receive an assessment of need for foster care and are offered community, health, and social services that may be needed or requested. This rule requires some changes in order to comply with legislative changes and to address the needs of specific populations, such as the aged. Pending these changes, we recommend that the rule remain in effect to ensure that the minimum standards are maintained for the health and safety of adults in foster care.

### **PARTS 9555.7100 TO 9555.7700 – Protective Services to Vulnerable Adults**

Minnesota Rules, parts 9555.7100 to 9555.7700 set standards for county investigations of alleged abuse or neglect of vulnerable adults. The rule also sets the standards for the provision

of protective services to vulnerable adults. Portions of the rule related to investigations were superseded by revisions to the Vulnerable Adult Act. The provisions that relate to protective services still serve as a guide for county actions. The department is considering a rewrite of this rule to coincide with the development of targeted case management for vulnerable adults. For the present, we recommend that the rule remain in effect to direct the development of protective services for vulnerable adults.

#### **PARTS 9555.9000 TO 9555.9300 – Services to Mothers and Pregnant Women**

Minnesota Rules, parts 9555.9000 to 9555.9300 set standards for the services provided to pregnant women by local social service agencies. It establishes the eligibility criteria for women entitled to services and defines the responsibilities of the local agencies. We recommend that this rule remain in effect to ensure that appropriate social services are available and offered to specified categories of new mothers and pregnant women who may be at risk without such services.

#### **PARTS 9555.9600 TO 9555.9730 – Adult Day Care Licensure**

Minnesota Rules, parts 9555.9600 to 9555.9730 set standards for the licensure of adult day care centers that regularly provide care to six or more functionally impaired adults. This rule establishes the minimum standards for staffing and physical space. It also specifies the rights of participants and the requirements for safety, record retention and program operations. We recommend that this rule remain in effect to ensure compliance with minimum standards of health and safety for vulnerable adults served in these programs.

### **CHAPTER 9560. SOCIAL SERVICES FOR CHILDREN**

#### **PARTS 9560.0010 TO 9560.0180 – Adoption**

Minnesota Rules, parts 9560.0010 to 9560.0180 set standards governing agency adoptive placement of children, including adoption assistance, development of adoptive homes, assistance to the court in finalizing an adoption, and providing post-adoption services to the adoptive family. The rule also sets standards for protecting a child placed independently, and for regulating interstate and intercounty adoption and agency record maintenance. Amendments to this rule are being considered to incorporate changes in state and federal law regarding the adoption assistance program and direct adoption as well as changes in practice resulting from adoption studies. Pending these amendments, we recommend that this rule remain in effect to ensure that adoption procedures are uniform and reflect the best interests of the child.

#### **PARTS 9560.0210 TO 9560.0234 – Protective Services for Children**

Minnesota Rules, parts 9560.0210 to 9560.0234 set standards for local social service agencies to administer and provide protective services to children. This rule ensures that child protective services are available to safeguard the rights and welfare of children whose parents are unable or unwilling to do so. The department is considering an amendment to this rule to update the tools

rule requires some technical revisions to reflect changes in federal law. We recommend that this rule remain in effect to maintain compliance with federal law.

## **CHAPTER 9565. INDIVIDUAL AND FAMILY SERVICES**

### **PARTS 9565.1000 TO 9565.1300 – Homemaker Services**

Minnesota Rules, parts 9565.1000 to 9565.1300 set standards for local social service agencies' administration, purchase and provision of homemaking services. Homemaking services include the provision and/or teaching of child care, personal care, and home management to individuals and families. We recommend that this rule remain in effect to ensure uniformity in the delivery of these services.

## **CHAPTER 9570. SOCIAL SERVICES FOR PHYSICALLY HANDICAPPED INDIVIDUALS**

### **PARTS 9570.2000 TO 9570.3600 Residential Facilities and Services for the Physically Handicapped**

Minnesota Rules, parts 9570.2000 to 9570.3600 set standards for licensing community-based residential facilities and services for physically handicapped individuals. Rule 80 currently applies to only 4 facilities. The department is reviewing this rule to determine whether the standards could be consolidated with other rules that are also applied to these four facilities. The department is also reviewing the funding mechanism to determine whether the repeal of this rule would have an impact on the services provided. Pending the outcome of this review, the department recommends that this rule remain in effect.

## **CHAPTER 9575. MERIT SYSTEM**

### **PARTS 9575.0010 TO 9575.1580 – Merit System**

Minnesota Rules, parts 9575.0010 to 9575.1580 set standards for agencies to follow so as to ensure compliance with federal standards for a Merit System of Personnel Administration. Certain federal grant programs require, as a condition of eligibility, that state and local agencies receiving grants establish merit systems for their personnel engaged in the administration of the grant-aided program. The rules cover classification, compensation, recruitment and examination, certification and appointment, transfers and demotions, leaves of absence, separation, tenure, reinstatement, appeals, and other personnel standards. Over the past several years, we have repealed language that is no longer useful or necessary. Other amendments to the rules have increased local flexibility and have allowed county appointing authorities to use their own county personnel policies, where appropriate. We have no suggestions for further changes at this time and recommend that these rules remain in effect.

## CHAPTER 9585. COMPULSIVE GAMBLING ASSESSMENTS

### **PARTS 9585.0010 TO 9585.0040 – Compulsive Gambling Assessments for Certain Offenders**

Minnesota Rules, parts 9585.0010 to 9585.0040 establish procedures for identifying offenders who qualify for compulsive gambling assessments. The provisions also set standards of qualification for persons who perform these assessments. Application of this rule is a cooperative effort with the Department of Corrections (DOC). The rule has not been utilized to extent we anticipated that it would be, however, there continues to be a need for these assessments. At the request of DOC, the department has begun providing education programs for probation officers regarding the rule. The department is considering some language changes to clarify assessor qualifications and reimbursement mechanisms. We recommend that this rule remain in effect to guide the identification of offenders who would benefit from treatment programs for compulsive gambling.