Minnesota Department of Human Services

Children and Family Services Administration, Child Care Services

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received; Revisor’s ID Number 4560

Proposed Amendment to Rules Governing the Child Care Assistance Program, Minnesota Rules, Parts 3400.0010 through 3400.0235

Introduction. The Department of Human Services intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Wednesday, July 20, 2022, the Department will hold a virtual public hearing on the proposed rule changes. An Administrative Law Judge will conduct the hearing starting at 9:30 a.m. on Wednesday, August 3, 2022, and continuing until the hearing is completed. To find out whether the Department will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after July 20, 2022 and before August 3, 2022.

For video and audio connection to the virtual hearing, join through an internet connection, such as with a computer or tablet:

Enter https://minnesota.webex.com
Event number (access code): 2490 165 8505
Event password: 9xBdDyTjN38

For audio connection only, join the hearing by phone:

Call: 1-415-655-0003 (US Toll)
Access code: 2490 165 8505

Agency Contact Person. Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is:

Vanessa Vogl
Minnesota Department of Human Services
Administrative Law Office
PO Box 64254
Saint Paul, MN 55164-0254
Email: Vanessa.Vogl@state.mn.us
Phone: 651-431-3168

TTY users may call the Department at (800) 627-3529. You may also review the proposed rule and submit written comments via the Office of Administrative Hearings Rulemaking eComments website https://minnesota.aoah.granicusideas.com/discussions.
Subject of Rules and Statutory Authority. The proposed rules are about the Child Care Assistant Program (CCAP). During the 2017 legislative session, many changes were made to CCAP. Most of the changes were required under the Child Care and Development Block Grant (CCDBG) Act of 2014. The Department is amending the rules to align with these federal and state statutory changes, adding clarity and consistency. The proposed amendments focus on providing equal access to stable child care for low-income children and strengthening requirements to protect the health and safety of children in child care and receiving CCAP funding. The amendments address determination of income for eligibility, frequency of redetermination, determination of copayments, maintaining consistent child care authorizations for children, reporting responsibilities for participants, provider requirements, and payment policies.

Minnesota Statutes, sections 119B.02, subdivisions 1 and 3; 119B.04, subdivision 2; and 119B.06, subdivision 2, authorize DHS to adopt rules for administering CCAP, the child care development fund, and CCDBG. A copy of the proposed rules is published in the State Register and available on the Department’s website at https://mn.gov/dhs/partners-and-providers/policies-procedures/rulemaking/. A free copy of the rules is available upon request from Vanessa Vogl at the contact information listed above.

Comments. You have until 4:30 p.m. on Wednesday, July 20, 2022, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by Vanessa Vogl by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Department hold a hearing on the rules. You must make your request for a public hearing in writing, which Vanessa Vogl must receive by 4:30 p.m. on Wednesday, July 20, 2022. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Department will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in Minnesota Statutes, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact Vanessa Vogl at the email or telephone number listed above.
**Modifications.** The Department might modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the Department follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Department encourages you to participate in the rulemaking process.

**Cancellation of Hearing.** The Department will cancel the hearing scheduled for August 3, 2022 if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the agency will notify you before the scheduled hearing whether the hearing will be held. You may also contact Vanessa Vogl after July 20, 2022 to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit valid written requests for a public hearing on the rules, the Department will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Department will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Barbara Case is assigned to conduct the hearing. Judge Case can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7875, and fax (651) 539-0310.

**Hearing Procedure.** If the Department holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted. No one may submit new evidence during the five-day rebuttal period.

All post-hearing comments and responses must be submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. The Office of Administrative Hearings strongly encourages all persons submitting comments and responses to do so using the Administrative Hearings’ Rulemaking eComments website [https://minnesotaoah.granicusideas.com/discussions](https://minnesotaoah.granicusideas.com/discussions). If using the eComments website is not possible, you may submit post-hearing comments in person, via United States mail, or by facsimile addressed to Judge Case at the address or facsimile number listed in the Notice of Hearing section above.

All comments or responses received will be available for review at the Department of Human Services or on the agency’s website at [https://mn.gov/dhs/partners-and-providers/policies-procedures/rulemaking/](https://mn.gov/dhs/partners-and-providers/policies-procedures/rulemaking/). This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

**Statement of Need and Reasonableness.** The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. You
may review or obtain copies for the cost of reproduction (if any) by contacting Vanessa Vogl. The SONAR is also available on the Department of Human Service’s website at https://mn.gov/dhs/partners-and-providers/policies-procedures/rulemaking/.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

**Adoption Procedure if No Hearing.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The Department will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If you want to receive notice of this, to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to Vanessa Vogl.

**Adoption Procedure after a Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by contacting Vanessa Vogl.

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

March 28, 2022

Date

Amy Akbay
Chief General Counsel
Minnesota Department of Human Services