

Minnesota State Register

Published every Monday (Tuesday when Monday is a holiday)



**Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules;
Executive Orders; Appointments; Commissioners' Orders; Revenue Notices;
Official Notices; State Grants & Loans; State Contracts; Non-State Public Bids,
Contracts and Grants**

Monday 11 May 2020

Volume 44, Number 46

Pages 1297 - 1338

Minnesota State Register

Judicial Notice Shall Be Taken of Material Published in the Minnesota State Register

The Minnesota State Register is the official publication of the State of Minnesota's Executive Branch of government, published weekly to fulfill the legislative mandate set forth in Minnesota Statutes, Chapter 14, and Minnesota Rules, Chapter 1400. It contains:

- Proposed Rules
- Executive Orders of the Governor
- Commissioners' Orders
- Contracts for Professional, Technical and Consulting Services
- Adopted Rules
- Appointments
- Revenue Notices
- Official Notices
- Non-State Public Bids, Contracts and Grants
- Exempt Rules
- Proclamations
- State Grants and Loans
- Expedited Rules
- Vetoed Rules
-
-

Printing Schedule and Submission Deadlines

| Vol. 44 Issue Number | Publish Date | Deadline for: all Short Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical- Consulting Contracts, Non-State Bids and Public Contracts | Deadline for LONG, Complicated Rules (contact the editor to negotiate a deadline) |
|----------------------------|----------------|---|---|
| #47 | Monday 18 May | Noon Tuesday 12 May | Noon Thursday 7 May |
| #48 | Tuesday 26 May | Noon Tuesday 19 May | Noon Thursday 14 May |
| #49 | Monday 1 June | Noon Tuesday 26 May | Noon Thursday 21 May |
| #50 | Monday 8 June | Noon Tuesday 4 June | Noon Thursday 28 May |

PUBLISHING NOTICES: We need to receive your submission ELECTRONICALLY in Microsoft WORD format. Submit ONE COPY of your notice via e-mail to: sean.plemmons@state.mn.us. State agency submissions must include a "State Register Printing Order" form, and, with contracts, a "Contract Certification" form. Non-State Agencies should submit ELECTRONICALLY in Microsoft WORD, with a letter on your letterhead stationery requesting publication and date to be published. Costs are \$13.50 per tenth of a page (columns are seven inches wide). One typewritten, double-spaced page = 6/10s of a page in the State Register, or \$81. About 1.5 pages typed, double-spaced, on 8-1/2"x11" paper = one typeset page in the State Register. Contact editor with questions (651) 201-3204, or e-mail: sean.plemmons@state.mn.us.

SUBSCRIPTION SERVICES: Copies are available at Minnesota's Bookstore, 660 Olive Street, St. Paul, MN 55155. Order by phone: Metro area: (651) 297-3000 Toll free (800) 657-3757. TTY relay service phone number: 711. NO REFUNDS. E-mail subscriptions are available by contacting (651) 201-3202. Send address changes to Minnesota's Bookstore, 660 Olive Street, St. Paul, Minnesota 55155.

SEE THE Minnesota State Register free at website: <http://www.mn.gov/admin/bookstore>

- Minnesota State Register: On-line subscription – \$180, includes links, index, special section "CONTRACTS & GRANTS," with Sidebar Table of Contents, Early View after 4:00 pm Friday (instead of waiting for early Monday), and it's sent to you via E-mail.
- Single issues are available for a limited time: Minnesota State Register \$5.00.
- "Affidavit of Publication" includes a notarized "Affidavit" and a copy of the issue: \$15.00.
- Research Services - will look up, photocopy, and fax or send copies from past issues at \$1.00 per page.

Governor: Tim Walz
(651) 201-3400

Lieutenant Governor:
Peggy Flanagan
(651) 201-3400

Commissioner:
Alice Roberts-Davis
(651) 201-2601

Facilities Management
Division: Christopher A.
Guevin
(651) 201-2350

Attorney General:
Keith Ellison (651) 296-3353

Auditor: Julie Blaha
(651) 296-2551

Secretary of State: Steve
Simon (651) 296-2803

Minnesota's Bookstore:
Justin Patrick (651) 201-3203

Editor: Sean Plemmons
(651) 201-3204
sean.plemmons@state.mn.us

Subscriptions Manager:
Loretta J. Diaz (651) 201-3202
loretta.diaz@state.mn.us

Copyright © 2020 Facilities Management Division, Department of Administration, State of Minnesota.
USPS Publication Number: 326-630 (ISSN: 0146-7751)

THE MINNESOTA STATE REGISTER IS PUBLISHED by Facilities Management Division, Department of Administration, State of Minnesota, pursuant to Minnesota Statutes § 14.46 and is available on-line at: <http://www.mn.gov/admin/bookstore>

Minnesota Legislative Information

Senate Public Information Office
(651) 296-0504
State Capitol, Room 231, St. Paul, MN 55155
<https://www.senate.mn/>

Minnesota State Court System
Court Information Office (651) 296-6043
MN Judicial Center, Rm. 135,
25 Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155
<http://www.mncourts.gov>

House Public Information Services
(651) 296-2146
State Office Building, Room 175
100 Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155
<https://www.house.leg.state.mn.us/hinfo/hinfo.asp>

Federal Register
Office of the Federal Register (202) 512-1530; or (888) 293-6498
U.S. Government Printing Office – Fax: (202) 512-1262
<https://www.federalregister.gov/>

Minnesota Rules: Amendments and Additions.....1300

Executive Orders

Office of the Governor

Emergency Executive Order 20-50: Ensuring the Protection of Emergency Government Support and Consumers' Financial Security from Consumer Garnishment Actions During the COVID-19 Peacetime Emergency 1301
 Emergency Executive Order 20-51: Requiring Facilities to Prioritize Surgeries and Procedures and Provide Safe Environment during COVID-19 Peacetime Emergency.. 1308

Official Notices

Office of Administrative Hearings and Department of Human Services
 Amended Order in In the Matter of JustUs Health's Petition for a Determination that the Department of Human Services is Enforcing a Manual as an Unadopted Rule 1308

Department of Employment and Economic Development (DEED)
Rehabilitation Services and Disability Determination Services
 Fee Schedule for Medical Consultative Examinations and Ancillary Testing Effective January 1, 2020 1314

Department of Health
 Notice of Completion of Annual Health Care Quality Measures Rule Review 1330

Investment Advisory Council
 Official Meeting Notice..... 1331

State Law Library
 Notice of County Law Library Fees 5/1/2020 1331

State Grants & Loans

Department of Health
Division of Child and Family Health
 Request for Proposals for the Positive Alternatives Grant Program..... 1331

MNSure (Minnesota's Health Insurance Marketplace)
 Request for Proposals: Navigator Outreach and Enrollment Grants 1332

State Contracts

Minnesota State Colleges and Universities (Minnesota State)
 Non-Construction Related Bid and Contracting Opportunities 1333

Winona State University
 Request For Proposals (RFP) For Full Service Oil Change/Preventative Maintenance Work for all Winona State University Owned Vehicles (with the Exception of Vehicles Under Warranty) 1333

Minnesota Public Utilities Commission
 Request for Proposals for Tribal Liaison for Line 3 Project..... 1333

Minnesota Department of Transportation (MnDOT)
Engineering Services Division
 Notices Regarding Professional/Technical (P/T) Contracting..... 1334

Non-State Public Bids, Contracts & Grants

Capitol Region Watershed District (CRWD)
 Request for Bids for Como Zoo and Golf Course Stormwater BMPs Project 1335

Lower Minnesota River Watershed District (LMRWD)
 Request for Proposals for an Engineering Consultant, a Legal Consultant and a Consultant to provide Education & Outreach Services..... 1336

MacDonald & Mack Architects
 Request for Proposals for Nary School Window Repair and Replacement Project 1338

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The State Register is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the State Register. Published every Monday, the State Register makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific Minnesota Rule chapter numbers. Every odd-numbered year the Minnesota Rules are published. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the State Register.

An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (Minnesota Statutes §§ 14.101). It does this by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as Proposed Rules, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules, and withdrawn proposed rules, are also published in the State Register. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the State Register as Adopted Rules. These final adopted rules are not printed in their entirety, but only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the State Register, the issue the rule appeared in as proposed, and later as adopted.

The State Register features partial and cumulative listings of rules in this section on the following schedule: issues #1-26 inclusive (issue #26 cumulative for issues #1-26); issues #27-52 inclusive (issue #52, cumulative for issues #27-52 or #53 in some years). A subject matter index is updated weekly and is available upon request from the editor. For copies or subscriptions to the State Register, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155, phone: (612) 297-3000, or toll-free 1-800-657-3757. TTY relay service phone number: (800) 627-3529.

Volume 44 - Minnesota Rules

(Rules Appearing in Vol. 44 Issues #1-26 are in Vol. 44, #26 - Monday 23 December 2019)

Volume 44, #46

Monday 30 December - Monday 11 May

| | | | |
|--|-----------|--|-----------|
| Board of Accountancy | | Department of Natural Resources | |
| 1105.1100; .1800; .2000; .3700; .4000 (adopted)..... | 763 | 6240.0600 (expedited emergency)..... | 899 |
| Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design | | 6230; 6236; 6240 (expedited emergency)..... | 900 |
| 1800.2500; .3505; .3910 (adopted)..... | 987 | 6264.0300; .0400 (adopted exempt)..... | 933 |
| Board of Cosmetology | | 6232.4800 (expedited emergency)..... | 939 |
| 2105.0215; .0360 (adopted)..... | 941 | 6266.0500 (adopted expedited)..... | 327, 941 |
| Department of Education | | 6264.0050 (adopted expedited)..... | 1153 |
| 3501.0820 (proposed)..... | 797 | 6264.0400 (adopted expedited)..... | 1261 |
| Board of Electricity | | Board of Podiatric Medicine | |
| 1315.0200 (proposed)..... | 1021 | 6900.0010; .0160; .0210; .0300 (proposed repeal)..... | 825 |
| Department of Health | | Pollution Control Agency | |
| 4654.0800 (proposed expedited)..... | 801 | 7005.0100 (adopted)..... | 1026 |
| 4720.0030 (adopted)..... | 483, 1026 | Racing Commission | |
| Department of Labor and Industry | | 7870; 7877; 7879; 7897 (adopted)..... | 725, 1026 |
| 1323.0402 (adopted)..... | 763 | 7869; 7876; 7877; 7883; 7884; 7890; 7891; 7892; | |
| 1309.0303; .0310; .0602 (adopted)..... | 764 | 7897 (adopted)..... | 741, 1047 |
| 1307 (proposed)..... | 821 | Department of Revenue | |
| 5208.1500 (adopted exempt)..... | 664, 865 | 8121.0300; .0400; .0500 (adopted exempt)..... | 760 |
| 5205.0010 (proposed exempt)..... | 1024 | 8106.0700; .0800 (adopted exempt)..... | 957 |
| 1346.0401; .0403; .0508 (adopted)..... | 1085 | 1950.1020; .1030; .1035; .1040; .1050; .1060; .1080 (proposed).. | 1079 |
| 5221.6700 (expedited)..... | 1266 | | |
| Lottery | | | |
| 7856.4030 (adopted)..... | 827 | | |

Executive Orders

The governor has the authority to issue written statements or orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the Constitution of the State of Minnesota, Article V, and in *Minnesota Statutes* § 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

Office of the Governor

Emergency Executive Order 20-50: Ensuring the Protection of Emergency Government Support and Consumers' Financial Security from Consumer Garnishment Actions During the COVID-19 Peacetime Emergency

I, **Tim Walz, Governor of the State of Minnesota**, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety. On April 13, 2020, after notifying the Legislature, I issued Executive Order 20-35, extending the peacetime emergency declared in Executive Order 20-01.

Many Minnesotans are suffering from food insecurity, unemployment, and housing insecurity from the effects of the COVID-19 pandemic, which affects physical and mental well-being. These concerns are exacerbated by outstanding consumer debt and automatic garnishments from Minnesotans' accounts.

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") provides emergency government financial support to help Americans with their essential needs during the COVID-19 pandemic. Some Minnesotans are receiving or will receive financial assistance in the form of cash either sent by check or directly deposited into their bank accounts. Section 2201 of Title II of the CARES Act provides "recovery rebates" to individuals and families ("Recovery Rebates"). The Recovery Rebates take the form of cash assistance paid directly to individuals and families, subject to means-tested criteria, of up to \$1,200 for each eligible individual or \$2,400 for eligible married couples filing joint tax returns, plus an additional \$500 per eligible child. Individuals and families with higher incomes receive smaller payments or no payment at all.

State, local, and tribal governments have made or may be planning to make emergency funds available to their members to help afford their lives during the COVID-19 pandemic, and I have already issued Executive Order 20-42 to ensure that those funds do not count as income (as defined in that Executive Order) when determining eligibility for programs through Minnesota's Department of Human Services.

These government emergency support funds should go toward their intended purpose—ensuring the health and safety of Minnesotans by allowing them to afford their lives during the COVID-19 pandemic. These support funds should not be intercepted by third parties or immediately garnished for consumer debt incurred before the COVID-19 pandemic. Steps must be taken to preserve these funds by limiting other garnishments as well. Such steps will bring Minnesota into alignment with recent federal actions, including those to prevent the garnishment of student loan borrowers' wages and tax refunds. Allowing CARES Act payments and other emergency governmental payments to be used for daily necessities, instead of the resolution of pre-pandemic consumer debt, will protect the public peace, health, and safety of Minnesotans during this pandemic and comports with the intent of the CARES Act as well as other

Executive Orders

emergency governmental payments.

In Minnesota Statutes 2019, section 12.02, subdivision 1, the Minnesota Legislature recognized the “existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness” and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to “ensure the preparations of this state will be adequate to deal with disasters,” to “generally protect the public peace, health, and safety,” and to “preserve the lives and property of the people of the state.” Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State’s emergency management as well as carry out the provisions of Minnesota’s Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may “make, amend, and rescind the necessary orders and rules to carry out the provisions” of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the State are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. Beginning immediately, for all purposes other than those related to domestic support obligations such as child support and spousal maintenance (“Domestic Support Obligations”), the Recovery Rebates must be deemed to be “government assistance based on need” under Minnesota Statutes 2019, section 550.37, subdivision 14 (“Government Aid”), making them exempt from all claims—except claims for Domestic Support Obligations—by creditors, including but not limited to any contractual setoff or security interest asserted by a financial institution, attachment, garnishment, seizure, sale, or any process under Minnesota Statutes 2019, Chapters 550, 551, and 571 (“Exempted Claims”).
2. Beginning immediately, for all purposes other than those related to Domestic Support Obligations, state, local, and tribal governmental payments issued to relieve the adverse economic impact caused by the COVID-19 pandemic must be deemed to be Government Aid, making them exempt from all Exempted Claims.
3. Beginning immediately, the provisions in Minnesota Statutes 2019, Chapters 571, which permit service of a garnishment summons on a consumer debtor or consumer garnishee, are suspended. For the purposes of this Executive Order, the terms “Consumer Debtor” and “Consumer Garnishee” have the definition of “debtor” and “garnishee” as used in Minnesota Statutes section 571.712, subdivisions 2(b) and 2(c), when applied to debtors and garnishees who are natural persons and whose debt originated from the purchase of goods or services purchased primarily for a personal, family, or household purpose, and not for a commercial, agricultural, or business purpose.
4. Beginning immediately, Minnesota Statutes 2019, sections 571.93 through 571.932, which permit prejudgment garnishment on a Consumer Debtor or Consumer Garnishee, are suspended.
5. Beginning immediately, the provisions of Minnesota Statutes 2019, section 550.011, which permits a judgment creditor to obtain information about a consumer debtor’s assets, liabilities, and personal earnings, are suspended.
6. No provision in this Executive Order applies to Domestic Support Obligations, including child support and spousal maintenance obligations.
7. No provision in this Executive Order relieves a Consumer Debtor or Consumer Garnishee of any liability, including, but not limited to, any accrual of interest on outstanding debt.
8. Pursuant to Minnesota Statutes 2019, section 12.45, any person who is found to have violated this section is subject to a civil penalty of not more than \$25,000 per violation. The Attorney General may investigate and bring an enforcement action to remediate and enjoin any alleged violation of this Executive Order. The authority of the Attorney General under this Executive Order includes, but is not limited to, the authority provided under Minnesota Statutes 2019, section 8.31. If a financial institution acts on a pre-existing garnishment summons and

Executive Orders

garnishes funds exempted from garnishment by paragraphs 1 or 2 of this Executive Order without actual knowledge of its source, the financial institution is not liable for any action under this Executive Order.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately, upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 4, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on May 4, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Office of the Governor

Emergency Executive Order 20-51: Requiring Facilities to Prioritize Surgeries and Procedures and Provide Safe Environment during COVID-19 Peacetime Emergency

I, **Tim Walz, Governor of the State of Minnesota**, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. On April 13, 2020, after notifying the Legislature, I issued Executive Order 20-35, extending the peacetime emergency declared in Executive Order 20-01.

The spread of COVID-19 has placed significant strain on Minnesota's healthcare system, necessitating aggressive measures to preserve adequate staffing in healthcare facilities and conserve critical resources such as ventilators and personal protective equipment ("PPE"). On March 17, 2020, the Centers for Disease Control and Prevention ("CDC") recommended delaying elective inpatient and outpatient medical and dental procedures. On March 18, 2020, the Centers for Medicare and Medicaid Services ("CMS") issued similar guidance, also noting that non-essential or elective procedures increase patient and provider contact, which could elevate the risk of COVID-19 transmission. Consistent with this federal guidance, in Executive Order 20-09, I directed Minnesotans to delay all non-essential or elective procedures that utilize PPE or ventilators, including dental care. On March 23, 2020, I issued Executive Orders 20-16 and 20-17, directing Minnesota businesses, nonprofits, and non-hospital entities to conserve PPE, ventilators, respirators, and anesthesia machines for essential healthcare services, and further clarifying the application of Executive Order 20-09 to non-essential or elective veterinary procedures.

Although postponement of non-essential or elective procedures has proven to be an effective means of preserving

Executive Orders

essential healthcare resources for the COVID-19 response, Minnesota Department of Health (“MDH”) guidance released along with this Executive Order also recognizes that extended delays in the provision of certain care may pose substantial risks to patients. Non-essential or elective procedures are often clinically necessary, for example, to treat chronic pain and conditions or to prevent, cure, or slow the progression of diseases. On April 19, 2020, CMS issued “Phase I” guidance encouraging states to resume the provision of non-essential, non-COVID-19 care to patients as clinically appropriate and within states, localities, or facilities that have the resources to provide such care and the ability to quickly respond to a surge in COVID-19 cases, if necessary. The guidance recommends careful planning and preparation, including ongoing monitoring of state and regional COVID-19 cases and symptoms and ensuring adequate availability of healthcare facilities, workforces, testing, and supplies.

Since the issuance of Executive Orders 20-09, 20-16, and 20-17, Minnesota has made and continues to make significant headway in securing additional PPE and improving testing and hospital surge capacity, which now allows our healthcare facilities to take important steps toward providing a wider range of clinically necessary care. This Executive Order is designed to allow hospitals, ambulatory surgical centers, and clinics (collectively, “facilities” or “healthcare facilities”)—whether veterinary, medical, or dental—to resume the provision of many currently-delayed procedures once facilities have adequately planned to prioritize the ongoing COVID-19 response; develop criteria for determining which procedures should proceed during the COVID-19 pandemic; and provide a safe environment for facility staff, patients, and visitors.

In Minnesota Statutes 2019, section 12.02, subdivision 1, the Minnesota Legislature recognized the “existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness” and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to “ensure the preparations of this state will be adequate to deal with disasters,” to “generally protect the public peace, health, and safety,” and to “preserve the lives and property of the people of the state.” Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State’s emergency management as well as carry out the provisions of Minnesota’s Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may “make, amend, and rescind the necessary orders and rules to carry out the provisions” of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the State are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. Beginning on May 10, 2020 at 11:59 p.m., healthcare facilities providing procedures that utilize PPE or ventilators—whether veterinary, medical, or dental—must complete the requirements set forth in this Executive Order.
2. Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3, Executive Orders 20-09 and 20-17 are rescinded as of May 10, 2020 at 11:59 p.m.
3. Effective May 10, 2020 at 11:59 p.m., paragraph 3 of Executive Order 20-16 is amended by the following deletions (indicated by strikethroughs):

~~Any Minnesota business, nonprofit, or non-hospital health care facility must refrain from using any such consumable equipment other than for use in delivering critical health care services or essential services requiring such equipment, and must either donate it to a local coordinating entity or prepare for the possibility of being asked to donate or sell it for use by critical health care workers.~~

4. Paragraph 5 of Executive Order 20-16 is amended by the following additions (indicated by underlined text) and deletions (indicated by strikethroughs):

~~Notwithstanding any statute or rule to the contrary, information supplied under this Executive Order will be classified as nonpublic data and remain classified as such until the end of the peacetime emergency declared in Executive Order 20-01. Pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes~~

Executive Orders

2019, section 13.37, information supplied under this Executive Order is classified as nonpublic security information.

5. This Executive Order does not restrict telehealth services. The use of telehealth service options is strongly encouraged whenever possible.
6. **Requirement for facilities that offer procedures that utilize PPE or ventilators.** Any facility that offers procedures that utilize PPE or ventilators must develop and implement an internal oversight structure and written plan (collectively, “Plan”) establishing criteria for determining whether a procedure should proceed during the COVID-19 pandemic, for prioritizing procedures, and for ensuring a safe environment for staff, patients, and visitors. Detailed Plan requirements are set forth in the MDH guidance *Requiring Facilities to Prioritize Surgeries and Procedures and Provide Safe Environment during COVID-19 Peacetime Emergency* (“Plan Guidance”), available at: <https://www.health.state.mn.us/diseases/coronavirus/hcp/guidesurgery.pdf>
 - a. **Plan contents.** As set forth in the Plan Guidance, at a minimum, each Plan must adequately address the following areas:
 - i. **Prioritization of procedures.** The Plan must require, for each procedure, an assessment of the risks and benefits of conducting the procedure during the COVID-19 pandemic. Any decisions regarding whether to proceed with the procedure must be based on professional medical, veterinary, or dental judgment; must prioritize cases that pose a high risk to the patient if the procedure is delayed; and must consider the need for pre- and post-operative care, including the availability of related resources and care and associated risks of COVID-19 transmission. The Plan must incorporate criteria and guidance from MDH, CDC, CMS, and professional licensing boards regarding appropriate prioritization of procedures, as detailed in the Plan Guidance.
 - ii. **Community considerations.** The facility must collaborate with other stakeholders and facilities in the same community—including the applicable regional health care coalition—to ensure adequate supplies and capacity are available to respond to a potential surge in COVID-19 cases without resorting to crisis standards of care. The Plan must address the reduction or cessation of low- and medium-priority procedures in the event of a surge in COVID-19 cases.
 - iii. **Adequate screening and testing.** The facility must develop protocols to screen all staff, patients, and visitors for symptoms of COVID-19. Except for patients seeking care on an emergency basis or for COVID-19, the facility must not allow symptomatic patients, staff, and visitors into the facility or to remain in the facility once such symptoms are detected. Staff must be screened at the beginning of each shift. Additionally, a facility must either develop a protocol for testing patients prior to conducting a procedure or assume that all patients are potentially COVID-19 positive and take all attendant precautions. Any testing protocols must be developed in accordance with the considerations outlined in the Plan Guidance.
 - iv. **Use and supply of PPE.** The facility must follow and ensure professionals and staff are trained on up-to-date MDH, CDC, and professional licensing board recommendations for the use of PPE and conduct routine compliance audits. Procedures on the mucous membranes that carry a high risk of aerosol transmission must be performed with great caution and utilize appropriate respiratory protection (*i.e.*, a face shield and a N95 or higher-level respirator). The facility must also develop PPE conservation methods consistent with MDH and CDC guidance.

Executive Orders

- v. **Commercial sources of PPE.** The facility must ensure that PPE supply reserves and commercial (non-public) PPE supply chains are adequate to meet the facility's non-COVID-19-related PPE needs, taking into account the possibility of a surge in COVID-19 cases. This requirement means the facility is not permitted to seek additional PPE from public reserves for use in non-COVID-19 procedures performed as a result of this Executive Order. Moreover, the facility's commercial PPE supply chain should be open and continuous to the extent practicable, and the facility must have a sufficient number of days' supply in the facility's own reserves to account for potential commercial supply shortages and COVID-19 surges.

- vi. **Social distancing and other infection prevention measures.** As detailed in the Plan Guidance, the facility must implement protocols and physical measures to provide for social distancing; separate and minimize crossover between COVID-19 and non-COVID-19 areas and units to the extent possible; reduce unnecessary contact and interactions between staff, patients, and visitors; clean and disinfect spaces; and require facility patients and visitors to wear source-control facemasks, which the facility must be prepared to provide when necessary. The protocols and measures must include evidence-based standards for the control and prevention of infection, and the facility must train staff on the protocols and measures and conduct regular audits to ensure compliance.

- vii. **Patient consultation.** Before undergoing a procedure, each patient (or, in the case of veterinary procedures, each patient's owner) must be informed of the risks of COVID-19 transmission that are associated with the procedure, and the possibility that the procedure may be cancelled on short notice if the patient tests positive for or experiences symptoms of COVID-19, or if the facility or service area requires additional capacity to address COVID-19.

- b. **Availability to regulatory authorities.** Upon request, the facility must make its Plan available to MDH or the facility's licensing authority. In the event of a complaint or dispute related to a facility's Plan, MDH, in consultation with applicable professional licensing authorities, is authorized to determine whether the Plan adequately implements the Plan Guidance.

- c. **Worker Protections.** Existing federal and Minnesota laws, including Minnesota Statutes 2019, Chapter 182, provide the following protections to workers in facilities:
 - i. Pursuant to Minnesota Statutes 2019, section 182.654, subdivision 9, and Code of Federal Regulations, title 29, section 1977.9(c), no employer may discriminate or retaliate in any way against a worker communicating orally or in writing with management personnel about occupational safety or health matters related to COVID-19, including asking questions or expressing concerns.

 - ii. Pursuant to Minnesota Statutes 2019, section 182.654, subdivision 11, workers have the right to refuse to work under conditions that they, in good faith, reasonably believe present an imminent danger of death or serious physical harm. This includes a reasonable belief that they have been assigned to work in an unsafe or unhealthful manner with an infectious agent such as COVID-19. No employer may discriminate or retaliate in any way against a worker for their good faith refusal to perform assigned tasks if the worker has asked the employer to correct the hazardous conditions but they remain uncorrected. These situations should be immediately reported to the Minnesota Department of Labor and Industry ("DLI").

 - iii. Pursuant to Minnesota Statutes 2019, section 182.654, subdivisions 8 and 9, workers and authorized representatives of workers have the right to request that DLI conduct an

Executive Orders

inspection of their workplace if they believe that a violation of a safety or health standard that threatens physical harm exists or that an imminent danger exists. No employer may discriminate or retaliate in any way against a worker because such worker has requested an inspection or exercised any other right under Minnesota Statutes 2019, Chapter 182.

- iv. DLI has authority to receive complaints about violations of paragraphs 6.c.i to 6.c.iii and enforce these provisions using the procedures contained in Minnesota Statutes 2019, section 182.669, including awards of backpay and compensatory damages.
- d. **Enforcement.** Under existing law and authority, MDH, applicable professional licensing authorities, or any other state facility regulatory or licensing authorities may enforce this order against a facility or provider that fails to implement the Plan Guidance, fails to adhere to the facility's Plan, or that retaliates against patients, visitors, or staff who raise safety and health concerns that relate to the Plan Guidance. DLI may issue citations, civil penalties, or closure orders to places of employment with unsafe or unhealthy conditions, and DLI may penalize employers that retaliate against workers who raise safety and health concerns.
- e. **Penalties.** The regulatory and licensing actions authorized under paragraphs 6.b to 6.d supersede the penalties prescribed by Minnesota Statutes 2019, section 12.45.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 5, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on May 6, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Office of Administrative Hearings and Department Of Human Services Amended Order in In the Matter of JustUs Health’s Petition for a Determination that the Department of Human Services is Enforcing a Manual as an Unadopted Rule

This matter is pending before Administrative Law Judge James E. LaFave.

On November 25, 2019, JustUs Health, petitioned the Office of Administrative Hearings under Minn. Stat. § 14.381 (2018) for an order holding that the Minnesota Department of Human Services (Department) is enforcing guidelines in its Minnesota Health Care Program Provider Manual related to gender-confirming surgery as though they were duly adopted rules. Oral argument on the petition was held on January 3, 2020, and the record in this matter closed on March 12, 2020.

Phil Duran, Director of Advocacy, Research and Education for JustUs Health, represents JustUs Health. Michael Leonard, Assistant Attorney General, represents the Department.

Based on the submissions of the parties and the hearing record, and for the reasons set out in the Memorandum below,

IT IS HEREBY ORDERED THAT:

1. The Department shall cease enforcing the following unpromulgated rules in its Provider Manual:
 - requiring that all persons seeking gender-confirming surgery must be 18 years old;¹ and,
 - denying coverage for facial gender-confirming surgery on the grounds it is cosmetic without considering whether the procedure is medically necessary.²
2. The Department shall publish this decision in the *State Register*.
3. The Department shall bear the costs of this proceeding.

Dated: April 21, 2020

JAMES E. LAFAVE
Administrative Law Judge

NOTICE

This decision is the final administrative decision under Minn. Stat. § 14.381. It may be appealed to the Minnesota Court of Appeals under Minn. Stat. §§ 14.44-.45 (2018).

¹ See Ex. 1 at 3.
² *Id.* at 2.

MEMORANDUM

I. Factual and Regulatory Background

The Department administers the Minnesota Health Care Programs (MHCP), which include, among others, Medical Assistance and MinnesotaCare.³ Medical Assistance (MA) provides access to health care for “needy persons whose resources are not adequate to meet the cost of such care.”⁴ MinnesotaCare is a separate health care program for low-income families and individuals who do not otherwise qualify for MA.⁵ The Department contracts with managed-care organizations (MCOs) to provide health-care services for MHCP members.⁶

Under the MHCP, the Department must provide prior authorization for some medical services.⁷ MCOs render these prior authorizations on the Department’s behalf.⁸ A request for prior authorization must be approved if it is “medically necessary as determined by prevailing medical community standards or customary practice and usage; . . . appropriate and effective to the medical needs of the recipient; . . . timely, considering the nature and present state of the recipient’s medical condition; . . . furnished by a provider with appropriate credentials; . . . [the] least expensive appropriate alternative health service available; and . . . represent[s] an effective and appropriate use of program funds.”⁹ Medical necessity is defined, in relevant part, as

a health service that is consistent with the recipient’s diagnosis or condition and . . . *is recognized as the prevailing standard or current practice by the provider’s peer group* . . . is rendered in response to a life threatening condition or pain; or to treat an injury, illness, or infection; or to treat a condition that could result in physical or mental disability; or to care for the mother and child through the maternity period; or to achieve a level of physical or mental function consistent with prevailing community standards for diagnosis or condition.”¹⁰

As part of its administration of the MHCP, the Department publishes and maintains the MHCP Provider Manual.¹¹ The Provider Manual gives guidance to healthcare providers on matters including enrollment requirements, billing, coverage of particular services, and requirements for preauthorization.¹² Providers may request reconsideration of any preauthorization denial and must include with the request an explanation of why an exception should be made.¹³

A. Gender-Confirming Surgeries

The Provider Manual includes guidelines on gender-confirming surgeries for individuals diagnosed with gender dysphoria.¹⁴ “Gender dysphoria is the distress that may accompany the incongruence between one’s experienced or expressed gender and one’s assigned gender.”¹⁵ “Gender dysphoria is a serious medical condition, which if left untreated or inadequately treated can cause adverse symptoms.”¹⁶

In 2016, the Department asked the Health Services Advisory Council (HSAC), a statutorily established body created to advise the Commissioner on health services pertaining to the administration of medical benefits, to provide recommendations regarding the coverage of gender-confirming surgeries for MHCP members.¹⁷ The HSAC is comprised

3 See Minn. Stat. § 256.962 (2018).
4 Minn. Stat. § 256B.01 (2018).
5 See Minn. Stat. §§ 256L.04, .07 (2018).
6 See Minn. Stat. §§ 256B.69, 256L.12.
7 Minn. Stat. § 256B.0625, subd. 25 (2018).
8 See Affidavit (Aff.) of Phil Duran at Exhibit (Ex.) 10; see also Oral Argument Digital Recording (Jan. 3, 2020) (on file with the Minn. Office Admin. Hearings).
9 Minn. R. 9505.5030 (2019).
10 Minn. R. 9505.0175, subp. 25 (2019) (emphasis added).
11 Aff. of Julie Marquardt.
12 *Id.*
13 *Id.*
14 Aff. of P. Duran at Ex. 1.
15 *Id.* at Ex. 11 at 6.
16 *Id.*
17 Aff. of Joyce Garrett.

Official Notices

of physicians, other health care providers, and a consumer representative.¹⁸ In making recommendations to the Department, HSAC considered guidelines published by the Endocrine Society and the World Professional Association for Transgender Health (WPATH) and received input from clinicians with expertise in treating gender dysphoria.¹⁹ The Department generally recognizes WPATH standards as constituting prevailing provider practices with regard to medical necessity.²⁰

HSAC recommended delaying coverage of all gender-confirming surgery until after an individual has turned 18 years old.²¹ Although the WPATH standards generally recommend that individuals seeking gender-confirming surgery be 18 years old, they specifically reject a minimum-age criterion for mastectomies, recommending a case-by-case analysis in those instances.²² In addition, HSAC defined facial gender-confirming procedures to be cosmetic, and not medically necessary, under any circumstances.²³ In contrast, the WPATH articulates that surgery requests should be evaluated for medical necessity on a case-by-case basis and not be categorically considered cosmetic.²⁴ JustUs Health raised concerns that the HSAC guidelines would conflict with the WPATH standards, but the Department nonetheless enacted guidelines in conformance with the HSAC recommendations, as described above.²⁵

Since that time, the Department's Human Services Judges, after an appeal, have approved coverage in several instances, despite the policy guidelines. First, in early 2018, F.B. sought coverage for facial gender-confirming surgery through Blue Plus, one of the Department's MCOs.²⁶ Blue Plus denied F.B.'s request, specifically relying on the language in the Provider Manual.²⁷ F.B. appealed, and a Human Services Judge reversed Blue Plus's denial, noting that the Provider Manual conflicts with the WPATH standards.²⁸ Thereafter, Mr. Duran, JustUs Health's attorney, requested that the Department set aside its policy language to reflect this decision, but the Department declined to do so.²⁹

In November 2018, C.G., a minor, sought coverage for mastectomy, which C.G.'s doctor considered medically necessary.³⁰ Blue Plus denied this request, stating: "The Minnesota Health Care Programs (MHCP) Provider Manual policy on Gender-Confirming Surgery has criteria that needs to be met for coverage. This includes that you must be 18 years of age or older. Due to this your request for coverage has been denied."³¹ Following C.G.'s appeal, a human services judge stated that this was "not a difficult case" and noted that "the recommendations in the Provider Manual are inconsistent with the position of [C.G.'s] doctors and therapist, inconsistent with the WPATH Standards of Care, and inconsistent with the guidelines developed by the Endocrine Society."³² The judge further stated that "[n]either Blue Plus nor DHS has provided any evidence that a strict age-requirement for gender-confirming chest surgery is consistent with prevailing medical community standards. All the evidence appears to go in the other direction – that medical necessity for such a procedure must be determined on an individual, case-by-case basis."³³ The judge reversed Blue Plus's determination and recommended that the Department's "written policy that chest surgery to treat gender dysphoria in transgender males under the age of 18 is never medically necessary . . . be amended accordingly and with all due haste."³⁴

Mr. Duran again contacted the Department to request that it modify its language in the Policy Manual.³⁵ The

18 *Id.*

19 *Id.*

20 *See* Aff. of P. Duran at Ex. 7 at 3.

21 Aff. of J. Garrett.

22 *See* Aff. of P. Duran at Ex. 11 at 8.

23 *See id.* at Ex. 1.

24 *See id.* at Ex. 7.

25 *See id.* at Ex. 2.

26 *Id.* at Exs. 5, 6.

27 *Id.* at Ex. 6.

28 *Id.* at Ex. 7.

29 *Id.* at Ex. 8.

30 *Id.* at Ex. 9.

31 *Id.*

32 *Id.* at Ex. 11.

33 *Id.* at Ex. 11 at 16.

34 *Id.* at Ex. 11 at 3.

35 *See* Aff. of P. Duran at Ex. 13.

Department conceded that its policies were in some ways “contrary to those found in the WPATH standards.”³⁶ The Department suggested that the language be reevaluated at the next HSAC meeting, which was expected to occur in March 2020.³⁷ On March 11, 2020, the Department notified JustUs Health that the HSAC meeting scheduled for March 12 would not occur, because the Department was “working to fill several vacancies” with interviews for those vacancies “begin[ing] shortly.”³⁸

II. Legal Framework

The Minnesota Administrative Procedure Act (MAPA) defines a “rule” as: “every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure.”³⁹ Interpretations of existing statutes which “make specific the law enforced or administered by the agency,” are deemed to be “interpretative rules.”⁴⁰ With limited exceptions, an agency’s interpretative rules are valid only if they are promulgated in accordance with the rulemaking procedures of MAPA.⁴¹

III. Analysis

JustUs Health argues the Department is using its Policy Manual as an unpromulgated rule to bar all gender-confirming procedures to those under the age of 18 and to bar all facial gene-confirming procedures as cosmetic.

The Department disagrees. It first argues that JustUs Health does not have standing to challenge its guidelines in the Policy Manual.⁴² In addition, the Department contends that “provisions of the provider manual are not ‘rules’ for purposes of section 14.381” and that its “action does not amount to unpromulgated rulemaking because the provider manual’s gender-confirming surgery guidelines do not amount to legislative or interpretive rules.”⁴³ The Department also maintains that there is no indication the Provider Manual guidelines are dispositive.⁴⁴ Lastly, the Department contends that JustUs Health’s petition is requesting relief not available in this proceeding.⁴⁵ These arguments will be addressed in turn.

A. Standing

The Department argues that JustUs Health lacks standing because it “does not suggest that any of its members are being denied treatment as a result of the Provider Manual’s guidelines on gender-confirming surgery.”⁴⁶ The Department’s argument is misplaced.

“Standing is the requirement that a party has a sufficient stake in a justiciable controversy to seek relief from a court.”⁴⁷ Standing is essential to a court’s exercise of jurisdiction; absent standing a court does not have jurisdiction to hear a matter.⁴⁸ “A party has standing if (1) the legislature has conferred standing by statute, or (2) a party has suffered ‘injury-in-fact.’”⁴⁹

36 *Id.*

37 *Id.*

38 Letter from Phil Duran to Administrative Law Judge (Mar. 12, 2020) (on file with the Minn. Office Admin. Hearings).

39 Minn. Stat. § 14.02, subd. 4 (2018).

40 See *St. Otto’s Home v. Minn. Dep’t of Human Services*, 437 N.W.2d 35, 43-44 (Minn. 1989); *White Bear Lake Care Ctr., Inc. v. Minn. Dep’t of Pub. Welfare*, 319 N.W.2d 7, 9 (Minn. 1982); *Ebenezer Soc’y v. Minn. Dep’t of Human Servs.*, 433 N.W.2d 436, 439 (Minn. Ct. App. 1988); *Benson v. Comm’r of Pub. Safety*, 356 N.W.2d 799, 801 (Minn. Ct. App. 1984).

41 See Minn. Stat. § 14.03, subd. 3(b) (2018); *In re Application of Q Petroleum*, 498 N.W.2d 772, 780 (Minn. Ct. App. 1993), *review denied* (Minn. 1993).

42 Response by Department of Human Servs. to Petition by JustUs Health for an Order to Cease Enforcement of Unadopted Rule at 6-7 (Dec. 19, 2019) (Department’s Response).

43 *Id.* at 7, 9.

44 *Id.* at 8.

45 *Id.* at 10.

46 Department’s Response at 6.

47 *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996).

48 *Annandale Advocate v. City of Annandale*, 435 N.W.2d 24, 27 (Minn. 1989).

49 *Alliance for Metro. Stability v. Metro. Council*, 671 N.W.2d 905, 913 (Minn. App. 2003).

Official Notices

Under the law, “[a] person may petition the Office of Administrative Hearings seeking an order of an administrative law judge determining that an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule.”⁵⁰ Chapter 14 does not define “person.” However, chapter 645, governing the interpretation of statutes and rules, states that the term “[p]erson” may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.”⁵¹ Therefore, JustUs Health, an association, qualifies as a person under the statute. And, contrary to the Department’s assertion, the statute simply does not require an injury; any “person” may challenge an unpromulgated rule.⁵² Therefore, JustUs Health has standing to challenge the Department’s Policy Manual guidelines as unpromulgated rules.

B. Enforcement

The Department argues that the guidelines are not “rules” for purposes of section 14.381. This argument misses the point. JustUs Health agrees with the Department’s contention; in fact, that is exactly what JustUs Health is arguing. According to JustUs Health, the guidelines in the Policy Manual are *not* rules, but are being treated and enforced as such; that is where the problem lies.

The Administrative Law Judge agrees. The guidelines in the Policy Manual are not rules; they were not promulgated under chapter 14, and they are not meant to have the force and effect of law.⁵³ Rather, according to the Department, the Policy Manual is meant to be merely advisory in nature. The relevant question, however, is not whether the challenged guidelines in the Policy Manual are *rules*, but instead, are they being enforced as such.

The relevant statute requires a determination of medical necessity before a procedure can be preauthorized. And a procedure is only medically necessary if it “is recognized as the prevailing standard or current practice by the provider’s peer group.”⁵⁴ It is undisputed that for gender dysphoria, the Department considers the WPATH standards as the prevailing provider standards. Nonetheless, the Policy Manual guidelines conflict with the WPATH standards on two distinct points. First, the WPATH standards require a case-by-case evaluation of medical necessity, whereas the Department’s Policy Manual indicates that gender-confirming facial surgery is always cosmetic, i.e. never medically necessary.⁵⁵ Second, the Policy Manual requires any individual seeking gender-confirming surgery to be 18 years old; the WPATH standards are generally consistent but allow an exception for mastectomies.

An agency rule is “every agency statement of general applicability and future effect ... adopted to implement or make specific the law enforced or administered by that agency.”⁵⁶ And, as articulated above, “[a] person may petition the Office of Administrative Hearings seeking an order of an administrative law judge determining that an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule.”⁵⁷ The Department argues that it is not enforcing the Policy Manual directives.⁵⁸ The record does not support this claim.

The statute requires *the Department* to preauthorize certain medical procedures, including those pertaining to gender-

⁵⁰ Minn. Stat. § 14.381, subd. 1(a).

⁵¹ Minn. Stat. § 645.44, subd. 7 (2018).

⁵² See *Johnson v. Grant Residents Who Want to Save Grant*, No. 6-6381-16267-CV (Minn. Office Admin. Hearings Feb. 22, 2005) (“Chapter 211B does not limit who may file a complaint and it does not require an injury in fact. This suggests that the Legislature favors a broad interpretation of standing. Chapter 211B protects the election process and does not focus exclusively on the individuals involved in the process.”).

⁵³ See *Doe v. Dep’t of Pub. Welfare*, 257 N.W.2d 816, 819 (Minn. 1977) (“The provisions included within the handbook are only advisory in nature and do not have the effect of law.”).

⁵⁴ Minn. R. 9505.0175, subp. 25.

⁵⁵ Cf. *Doe*, 257 N.W.2d at 820 (“The medical necessity of each applicant requesting funding of transsexual surgery must be considered individually, on a case-by-case basis.”).

⁵⁶ Minn. Stat. § 14.02.

⁵⁷ Minn. Stat. § 14.381, subd. 1(a).

⁵⁸ At oral argument, the Department insisted that JustUs Health “does not allege that any of its members or any person at all has been denied medically necessary treatment as a result of the gender-confirming surgery guidelines following a final decision by DHS.”

confirming surgery.⁵⁹ The Department, however, contracts with MCOs to provide that service. Here, the MCOs are acting on the Department's behalf, and any decision pertaining to preauthorizations, especially those made in accordance with the Department's Policy Manual guidance, must be imputed to the Department. The Department cannot argue that it does not make that enforcement decision just because it has delegated the preauthorization authority to the MCOs when those entities cite the Department's manual as the basis for their determinations

Additionally, the Department argues that because those individuals who have appealed their denials ultimately received the procedure after review by a Department judge, the Department cannot be "enforcing" the guidelines.⁶⁰ The Department's argument is unpersuasive.

Enforcement occurs at the preauthorization stage not after an appeal. The Department is enforcing the guidelines when the MCOs, acting on the Department's behalf, use the Policy Manual guidelines to deny certain gender-confirming procedures. The fact human services judges are reversing preauthorization denials that conflict with prevailing provider standards, but are in line with Department policy, does not mean the Policy Manual guidelines are not being enforced. The Department simply cannot require people to appeal a preauthorization decision in order to receive the medical care to which they are entitled.

The evidence in the record indicates that the Department has known since before it introduced these guidelines that the two relevant policies conflict with the WPATH standards. Enforcement of those guidelines undoubtedly has chilling effect; common sense dictates that patients and providers are less likely to seek these surgeries because the Department's guidelines explicitly provide that minors cannot receive gender-confirming surgery of any kind and facial gender-confirming surgery is always cosmetic.⁶¹ In sum, to the extent that the Policy Manual guidelines conflict with prevailing provider standards, the Department is enforcing them as if they were duly adopted rules.

C. Remedy

JustUs Health asks the Administrative Law Judge to order the Department to: (1) cease enforcement of unpromulgated rules that contradict the WPATH standards of care; (2) direct the MCO partner to similarly cease enforcement of unpromulgated rules; and (3) modify its Provider Manual, including online content, in accordance with this Order.⁶² The Department, however, argues that "the statute does not permit an administrative law judge to direct an agency to take any specific affirmative action."⁶³ The statute provides that a party may seek an order directing "the agency to cease enforcement of the unadopted rule that is the subject of the petition."

The statute does not provide further guidance, but none is necessary. Because the Administrative Law Judge has concluded that the Department is enforcing unpromulgated rules, he now directs the Department to cease enforcement of them.

J. E. L.

⁵⁹ See Minn. Stat. § 256B.0625, subd. 25; see also Department's Response at 2 ("Certain medical services require prior authorization from DHS in order to be covered under the MHCP." (emphasis added)), 5 ("Since DHS updated the Provider Manual, several individuals have sought administrative review of the denial of preauthorization for gender-confirming surgeries that DHS initially denied on the ground that the recipient was a minor or the procedure was determined to be cosmetic." (emphasis added)).

⁶⁰ At oral argument, the Department insisted that JustUs Health "does not allege that any of its members or any person at all has been denied medically necessary treatment as a result of the gender-confirming surgery guidelines following a final decision by DHS."

⁶¹ At the oral argument, JustUs Health indicated that Mayo Clinic providers will not even submit preauthorizations for approval because of this language in the Provider Manual.

⁶² Petition at 6 (Nov. 22, 2019).

⁶³ Department's Response at 10.

Official Notices

Department of Employment and Economic Development (DEED) Rehabilitation Services and Disability Determination Services Fee Schedule for Medical Consultative Examinations and Ancillary Testing Effective January 1, 2020

D. VOCATIONAL REHABILITATION SERVICES AND DISABILITY DETERMINATION SERVICES MEDICAL/PSYCHOLOGICAL FEE SCHEDULE

DISABILITY DETERMINATION SERVICES PAYMENT

The following boxed paragraphs apply to the Disability Determination Services (DDS) *only*.

INCENTIVES TO SUBMIT TIMELY REPORTS:

All consultative exams – DDS will pay providers 100% of either the usual and customary amount billed or 100% of the agency fee maximum, whichever is less, if the report is received from 1 to 10 days from the date of the examination (i.e. the day after the date of the examination is day 1). Reports received from 11 – 18 calendar days will be paid 90%.

Reports received 19 – 30 days from the date of the examination will be paid at a 75% rate.

For reports received 31 or more calendar days from the date of the examination, the DDS reserves the right to cancel the CE authorization invoice. Should the DDS decide to pay for such late evidence, the DDS will pay providers no more than 50% of either the usual and customary amount billed or 50% of the agency fee maximum, whichever is less.

Payment will not be issued until receipt of the signed CE report.

Use of our contracted medical transcription service:

Fee of \$15 (this fee is waived for treating physicians performing exams for their patients. Refer to page 14 D –13 for complete information.)

Fee maximums are periodically revised and published in the State Register. You may request a copy of our current fee schedule by contacting Milla Kokotovich at 651.259.7781.

MEDICAL/PSYCHOLOGICAL FEES

| SERVICE | MAXIMUM |
|---|---------|
| Comprehensive Physical Examination & Report | 200.00 |
| Office Call or Limited Examination - No more than 15 minutes, little emphasis on history, up to three specific questions and report (no teledictation fee) | 50.00 |

SPECIALIST EXAMINATION AND REPORT

| SERVICE | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|--|-------------------------------------|---------|
| 1. Internal Medicine (including cardiologist) | | 200.00 |
| A. Doppler studies | | |

Official Notices

| SERVICE | | | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|---|---|----------------------------|-------------------------------------|---------|
| | 1. Both legs with exercise | (technical) | (93924-TC) | 155.00 |
| | | (professional) | (93924-26) | 85.00 |
| | One office | (technical & professional) | (93924) | 240.00 |
| | 2. Both legs without exercise | (technical) | (93922-TC) | 80.00 |
| | | (professional) | (93922-26) | 50.00 |
| | One office | (technical & professional) | (93922) | 130.00 |
| B. ECG Testing | | | | |
| | 1. Resting | (technical) | (93005) | 65.00 |
| | | (professional) | (93010) | 45.00 |
| | One office | (technical & professional) | (93000) | 110.00 |
| | 2. Exercise ECG (includes resting ECG) | (technical) | (93017) | 155.00 |
| | | (professional) | (93018) | 125.00 |
| | One office | (technical & professional) | (93015) | 280.00 |
| | C. Echocardiography at rest and with cardiovascular stress test | (technical) | (93350-TC) | 108.35 |
| | | (professional) | (93350-26) | 171.87 |
| | One Office | (technical & professional) | (93350) | 280.22 |
| 2. Neurological | | | | |
| | A. Neuro-ophthalmological | | | 200.00 |
| | | | | 250.00 |
| 3. Neuropsychiatric | | | | |
| 4. Occupational/Physical Therapy Examination | | | | |
| | | | (97161) | 200.00 |
| | | | (97165) | |
| 5. Ophthalmological & Optometric (Visual Acuity & Visual Fields) | | | | |
| | A. Funduscopy (Comprehensive) | | (92004) | 95.00 |
| | | | (92018) | |
| | B. Visual Acuity Screening | | (92015) | 40.00 |
| | C. Visual Fields (Goldmann, HFA, or Octopus) | | (92083) | 115.00 |
| 6. Orthopedic (Musculoskeletal) | | | | |
| 7. Otolaryngological | | | | |
| | A. Otological | | | 80.00 |
| | B. Audiometry | | | |
| | Basic Comprehensive Audiometry (1 and 2, below, combined) | | (92557) | 80.00 |
| | 1. Pure Tone (air & bone) audiometry | | (92553) | 43.00 |
| | 2. Speech audiometry - threshold & discrimination | | (92556) | 37.00 |

Official Notices

| SERVICE | | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|--|--|-------------------------------------|--|
| | 3. Hearing Aid Check (Binaural) | (92593) | 33.00 |
| | 4. Hearing Aid Check (Monaural) | (92592) | 17.00 |
| | 5. Electroacoustical Testing (Monaural) | (92594) | 14.00 |
| | 6. Electroacoustical Testing (Binaural) | (92595) | 18.00 |
| | 7. Bekesy Audiometry, screening | (92560) | 44.21 |
| | 8. Visual Reinforcement Audiometry (for very young children) | (92579) | 43.00 |
| | 9. HINT-C (Hearing in Noise Test) | (92700) | 53.90 |
| | Non-English Speaking Protocol: (10-13, below) | | |
| | 10. Speech Detection Threshold | (92555) | 25.00 |
| | 11. Typanometry (impedance testing) | (92567) | 35.00 |
| | 12. Acoustic Reflex Testing | (92568) | 25.00 |
| | 13. Pure Tone, air & bone | (92553) | 43.00 |
| | C. Medical evaluation speech, language, and/or hearing problems | (92506) | 200.00 |
| | 1. Foreign speech/lang eval (add'l fee due to difficulty of exams) | | 60.00 |
| 8. Pediatric | | | 200.00 |
| 9. Physiatric (Physical Medical & Rehabilitation) | | | 175.00 |
| 10. Psychiatric | | | 200.00 |
| 11. Psychological | | | |
| | DDS: Mental Status Examination [MSE] and activities of daily living | | 200.00 |
| | Failed appointment – Mental Status Exam (MSE) only | | 25.00 |
| | Failed appointment – (MSE) + Psychological testing | | 50.00 |
| | Psychological tests with evaluation and report | | see test fee schedule |
| | VRS: Clinical Interview and report (without testing) | | 180.00 |
| | Testing with report (without clinical interview) | | see test fee schedule |
| | Clinical interview with testing and report may be authorized in one of two ways: | | |
| | Hourly fee (not to exceed 3 hours) Or | | 150/hr |
| | Clinical Interview 180.00 plus test fee(s) | | see test fee schedule |
| | Consultation fee | | 125/hr (pro-rated for less than an hour) |

PER TEST FEE SCHEDULE

TESTS

| TEST | MAXIMUM |
|------------------------------------|---------|
| Achenbach Child Behavior Checklist | 85.00 |
| Achenbach Child Behavior Scales | 20.00 |

Official Notices

| TEST | MAXIMUM |
|---|-----------------|
| Battelle Developmental Inventory | 120.00 |
| Bayley Scales of Infant Development (Revised) | 165.00 |
| Beck Depression Scale | 15.00 |
| Bender Gestalt | 20.00 |
| Brigance Inventory of Early Development | 75.00 |
| Category Test | 65.00 |
| Clinical Interview (Children) | 180.00 |
| Columbia Test of Mental Maturity | 70.00 |
| Connors Continuous Performance Test | 75.00 |
| Connors Questionnaire for Attention Deficit Hyperactivity Disorder | 60.00 |
| Denver Developmental Screening Test | 30.00 |
| Foreign Language Exams (additional fee due to difficulty of the exams) | 60.00 |
| Gates Reading Summary | 15.00 |
| Gesell Developmental Schedules | 45.00 |
| Gray Reading Test | 30.00 |
| Hopkins Symptom Checklist 25 | 45.00 |
| Leiter International Performance Scales | 120.00 |
| McCarthy Scales of Childrens' Abilities | 100.00 |
| Mental Status Exam (MSE) and Description of Activities of Daily Living (Adult) | 200.00 |
| Millon Multi-Axial Personality Inventory | 75.00 |
| Minnesota Child Development Inventory | 60.00 |
| Minnesota Multiphasic Personality Inventory (MMPI-2) | 95.00 |
| Minnesota Paper Form Test | 30.00 |
| Myers - Briggs Type Indicator | 50.00 |
| Neuropsychological Examination and Report (VRS) | Negotiated Rate |
| Neuropsychological Test Battery (DDS) | 250.00 |
| Neuropsychological Test Battery-Non-English Speaking (DDS) | 250.00 |
| Peabody Individual Achievement Test (PIAT) | 65.00 |
| Peabody Picture Vocabulary Test | 40.00 |
| Personality Inventory for Children | 75.00 |
| Porteus Mazes | 65.00 |
| Ravens Progressive Matrices | 65.00 |
| Rorschach | 75.00 |
| Scales of Independent Behavior | 85.00 |
| Stanford Binet Intelligence Scale, 4th Ed. (no payment for Stanford Binet subtests) | 120.00 |
| Test of Non-Verbal Intelligence - 4 (TONI-4) | 65.00 |
| Test of Variable Attention (TOVA) | 100.00 |
| Tests not listed | Negotiated Rate |
| Thematic Apperception Test (TAT) | 45.00 |

Official Notices

| TEST | MAXIMUM |
|--|---------|
| Trail Making Test (A & B) | 15.00 |
| Thurstone Test of Mental Alertness | 30.00 |
| Vineland Adaptive Behavior Scale | 100.00 |
| Vineland Social Maturity Scale | 50.00 |
| Wechsler Adult Intelligence Scale - IV (WAIS-IV) | 165.00 |
| Wechsler Individual Achievement Test - III (WIAT-III) | 50.00 |
| Wechsler Intelligence Scale for Children - IV (WISC-IV) | 165.00 |
| Wechsler Memory Scale - IV (WMS-IV) | 165.00 |
| Wechsler Pre-School and Primary Scale of Intelligence – IV (WPPSI- IV) | 165.00 |
| Wide Range Achievement Test – 4 (WRAT-4) | 65.00 |
| Wide Range Assessment of Memory & Learning – 2 (WRAML-2) | 100.00 |
| Wisconsin Card Sort | 65.00 |
| Woodcock-Johnson Psycho-Educational Battery –Revised | 120.00 |

| SERVICE | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|---|-------------------------------------|---------|
| 12. Pulmonary Studies | | |
| A. Pulmonary Spirometry, FVC, FEV ₁ , Total & timed vital capacity | | |
| (three efforts) w/o bronchodilator | (94010) | 98.50 |
| Professional component only | (94010-26) | 39.40 |
| Technical component only | (94010-TC) | 59.10 |
| B. Pulmonary Spirometry, FVC, FEV ₁ | | |
| (three efforts) before and after bronchodilator | (94060) | 160.00 |
| Professional component only | (94060-26) | 64.00 |
| Technical component only | (94060-TC) | 96.00 |
| C. Arterial Blood Gas Studies with Exercise | (82803) | 253.00 |
| Professional component only | (82803-26) | 138.50 |
| Technical component only | (82803-TC) | 114.50 |
| D. Functional Residual Capacity or Residual Volume | (94726) | 112.50 |
| Professional component only | (94726-26) | 45.00 |
| Technical component only | (94726-TC) | 67.50 |
| E. Pulse Oximetry with Exercise | (94760) | 188.00 |
| F. Carbon Monoxide (CO) Diffusing Capacity | (94729) | 120.00 |
| Professional Component Only | (94729-26) | 48.00 |
| Technical Component Only | (94729-TC) | 72.00 |

| SERVICE | | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|---------------------------------------|--|--|---------|
| 13. Special Laboratory Studies | | | |
| | A. Phosphatase Acid Assay | (84060) | 25.00 |
| | B. Albumin Assay | (82040) | 20.00 |
| | C. Alkaline Phosphatase Assay | (84075) | 19.50 |
| | D. Anti-Convulsant Serum Levels | | |
| | 1. Clonazepam (Benzodiazepine) | (80346) | 52.60 |
| | 2. Dipropylacetic acid (Valproic Acid) | (80164) | 51.00 |
| | 3. Mysoline (Primidone) | (80188) | 85.00 |
| | 4. Phenobarbital | (80184) | 70.50 |
| | 5. Phenytoin, total (Dilantin) | (80185) | 72.50 |
| | 6. Tegretol (Carbamazepine) | (80156) | 70.50 |
| | 7. Neurontin (Gabapentin) | (80299) | 88.00 |
| | E. Antinuclear Antibodies (ANA) | (86038) | 51.75 |
| | F. Bilirubin, total | (82247) | 20.00 |
| | G. Complete Blood Count (CBC) | (85025) | 30.00 |
| | H. Assay of ck (CPK) | (82550) | 26.60 |
| | I. Creatinine Clearance | (82575) | 37.00 |
| | J. Creatinine Assay | (82565) | 22.00 |
| | K. Ear Debridement | (69220) | 35.00 |
| | L. Glucose, quantitative | (82947) | 17.50 |
| | M. Hematocrit (spun) | (85013) | 13.00 |
| | N. Hemoglobin | (85018) | 15.00 |
| | 1. with differential (CBC) | (85025) | 30.00 |
| | O. Lactate (LD) (LDH) Enzyme | (83615) | 19.50 |
| | P. Blood Lead Level | (83655) | 40.00 |
| | Q. Multi-Chemistry Panels | | |
| | 1. Comprehensive Metabolic Panel | (80053) | 60.00 |
| | Albumin; Bilirubin, Total; Calcium; Carbon Dioxide (bicarbonate); Chloride; Creatinine; Glucose; | Phosphatase, Alkaline Potassium Protein, Total; Sodium; Transferase; alanine amino (ALT) (SGPT) Transferase; aspartate amino (AST) (SGOT); Urea Nitrogen (BUN) | |
| | 2. Hepatic Function Panel | (80076) | 50.00 |

Official Notices

| SERVICE | | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|--------------------------|---|--|--|
| | Albumin; Bilirubin, Total; Bilirubin, Direct; Phosphatase, Alkaline | Protein, Total; Transferase, alanine amino (ALT) (SGPT); Transferase, aspartate amino (AST) (SGOT) | |
| | R. MUGA Scan, stress | (78473) | 543.00 |
| | (technical) | (78473-TC) | 427.00 |
| | (professional) | (78473-26) | 116.00 |
| | S. Prothrombin Time | (85610) | 18.00 |
| | T. Rheumatoid Factor, qualitative | (86430) | 25.00 |
| | U. Sedimentation Rate, Erythrocyte, non-automated | (85651) | 20.00 |
| | V. Urinalysis (UA) non-automated, without microscopy | (81002) | 15.00 |
| | W. Venipuncture (routine) or finger/heel/ear stick for collection of specimen(s) | (36415) | 15.00 |
| 14. Miscellaneous | | | |
| | A. Height and Weight (billable only when not a component of a CE) | | 30.00 |
| | B. Interpreter Fees (including sign language, tactile communication, and foreign language interpreters) | | |
| | 1. For DDS Only: | | |
| | a. Up to one hour | | 50.00 |
| | b. Each additional (or fraction of additional) hour | | 50.00 |
| | c. Sign or Tactile | | Negotiated Rate |
| | d. Background preparation when interpreter present for exam/ exam not performed | | 40.00 |
| | 2. For VRS Only (2 hour minimum): | | Negotiated Rate |
| | C. Completion of Administrative Law Judge (ALJ) medical assessment forms | | 40.00 |
| | Medical Evidence of Record Review (ALJ exam only) | | 65/hr, 2 hour max |
| | Medical Evidence of Record Review | | 65/hr, 2 hour max with prior approval |
| | D. Home, Other Residential, or Off-Site Visit | | additional \$50.00 plus mileage @ current IRS rate |

Official Notices

| SERVICE | | CURRENT PROCEDURAL TERMINOLOGY CODE | MAXIMUM |
|---|--|-------------------------------------|---|
| | E. Workshop Evaluation (DDS) | | Negotiated Rate |
| | F. Facility Evaluation (VRS) | | Contract Rate |
| 15. Medical or psychological report from records including photocopies (MER) | | | 35.00 |
| 16. Chiropractic, Audiology & Physical Therapy report from records including photocopies | | | 10.00 |
| 17. For VRS Only: | | | |
| | Physician's or psychologist's written narrative of individual's medical or psychological history and/or condition, in response to VRS request for such | | 50.00 |
| | Physician, psychologist or other qualified practitioner records review with report | | 125.00 (per hour for less than an hour), 2 hour max |

FAILED EXAMS

For Disability Determination Services (Social Security Disability) Exams

| SERVICE | MAXIMUM |
|---|---------|
| Records review with failed Mental Status Exam (MSE) only exam | 25.00 |
| Records review with failed MSE + Psychological testing exam | 50.00 |
| Records review with failed or late canceled appointments in all specialty areas | 25.00 |

Vocational Rehabilitation Services does not pay for any cancellation, failed appointment, or no show fees.

Medical Transcription Fee 15.00

When a consultative examination provider chooses to utilize the transcription services available for use, a \$15.00 fee will be deducted from the total cost of the examination. The \$15.00 fee will not be charged for dictated reports re:

1. CEs performed by treating physicians/psychologists;
2. Limited CEs and office calls performed by regular CE providers; nor for
3. Reports from treating sources summarizing medical evidence of record.

LABORATORY AND X-RAY FEES

The subheadings are self-explanatory. The CURRENT PROCEDURAL TERMINOLOGY CODE corresponds to the American Medical Association's Current Procedural Terminology (CPT) codes, which are used by most sources providing medical services. These may also be used for easy in-agency identification of a particular procedure. When ordering and authorizing a particular laboratory or x-ray study, however, describe the test or x-ray to be done. Do not authorize by the CPT code.

X-ray charges may be presented in two possible formats: one combines the technical (the x-ray, itself) and professional (the physician's interpretation) components when these are provided by the same facility; the other format separates the

Official Notices

technical and professional components when these services are provided by separate facilities.

For example: For a PA Chest X-ray, single view, one would find:

| | | |
|-------|-----------------------|----------|
| 71010 | Chest single view, PA | \$ 55.00 |
|-------|-----------------------|----------|

This would be the acceptable maximum for an x-ray and interpretation at a single facility; however, when the **professional component** is billed separately, the procedure may be identified by adding the modifier **-26** to the usual CPT code. When the **technical component** is billed separately, the procedure may be identified by adding the modifier **-TC** to the usual CPT code.

For example:

| | | |
|----------|---|----------|
| 71010-26 | Chest single view, PA --PROF COMP ONLY | \$ 20.00 |
| 71010-TC | Chest single view, PA --TECH COMP ONLY | \$ 35.00 |

X-Rays

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|--|---------|
| 71045 | X-RAY | CHEST SINGLE VIEW, PA | 55.00 |
| 71045-26 | X-RAY | CHEST SINGLE VIEW, PA -- PROF COMP ONLY | 20.00 |
| 71045-TC | X-RAY | CHEST SINGLE VIEW, PA -- TECH COMP ONLY | 35.00 |
| 71020 | X-RAY | CHEST 2 VIEWS, PA & LATERAL | 70.00 |
| 71020-26 | X-RAY | CHEST 2 VIEWS, PA & LATERAL -- PROF COMP ONLY | 25.00 |
| 71020-TC | X-RAY | CHEST 2 VIEWS, PA & LATERAL -- TECH COMP ONLY | 45.00 |
| 72040 | X-RAY | SPINE, CERVICAL, 2 OR 3 VIEWS | 78.00 |
| 72040-26 | X-RAY | SPINE, CERVICAL, 2 OR 3 VIEWS --PROF COMP ONLY | 31.20 |
| 72040-TC | X-RAY | SPINE, CERVICAL, 2 OR 3 VIEWS --TECH COMP ONLY | 46.80 |
| 72070 | X-RAY | SPINE, THORACIC, 2 VIEWS | 70.00 |
| 72070-26 | X-RAY | SPINE, THORACIC, 2 VIEWS -- PROF COMP ONLY | 28.00 |
| 72070-TC | X-RAY | SPINE, THORACIC, 2 VIEWS -- TECH COMP ONLY | 42.00 |
| 72080 | X-RAY | SPINE, THORACOLUMBAR, 2 VIEWS | 75.00 |
| 72080-26 | X-RAY | SPINE, THORACOLUMBAR, 2 VIEWS -- PROF COMP ONLY | 30.00 |
| 72080-TC | X-RAY | SPINE, THORACOLUMBAR, 2 VIEWS -- TECH COMP ONLY | 45.00 |
| 72090 | X-RAY | SCOLIOSIS STUDY, INCL. SUPINE & ERECT | 177.25 |

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|--|---------|
| 72090-26 | X-RAY | SCOLIOSIS STUDY, INCL. SUPINE & ERECT -- PROF COMP ONLY | 47.00 |
| 72090-TC | X-RAY | SCOLIOSIS STUDY, INCL. SUPINE & ERECT --TECH COMP ONLY | 130.25 |
| 72100 | X-RAY | SPINE, LUMBOSACRAL, 2 OR 3 VIEWS | 78.00 |
| 72100-26 | X-RAY | SPINE, LUMBOSACRAL, 2 OR 3 VIEWS --PROF COMP ONLY | 31.20 |
| 72100-TC | X-RAY | SPINE, LUMBOSACRAL, 2 OR 3 VIEWS --TECH COMP ONLY | 46.80 |
| 72170 | X-RAY | PELVIS, 1 OR 2 VIEWS | 55.00 |
| 72170-26 | X-RAY | PELVIS, 1 OR 2 VIEWS --PROF COMP ONLY | 22.00 |
| 72170-TC | X-RAY | PELVIS, 1 OR 2 VIEWS --TECH COMP ONLY | 33.00 |
| 73000 | X-RAY | CLAVICLE, COMPLETE | 46.00 |
| 73000-26 | X-RAY | CLAVICLE, COMPLETE -- PROF COMP ONLY | 18.40 |
| 73000-TC | X-RAY | CLAVICLE, COMPLETE -- TECH COMP ONLY | 27.60 |
| 73010 | X-RAY | SCAPULA, COMPLETE | 56.00 |
| 73010-26 | X-RAY | SCAPULA, COMPLETE -- PROF COMP ONLY | 22.40 |
| 73010-TC | X-RAY | SCAPULA, COMPLETE -- TECH COMP ONLY | 33.60 |
| 73030 | X-RAY | SHOULDER, COMPL, MINIMUM 2 VIEWS | 57.00 |
| 73030-26 | X-RAY | SHOULDER, COMPL, MINIMUM 2 VIEWS -- PROF COMP ONLY | 22.80 |
| 73030-TC | X-RAY | SHOULDER, COMPL, MINIMUM 2 VIEWS -- TECH COMP ONLY | 34.20 |
| 73060 | X-RAY | HUMERUS, MINIMUM 2 VIEWS | 52.00 |
| 73060-26 | X-RAY | HUMERUS, MINIMUM 2 VIEWS -- PROF COMP ONLY | 20.80 |
| 73060-TC | X-RAY | HUMERUS, MINIMUM 2 VIEWS -- TECH COMP ONLY | 31.20 |
| 73070 | X-RAY | ELBOW, AP & LATERAL | 47.00 |
| 73070-26 | X-RAY | ELBOW, AP & LATERAL -- PROF COMP ONLY | 18.80 |
| 73070-TC | X-RAY | ELBOW, AP & LATERAL -- TECH COMP ONLY | 28.20 |
| 73080 | X-RAY | ELBOW, COMPLETE, MINIMUM 3 VIEWS | 58.75 |

Official Notices

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|---|---------|
| 73080-26 | X-RAY | ELBOW, COMPLETE, MINIMUM 3 VIEWS -- PROF COMP ONLY | 23.50 |
| 73080-TC | X-RAY | ELBOW, COMPLETE, MINIMUM 3 VIEWS -- TECH COMP ONLY | 35.25 |
| 73090 | X-RAY | FOREARM, AP & LATERAL | 49.50 |
| 73090-26 | X-RAY | FOREARM, AP & LATERAL -- PROF COMP ONLY | 19.80 |
| 73090-TC | X-RAY | FOREARM, AP & LATERAL -- TECH COMP ONLY | 29.70 |
| 73100 | X-RAY | WRIST, AP & LATERAL | 48.00 |
| 73100-26 | X-RAY | WRIST, AP & LATERAL -- PROF COMP ONLY | 19.20 |
| 73100-TC | X-RAY | WRIST, AP & LATERAL -- TECH COMP ONLY | 28.80 |
| 73110 | X-RAY | WRIST, COMPLETE, MINIMUM 3 VIEWS | 53.00 |
| 73110-26 | X-RAY | WRIST, COMPLETE, MINIMUM 3 VIEWS -- PROF COMP ONLY | 21.20 |
| 73110-TC | X-RAY | WRIST, COMPLETE, MINIMUM 3 VIEWS -- TECH COMP ONLY | 31.80 |
| 73120 | X-RAY | HAND, 2 VIEWS | 47.70 |
| 73120-26 | X-RAY | HAND, 2 VIEWS -- PROF COMP ONLY | 19.08 |
| 73120-TC | X-RAY | HAND, 2 VIEWS -- TECH COMP ONLY | 28.62 |
| 73130 | X-RAY | HAND, MINIMUM 3 VIEWS | 52.50 |
| 73130-26 | X-RAY | HAND, MINIMUM 3 VIEWS -- PROF COMP ONLY | 21.00 |
| 73130-TC | X-RAY | HAND, MINIMUM 3 VIEWS -- TECH COMP ONLY | 31.50 |
| 73140 | X-RAY | FINGER(S), MINIMUM 2 VIEWS | 42.00 |
| 73140-26 | X-RAY | FINGER(S), MINIMUM 2 VIEWS -- PROF COMP ONLY | 16.80 |
| 73140-TC | X-RAY | FINGER(S), MINIMUM 2 VIEWS -- TECH COMP ONLY | 25.20 |
| 73500 | X-RAY | HIP, UNILATERAL, 1 VIEW | 42.00 |
| 73500-26 | X-RAY | HIP, UNILATERAL, 1 VIEW -- PROF COMP ONLY | 16.80 |
| 73500-TC | X-RAY | HIP, UNILATERAL, 1 VIEW -- TECH COMP ONLY | 25.20 |
| 73510 | X-RAY | HIP, COMPLETE, MINIMUM 2 VIEWS (AP PELVIS & LAT OF AFFECTED HIP) | 65.50 |
| 73510-26 | X-RAY | HIP, COMPLETE, MINIMUM 2 VIEWS -- PROF COMP ONLY | 26.20 |

Official Notices

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|---|---------|
| 73510-TC | X-RAY | HIP, COMPLETE, MINIMUM 2 VIEWS -- TECH COMP ONLY | 39.30 |
| 73520 | X-RAY | HIPS, BILATERAL, MINIMUM 2 VIEWS EACH HIP, INCLUDING AP OF PELVIS | 100.00 |
| 73520-26 | X-RAY | HIPS, BILATERAL, MINIMUM 2 VIEWS EACH HIP, INCLUDING AP OF PELVIS -- PROF COMP ONLY | 40.00 |
| 73520-TC | X-RAY | HIPS, BILATERAL, MINIMUM 2 VIEWS EACH HIP, INCLUDING AP OF PELVIS -- TECH COMP ONLY | 60.00 |
| 73550 | X-RAY | FEMUR, 2 VIEWS | 56.70 |
| 73550-26 | X-RAY | FEMUR, 2 VIEWS -- PROF COMP ONLY | 22.68 |
| 73550-TC | X-RAY | FEMUR, 2 VIEWS -- TECH COMP ONLY | 34.02 |
| 73560 | X-RAY | KNEE, AP & LATERAL | 55.00 |
| 73560-26 | X-RAY | KNEE, AP & LATERAL -- PROF COMP ONLY | 22.00 |
| 73560-TC | X-RAY | KNEE, AP & LATERAL -- TECH COMP ONLY | 33.00 |
| 73562 | X-RAY | KNEE, AP/LAT/OBLIQUE, MINIMUM 3 VIEWS | 61.00 |
| 73562-26 | X-RAY | KNEE, AP/LAT/OBLIQUE, MINIMUM 3 VIEWS -- PROF COMP ONLY | 24.40 |
| 73562-TC | X-RAY | KNEE, AP/LAT/OBLIQUE -- TECH COMP ONLY | 36.60 |
| 73564 | X-RAY | KNEE, COMPLETE | 75.00 |
| 73564-26 | X-RAY | KNEE, COMPLETE -- PROF COMP ONLY | 30.00 |
| 73564-TC | X-RAY | KNEE, COMPLETE -- TECH COMP ONLY | 45.00 |
| 73590 | X-RAY | TIBIA & FIBULA, 2 VIEWS | 52.00 |
| 73590-26 | X-RAY | TIBIA & FIBULA, 2 VIEWS -- PROF COMP ONLY | 20.80 |
| 73590-TC | X-RAY | TIBIA & FIBULA, 2 VIEWS -- TECH COMP ONLY | 31.20 |
| 73600 | X-RAY | ANKLE, AP & LATERAL | 45.00 |
| 73600-26 | X-RAY | ANKLE, AP & LATERAL -- PROF COMP ONLY | 18.00 |
| 73600-TC | X-RAY | ANKLE, AP & LATERAL -- TECH COMP ONLY | 27.00 |
| 73610 | X-RAY | ANKLE, COMPL, MINIMUM 3 VIEWS | 54.00 |

Official Notices

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|--|---------|
| 73610-26 | X-RAY | ANKLE, COMPL, MINIMUM 3 VIEWS -- PROF COMP ONLY | 21.60 |
| 73610-TC | X-RAY | ANKLE, COMPL, MINIMUM 3 VIEWS -- TECH COMP ONLY | 32.40 |
| 73620 | X-RAY | FOOT, 2 VIEWS | 47.00 |
| 73620-26 | X-RAY | FOOT, 2 VIEWS -- PROF COMP ONLY | 18.80 |
| 73620-TC | X-RAY | FOOT, 2 VIEWS -- TECH COMP ONLY | 28.20 |
| 73630 | X-RAY | FOOT, COMPL, MINIMUM 3 VIEWS | 56.00 |
| 73630-26 | X-RAY | FOOT, COMPL, MINIMUM 3 VIEWS -- PROF COMP ONLY | 22.40 |
| 73630-TC | X-RAY | FOOT, COMPL, MINIMUM 3 VIEWS -- TECH COMP ONLY | 33.60 |
| 73660 | X-RAY | TOE OR TOES, MINIMUM 2 VIEWS | 43.25 |
| 73660-26 | X-RAY | TOE OR TOES, MINIMUM 2 VIEWS -- PROF COMP ONLY | 17.30 |
| 73660-TC | X-RAY | TOE OR TOES, MINIMUM 2 VIEWS -- TECH COMP ONLY | 29.95 |
| 77072 | X-RAY | BONE AGE STUDIES | 55.00 |

Laboratory Studies

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|--------------------------------------|---------|
| 80053 | LAB | COMPREHENSIVE METABOLIC PANEL | 60.00 |
| 80076 | LAB | HEPATIC FUNCTION PANEL | 50.00 |
| 80154 | LAB | CLONAZEPAM (BENZODIAZEPINES) | 52.60 |
| 80156 | LAB | TEGRETOL (CARBAMAZEPINE) | 70.50 |
| 80164 | LAB | DIPROPYLACETIC ACID (VALPROIC ACID) | 51.00 |
| 80184 | LAB | PHENOBARBITAL | 70.50 |
| 80185 | LAB | PHENYTOIN; (DILANTIN) | 72.50 |
| 80188 | LAB | PRIMIDONE (MYSOLINE) | 85.00 |
| 80299 | LAB | NEURONTIN (GABAPENTIN) | 88.00 |
| 81000 | LAB | URINALYSIS, COMPLETE WITH MICROSCOPY | 20.00 |
| 81002 | LAB | URINALYSIS, WITHOUT MICROSCOPY | 15.00 |
| 82040 | LAB | ALBUMIN; SERUM, PLASMA, BLOOD | 20.00 |
| 82247 | LAB | BILIRUBIN; TOTAL | 20.00 |
| 82270 | LAB | BLOOD; OCCULT, FECES, SCREENING | 9.75 |
| 82310 | LAB | CALCIUM; TOTAL | 13.70 |

Official Notices

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|---|---------|
| 82550 | LAB | CREATINE KINASE (CK) (CPK), TOTAL | 26.60 |
| 82565 | LAB | CREATININE; BLOOD | 22.00 |
| 82570 | LAB | CREATININE; URINE | 16.53 |
| 82575 | LAB | CREATININE CLEARANCE; BLOOD OR URINE | 37.00 |
| 82947 | LAB | GLUCOSE, QUANTITATIVE | 17.50 |
| 82951 | LAB | GLUCOSE TOLERANCE TEST (GTT), 3 SPECIMENS (INCLUDES GLUCOSE) | 48.00 |
| 83615 | LAB | LACTATE DEHYDROGENASE (LD) (LDH) | 19.50 |
| 83655 | LAB | LEAD, QUANTITATIVE, BLOOD | 40.00 |
| 84060 | LAB | PHOSPHATASE, ACID; TOTAL | 25.00 |
| 84075 | LAB | PHOSPHATASE, ALKALINE | 19.50 |
| 84132 | LAB | POTASSIUM; SERUM | 15.50 |
| 84133 | LAB | POTASSIUM; URINE | 20.00 |
| 84439 | LAB | THYROXINE, FREE | 40.00 |
| 84442 | LAB | THYROXINE BINDING GLOBULIN (TBG) | 48.80 |
| 84450 | LAB | TRANSFERASE; ASPARTATE AMINO (AST) (SGOT) | 20.40 |
| 84460 | LAB | TRANSFERASE; ALANINE AMINO (ALT) (SGPT) | 20.40 |
| 84520 | LAB | UREA NITROGEN, QUANTITATIVE | 15.30 |
| 84550 | LAB | URIC ACID, BLOOD | 19.75 |
| 84560 | LAB | URIC ACID, URINE | 29.20 |
| 85013 | LAB | HEMATOCRIT (SPUN) | 13.00 |
| 85018 | LAB | HEMOGLOBIN | 15.00 |
| 85025 | LAB | COMPLETE BLOOD COUNT (CBC) | 30.00 |
| 85008 | LAB | NONDIFFERENTIAL WBC COUNT | 9.00 |
| 85032 | LAB | PLATELET; MANUAL COUNT | 17.00 |
| 85610 | LAB | PROTHROMBIN TIME | 18.00 |
| 85651 | LAB | SEDIMENTATION RATE, ERYTHROCYTE; NON-AUTOMATED | 20.00 |
| 86038 | LAB | ANTINUCLEAR ANTIBODIES (ANA) | 51.75 |
| 86140 | LAB | C-REACTIVE PROTEIN | 23.95 |
| 86430 | LAB | RHEUMATOID FACTOR, QUALITATIVE | 25.00 |
| 87116 | LAB | CULTURE, TUBERCLE OR OTHER ACID FAST BACILLI, WITH ISOLATION | 46.30 |
| 92083 | LAB | VISUAL FIELD EXAM WITH SEVERAL ISOPTERS ON GOLDMANN PERIMETRY OR EQUIVALENT | 100.00 |

Official Notices

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|--|-------------------|
| 92541 | LAB | SPONTANEOUS NYSTAGMUS TEST | 69.12 |
| 92542 | LAB | POSITIONAL NYSTAGMUS TEST | 61.02 |
| 92543 | LAB | CALORIC VESTIBULAR TEST | 77.84 |
| 92544 | LAB | OPTOKINETIC NYSTAGMUS TEST | 47.33 |
| 92545 | LAB | OSCILLATING TRACKING TEST | 40.48 |
| 92553 | LAB | PURE TONE AUDIOMETRY - AIR & BONE | 43.00 |
| 92556 | LAB | SPEECH AUDIOMETRY - THRESHOLD WITH SPEECH RECOGNITION | 37.00 |
| 92557 | LAB | BASIC COMPREHENSIVE AUDIOMETRY (92553 & 92556 COMBINED) | 80.00 |
| 92560 | LAB | BEKESY AUDIOMETRY, SCREENING | 44.21 |
| 92567 | LAB | TYMPANOMETRY (IMPEDANCE TESTING) | 35.00 |
| 92568 | LAB | ACOUSTIC REFLEX TESTING | 25.00 |
| 92569 | LAB | ACOUSTIC REFLEX DECAY TEST | 28.00 |
| 92585 | LAB | EVOKED RESPONSE AUDIOMETRY | 242.23 |
| 92591 | LAB | HEARING AID EXAM & SELECTION (BINAURAL) | 65.00 |
| 92591 | LAB | HEARING AID EXAM & SELECTION (VRS ONLY) | 65.00 Per Hour |
| 92593 | LAB | HEARING AID CHECK (BINAURAL) | 33.00 |
| 93000 | LAB | ECG, AT LEAST 12 LEADS, WITH INTERPRETATION & REPORT | 80.00 |
| 93005 | LAB | ECG, TRACING ONLY | 50.00 |
| 93010 | LAB | ECG, INTERPRETATION AND REPORT ONLY | 30.00 |
| 93268 | LAB | TELEPHONIC OR TELEMETRIC TRANSMISSION OF ECG RHYTHM STRIP | 146.33 |
| 93015 | LAB | CARDIOVASCULAR STRESS TEST, WITH INTERPRETATION AND REPORT | 250.00 |
| 93017 | LAB | CARDIOVASCULAR STRESS TESTING, TRACING ONLY | 110.00 |
| 93018 | LAB | CARDIOVASCULAR STRESS TESTING, INTERPRETATION AND REPORT ONLY | 140.00 |
| 93350 | LAB | ECHOCARDIOGRAPHY, DURING REST AND CV STRESS TEST, WITH INTERPRETATION AND REPORT | 280.22 |
| 93350-26 | LAB | ECHOCARDIOGRAPHY, DURING REST AND CV STRESS TEST - PROF COMP ONLY | 171.87 |

| Current Procedural Terminology Code | Type of Service | Procedure Description | Maximum |
|-------------------------------------|-----------------|---|---------|
| 93350-TC | LAB | ECHOCARDIOGRAPHY, DURING REST AND CV STRESS TEST - TECH COMP ONLY | 108.35 |
| 94720 | LAB | CO DIFFUSING CAPACITY, ANY METHOD | 115.50 |
| 94720-26 | LAB | CO DIFFUSING CAPACITY -- PROF COMP ONLY | 46.20 |
| 94720-TC | LAB | CO DIFFUSING CAPACITY -- TECH COMP ONLY | 69.30 |
| 95819 | LAB | ELECTROENCEPHALOGRAM (EEG) | 183.07 |
| 95819-26 | LAB | EEG -- PROF COMP ONLY | 99.63 |
| 95819-TC | LAB | EEG -- TECH COMP ONLY | 83.44 |
| 95860 | LAB | NEEDLE ELECTROMYOGRAPHY (EMG); ONE EXTREMITY | 130.14 |
| 95860-26 | LAB | EMG - ONE EXTREMITY -- PROF COMP ONLY | 23.03 |
| 95860-TC | LAB | EMG - ONE EXTREMITY -- TECH COMP ONLY | 107.10 |
| 95861 | LAB | EMG - TWO EXTREMITIES | 222.93 |
| 95863 | LAB | EMG - THREE EXTREMITIES | 264.65 |
| 95864 | LAB | EMG - FOUR EXTREMITIES | 346.22 |
| 95907 | LAB | NERVE CONDUCTION, VELOCITY, AND/OR LATENCY STUDY; SENSORY OR MIXED, EACH NERVE | 56.67 |
| 95907-26 | LAB | NERVE CONDUCTION, VELOCITY, AND/OR LATENCY STUDY; SENSORY OR MIXED, EACH NERVE --PROF COMP ONLY | 42.96 |
| 95907-TC | LAB | NERVE CONDUCTION, VELOCITY, AND/ORLATENCY STUDY; SENSORY OR MIXED, EACH NERVE --TECH COMP ONLY | 13.70 |
| 95930 | LAB | VISUAL EVOKED POTENTIAL (VEP) TESTING CENTRAL NERVOUS SYSTEM, | 175.00 |

TRANSPORTATION

Vocational Rehabilitation Services and Disability Determination Services Consultative Examination (CE) Providers

We will reimburse clinicians performing consultative examinations who must travel to perform a consultative examination at the current IRS mileage rate, effective the date the travel occurs.

Official Notices

Travel in a specially-equipped van: Current rate in Commissioner's Plan, effective the date the travel occurs.

Travel in excess of 50 miles: Current mileage rate plus \$50.00 per hour (in 50 mile increments) round trip for clinicians. Clients will be reimbursed at the IRS mileage rate for travel to exams in cities more than 50 miles away from the client's home city, effective the date the travel occurs.

Department of Health

Notice of Completion of Annual Health Care Quality Measures Rule Review

NOTICE: The Commissioner of Health announces that the Department of Health has completed its annual review required under *Minnesota Rules*, Chapter 4654. The Department affirms that its existing quality measures will continue as the 2020 set of quality measures with no added measures.

Subject of the Rules and Statutory Authority. The Minnesota Department of Health adopted *Minnesota Rules*, Chapter 4654, in December 2009 to implement part of the comprehensive 2008 state health reform law. Consistent with *Minnesota Statutes*, section 62U.02, these rules established a standardized set of quality measures that the Department uses to assess the quality of services offered by health care providers. These measures include the specific details for the data that physician clinics and hospitals must submit annually to the Minnesota Department of Health or to the Commissioner's designee for public reporting. The rules also specify:

- requirements that physician clinics and hospitals to submit quality data to the Minnesota Department of Health or its designee;
- obligations for physician and hospitals to cooperate with data validation procedures;
- a restriction on health plans prohibiting them from requiring providers to use and report data on quality measures not included in the standardized set; and
- annual review by the Minnesota Department of Health of existing quality measures and evaluation and adoption of new measures into the standardized set.

The Commissioner is required to review the adopted quality measures annually.

Results. From 2009 when the Minnesota Department of Health adopted its rules until 2018, the department updated the standardized set of quality measures through expedited rulemaking. Also during 2018, we began developing a quality measurement framework as directed by the legislature. To do this, we gathered comments from a broad range of stakeholders about measurement priorities, essentially the same review the Department has customarily performed for its annual reviews. That year's work showed that the Department did not need to add new measures for the 2019 report year, making adopting expedited rules unnecessary.

During 2019, the Department continued developing the quality measurement framework, again with a broad range of stakeholders. We determined that we do not need to add new measures for the 2020 report year. Because we are only modifying and removing several measures for physician clinics and hospitals, and to ease administrative burdens during the statewide response to the COVID-19 pandemic, we will not adopt a final rule for the 2020 report year either. Instead, we are issuing technical guidance about the changes. To meet a new mandated measure cap for physician clinic measures, the Department removed one measure. As per the Department's usual practice of remaining as consistent as possible with federal measurement initiatives and reducing providers' reporting burdens, the Department removed two discontinued hospital quality measures. The Department has posted updated technical guidance for the 2020 report year on its website at <https://www.health.state.mn.us/data/hcquality/measures>

Agency contact person. Denise McCabe at Minnesota Department of Health, P.O. Box 64882, St. Paul, MN 55164-0882, phone (651) 201-3550, fax (651) 201-5179, and health.sqrms@state.mn.us.

May 4, 2020

Jan K. Malcolm, Commissioner
Minnesota Department of Health

Investment Advisory Council Official Meeting Notice

The Investment Advisory Council of the Minnesota State Board of Investment will meet on Monday, May 18, 2020 at 12:00 p.m. at the Retirement Systems Building, Room 106 (Main Floor), 60 Empire Drive, St. Paul, Minnesota or via Teleconference.

Notice will be posted at the SBI office and on the SBI Website at <http://mn.gov/sbi>. For more information, the State Board of Investment can be reached at minn.sbi@state.mn.us.

State Law Library Notice of County Law Library Fees 5/1/2020

Pursuant to *Minnesota Statute* 134A.10, the following law library fees are to be in effect as of 5/1/2020.

| County | Civil | Probate | Conc Crt | Fel G Misd | Misd | P Misd | Parking |
|-------------------|---------|---------|-------------|---------------|---------|---------|---------|
| Lake of the Woods | \$15.00 | \$15.00 | \$15.00 | \$15.00 | \$15.00 | \$15.00 | \$0.00 |

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the State Register, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

SEE ALSO: Office of Grants Management (OGM) at: <http://www.grants.state.mn.us/public/>

Department of Health Division of Child and Family Health Request for Proposals for the Positive Alternatives Grant Program

The Minnesota Department of Health is seeking grant applications from private nonprofit organizations to provide positive alternatives programs that support, encourage, and assist women in carrying their pregnancies to term and caring for their babies after birth. The goal of the program is to improve pregnancy outcomes and support family self-sufficiency.

Eligible applicants are private, non-profit organizations who have had an alternatives-to-abortion program in place for at least one year as of July 1, 2011, or have had such a program incorporated for at least one year as of July 1, 2011.

Eligible programs will provide women with information on, referral to, and assistance with securing the following services: medical care, supplemental nutrition, housing assistance, adoption services, education and employment assistance, including services that support the continuation and completion of high school, childcare assistance and parenting education and support services. Programs may also provide one or more of these services directly.

State Grants & Loans

Grants are offered in four monetary tiers: the first comprised of awards up to \$75,000 per year, the second comprised of awards between \$75,000 and \$150,000 per year, the third comprised of awards between \$150,000 and \$250,000 per year, and the fourth comprised of awards between \$250,000 and \$350,000 per year. Grants will be awarded for five years, January 1, 2021 to December 31, 2025.

Applications and instructions will be made available May 6, 2020 and applications are due on or before July 30, 2020. Award decisions will be made in October 2020. Download application materials at the Minnesota Department of Health - Positive Alternatives website: <https://www.health.state.mn.us/people/womeninfants/positivealt/index.html>

You may also contact:

Mary Ottman
Positive Alternatives Grant Manager
Minnesota Department of Health
Division of Community and Family Health
P. O. Box 64882
St. Paul, MN 55164-0882
mary.ottman@state.mn.us
Telephone: 651-201-3581

MNSure (Minnesota's Health Insurance Marketplace) Request for Proposals: Navigator Outreach and Enrollment Grants

MNSure is resuming its request for proposals from eligible organizations intending to apply for grant funds that have the ability to find, connect with, educate and successfully enroll and renew Minnesota residents in health care coverage through MNSure. Eligible organizations are organizations that submitted a letter of intent in response to MNSure's Request for Letters of Intent by the February 13, 2020 deadline.

This Request for Proposals (RFP) is part of MNSure's sixth RFP process for the Navigator Outreach and Enrollment grant program. This solicitation has three focus areas:

- I. Geographic: focus on building statewide access to assistance and sustaining a network of navigator organizations working closely with MNSure on strategies to reach, enroll and renew consumers.
- II. Population: support organizations that have identified populations that face barriers to enrolling in coverage and/or high levels of uninsurance and can demonstrate an ability to effectively reach, enroll and help renew coverage for the population.
- III. Capacity Building: support building additional navigator capacity to serve geographic areas or populations where there is a demonstrated need for more navigator assistance.

A complete copy of the updated RFP is available on MNSure's Assister Funding Opportunities webpage, <https://www.mnsure.org/about-us/assister-program/funding-opportunities/index.jsp>

Proposals are now due by 1:00 p.m. Central Time on May 21, 2020. Applications must be completed using the online submission process described in the RFP and on the Assister Funding Opportunities webpage. Questions regarding the RFP should be emailed to navigatorgiants@mnsure.org by 3 p.m. Central Time on May 13, 2020. Please see MNSure's website for more information.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Website at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Requirements: There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements: \$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600 \$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days; \$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days.

Minnesota State Colleges and Universities (Minnesota State) Non-Construction Related Bid and Contracting Opportunities

Minnesota State is now placing additional public notices for P/T contract opportunities, goods/commodities, and non-construction related services on its Vendor and Supplier Opportunities website (<http://minnstate.edu/vendors/index.html>). New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

If you have any questions regarding this notice, or are having problems viewing the information on the Vendor and Supplier Opportunities website, please call the Minnesota State Procurement Unit at 651-201-1444, Monday-Friday, 9:00 am – 4:00 pm.

Minnesota State Colleges and Universities (Minnesota State) Winona State University Request For Proposals (RFP) For Full Service Oil Change/Preventative Maintenance Work for all Winona State University Owned Vehicles (with the Exception of Vehicles Under Warranty)

Notice is hereby given that Winona State University is seeking proposals for full service oil change/preventative maintenance work for all Winona State University owned vehicles (with the exception of vehicles under warranty). Proposal specifications are available by contacting Laura Mann, Purchasing Director, PO Box 5838, 106 Somsen Hall, Winona, MN 55987 or via email to lmann@winona.edu. Sealed proposals must be received by Laura Mann, Purchasing Director, at Winona State University, PO Box 5838 or 175 West Mark Street, Winona, MN 55987 or Business Office, Somsen Hall 106, by Thursday, May 21, 2020, 3:00 p.m. CT. Winona State University reserves the right to reject any or all proposals and to waive any irregularities or informalities in proposals received.

Minnesota Public Utilities Commission Request for Proposals for Tribal Liaison for Line 3 Project

DETAILS: The Minnesota Public Utilities Commission (Commission) is requesting proposals for a Tribal Liaison. The Tribal Liaison position was established by the Commission through its Orders in Docket No. PL9/PPL-15-137 for the purpose of consulting with Enbridge Energy, Limited Partnership and Tribal Governments on the development and

State Contracts

execution of the Tribal Economic Opportunity and Labor Education Plan (Tribal Economic Plan).

This position is temporary and is anticipated to remain in effect until construction of the Line 3 Replacement Project and all environmental restoration requirements associated with the Project's construction are completed. The initial term of the contract is expected to be no more than two years, with the option to extend up to an additional three years in increments determined by the State.

Work is anticipated to start after July 1, 2020.

COPY REQUEST: To get a copy of the Request for Proposals, please send a written request, by email, to:

Karen Kranz
Minnesota Public Utilities Commission
Karen.Kranz@state.mn.us

PROPOSAL DEADLINE: Proposals submitted in response to the Request for Proposals in this advertisement must be received by email no later than **4:30 PM, Central Time, June 1, 2020. Late proposals will not be considered.** Mailed and faxed proposals will not be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Minnesota Department of Transportation (MnDOT) Engineering Services Division Notices Regarding Professional/Technical (P/T) Contracting

P/T Contracting Opportunities: MnDOT is now placing additional public notices for P/T contract opportunities on the MnDOT's Consultant Services website. New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Taxpayers' Transportation Accountability Act (TTAA) Notices: MnDOT is posting notices as required by the TTAA on the MnDOT Consultant Services website.

MnDOT's Prequalification Program: MnDOT maintains a Pre-Qualification Program in order to streamline the process of contracting for highway related P/T services. Program information, application requirements, application forms and contact information can be found on MnDOT's Consultant Services website. Applications may be submitted at any time for this Program.

MnDOT Consultant Services website: www.dot.state.mn.us/consult

If you have any questions regarding this notice, or are having problems viewing the information on the Consultant Services website, please call the Consultant Services Help Line at 651-366-4611, Monday – Friday, 9:00am – 4:00pm.

Non-State Public Bids, Contracts & Grants

The State Register also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Besides the following listing, readers are advised to check: <http://www.mmd.admin.state.mn.us/solicitations.htm> as well as the Office of Grants Management (OGM) at: <http://www.grants.state.mn.us/public/>.

Capitol Region Watershed District (CRWD) Request for Bids for Como Zoo and Golf Course Stormwater BMPs Project

NOTICE IS HEREBY GIVEN that bids will be received by Capitol Region Watershed District (CRWD), on-line through Quest VirtuBid (vBid), until **1:00 PM, central time on May 22, 2020** at which time they will be publicly opened on-line and read aloud for the furnishing of all labor and materials and all else necessary for the following:

COMO ZOO AND GOLF COURSE STORMWATER BMPs CRWD Project 405-16705

The Work consists of furnishing all labor, materials, equipment, skills, and performing all operations required to construct the Como Zoo and Golf Course Stormwater BMPs project. The scope of work includes but is not limited to: mobilization, establish construction limits, clearing and grubbing, demolition and removals, earthwork and grading, haul and disposal of soil, furnish and install: underground infiltration system, storm sewer and structures, infiltration basin, golf course irrigation and golf course grassing, native seeding, erosion control, iron-enhanced sand filter (IESF) bench, automated valve and controls, and electric power as provided in the Bidding Documents. All quantities and work items in this Advertisement for Bids are approximate and not guaranteed.

The contract documents are available at www.questcdn.com. This contract is QuestCDN project number **7058690**. A contractor may view the contract documents at no cost prior to deciding to become a Planholder. To be considered a Planholder for bids, a contractor must register with [QuestCDN.com](http://www.QuestCDN.com) and purchase the contract documents in digital form at a cost of thirty dollars (\$30.00).

For this project, bids will **ONLY** be received and accepted via the online electronic bid service through QuestCDN.com. To access the electronic bid form, download the project documents and click on the online bid button at the top of the bid advertisement page. Prospective bidders must be on the Planholder list through QuestCDN for bids to be accepted. **No bids will be considered unless submitted through www.QuestCDN.com**

The potential bidders' attention is directed to the Instructions to Bidders Section 00200 Article 20 and Section 00210 Pre-Bid Meeting with regard to the virtual pre-bid meeting scheduled for **1:00 p.m., central time on May 12, 2020**, unless otherwise modified by Addendum.

Direct inquiries can be made to Owner's Representative, Greg Bowles, Houston Engineering, Inc. at (763)-493-6670, gbowles@houstoneng.com

CAPITOL REGION WATERSHED DISTRICT
Mark Doneux, CRWD Administrator
595 Aldine Street
St. Paul, MN 55104

Non-State Public Bids, Contracts & Grants ==

Lower Minnesota River Watershed District (LMRWD) Request for Proposals for an Engineering Consultant, a Legal Consultant and a Consultant to provide Education & Outreach Services

FOR LEGAL SERVICES

Pursuant to MSA 103B.227, Subdivision 5, the Lower Minnesota River Watershed District hereby solicits proposals for a legal consultant for the 2020 through 2022.

Electronic proposals setting forth the experience of the company/individual(s) who would be interested in providing legal services for the Lower Minnesota River Watershed District should be sent to:

Lower Minnesota River Watershed District
Attention: Linda Loomis, District Administrator at
naiadconsulting@gmail.com

Proposals shall be submitted on or before the close of business Friday, June 5, 2020.

Please set forth in your written proposal company experience and the experience of the individual(s) who proposes to perform services for the District and the resumes of staff who would assist in providing the contractual services. Rates of individuals should be provided. The Board will review all proposals received and reserves the right to request additional information from any and all proposers, to conduct interviews of the proposers, specifically lead staff proposed to provide services, to reject any and all proposals, and to otherwise take such action as it deems in the best interest of Lower Minnesota River Watershed District.

For answers to questions regarding this request contact Linda Loomis at 763-545-4659 or *naiadconsulting@gmail.com*. Additional information may be found on the District's website <http://lowermnriverwd.org>

The Board of Managers will review all proposals received, and reserves the right to request additional information from any and all proposers, to conduct interviews of the proposers, specifically lead staff proposed to provide services, to reject any and all proposals, and to otherwise take such action as it deems in the best interest of Lower Minnesota River Watershed District.

FOR LMRWD DISTRICT ENGINEER

Pursuant to MSA 103B.227, Subdivision 5, the Lower Minnesota River Watershed District hereby solicits proposals for consulting engineering services for 2020 through 2022.

Lower Minnesota River Watershed District (LMRWD) is looking for an engineering and technical service provider to assist in an ongoing process of setting and implementing the water management parameters within which the District will operate by:

- Identifying the technical consequences of choices;
- Discuss alternative solutions;
- Educate the Board and staff about the technical and regulatory issues involved; and
- Inform the District Administrator or project managers of the consequences of decisions that may affect natural resources within the District.

In this function, District Engineer shall routinely review and assess District water management plans, studies, capital programs and procedures to consider, among other things, whether they are 1) consistent with acceptable engineering practices, 2) achieve District goals, and 3) likely to produce positive, cost effective outcomes.

Electronic proposals setting forth the experience of the company/individual(s) who would be interested in providing legal services for the Lower Minnesota River Watershed District should be sent to:

— Non-State Public Bids, Contracts & Grants

Lower Minnesota River Watershed District
Attention: Linda Loomis, District Administrator at
naiadconsulting@gmail.com

Proposals shall be submitted on or before the close of business Friday, June 5, 2020.

Proposals should provide general information about the company and include a list of related work/projects/clients, a list of key personnel who propose to perform services for the District and their qualifications, qualifications of other staff who would assist in providing contractual services and a current fee schedule. Please include other services or specialties that may be pertinent.

Proposals should also include a summary of qualifications and unique expertise in the following areas:

1. Watershed, Subwatershed and Water Resource Management and Planning
2. Lake, Wetland and Stream Restoration and Management
3. Hydrologic, Hydraulic, and Water Quality Modeling and Analysis
4. Urban Stormwater BMO Design and Construction Management
5. Water Resource Permitting

For answers to questions regarding this request contact Linda Loomis at 763-545-4659 or *naiadconsulting@gmail.com*. Additional information may be found on the District's website <http://lowermnriverwd.org/>

The Board of Managers will review all proposals received, and reserves the right to request additional information from any and all proposers, to conduct interviews of the proposers, specifically lead staff proposed to provide services, to reject any and all proposals, and to otherwise take such action as it deems in the best interest of Lower Minnesota River Watershed District.

FOR EDUCATION & OUTREACH SERVICES

Lower Minnesota River Watershed District hereby solicits proposals for an Education and Outreach Coordinator.

The Lower Minnesota River Watershed District (LMRWD) invites applications for an individual or company to provide Education & Outreach services to the LMRWD. The Consultant will lead education and community outreach efforts in accordance with the LMRWD Watershed Management Plan, as amended.

Electronic proposals setting forth the experience of the company/individual(s) who would be interested in providing legal services for the Lower Minnesota River Watershed District should be sent to:

Lower Minnesota River Watershed District
Attention: Linda Loomis, District Administrator at
naiadconsulting@gmail.com

Proposals shall be submitted on or before the close of business Friday, June 5, 2020.

Proposals should provide general information about the individual/company and include a list of related work/projects/clients, a list of key personnel who propose to perform services for the District and their qualifications, qualifications of other staff who would assist in providing contractual services and a current fee schedule. Please include other services or specialties that may be pertinent.

Proposals should also include a summary of qualifications and/or unique expertise to carry out the following tasks: (this is a limited list and may or may not include all tasks)

1. organize and manage a Citizen Advisory Committee
2. Prepare and implement an education and outreach plan aligned with the goals of the WMP

Non-State Public Bids, Contracts & Grants ==

3. Manage cost share incentive and water quality rehabilitation grant program
4. Prepare articles for publication on LMRWD website, Scott County SCENE, Carver County newsletter and local newspapers
5. Develop handouts and activities to use at community events
6. Coordinate volunteer activities for Master Water Stewards
7. Work with partners to develop a network of individuals and organizations to promote the Minnesota River
8. Assist preparation of Annual Report, project reports, public communications, etc.
9. Assist with organizing events such as River Tours, community events, etc.

For answers to questions regarding this request contact Linda Loomis at 763-545-4659 or naiadconsulting@gmail.com. Additional information may be found on the District's website <http://lowermnriverwd.org/>

The Board of Managers will review all proposals received, and reserves the right to request additional information from any and all proposers, to conduct interviews of the proposers, specifically lead staff proposed to provide services, to reject any and all proposals, and to otherwise take such action as it deems in the best interest of Lower Minnesota River Watershed District.

MacDonald & Mack Architects

Request for Proposals for Nary School Window Repair and Replacement Project

MacDonald & Mack Architects is seeking proposals from qualified firms to provide all labor, materials, equipment, and supplies to complete window repairs and replacements at Nary School, 25895 County Road 9, Bemidji, MN. The work consists of, but is not limited to, existing historic window and trim repair, replacement windows to match the historic, plaster repair, electrical work, and necessary metal ceiling repair. All work must be done in accordance with the Drawings, Project Manual, and the Contract, as well as this Request for Bids.

Availability of Bidding Documents: Bidders desiring bidding documents may secure a complete set free of charge by emailing Rita Goodrich at ritag@mmarchltd.com

Documents will be available after **May 11, 2020**.

Prospective bidders are requested to visit the site and to practice social distancing. The Owner's representative will open the interior of the building on **May 13, 2020 at 10:00 a.m. to 2:00 p.m.**, local time, but will not provide tours or take questions. Contractors may view the exterior at any time. There will be a conference call conducted on May 15, 2020 at 10:00 a.m. Please contact Rita Goodrich, MacDonald & Mack Architects, at ritag@mmarchltd.com to be part of the conference call or submit questions.

All proposals must be received by email to ritag@mmarchltd.com no later than **2:00 pm Wednesday, May 27, 2020**. Proposals will be opened privately and evaluated based on all aspects of the proposal.

