

Minnesota Department of Human Services

NOTICE OF INTENT TO REPEAL OBSOLETE RULE

Proposed Repeal of Obsolete Rule Governing Definition of “Investigative” for Purpose of Health Care Program Payment, *Minnesota Rules*, part 9505.5005; Revisor’s ID Number RD4260

Introduction. The Minnesota Department of Human Services intends to repeal obsolete rules under the rulemaking process in the Administrative Procedure Act, *Minnesota Statutes*, section 14.3895. You may submit written comments on the proposed repeal of obsolete rules until October 20, 2014.

Agency Contact Person. Submit any comments, questions or written requests for a public hearing on the rules to: Karen E. Sullivan Hook at the Minnesota Department of Human Services, Management and Policy Division, PO Box 64238, Saint Paul, Minnesota 55155-0238; telephone 651-431-5771; email Karen.SullivanHook@state.mn.us; or fax 651-431-7488. TTY users may call the Minnesota Department of Human Services through Minnesota Relay at 711 or 800-627-3529. For Speech-to-Speech, call 877-627-3848.

Subject of the Repeal of Obsolete Rules and Statutory Authority. The proposed obsolete rule defines the term “investigative” as used in procedures for prior authorization of health services and the requirement of a second surgical opinion as conditions of payment to providers of health services for recipients of medical assistance and MinnesotaCare. As the rule is presently written, it relies upon the National Blue Cross and Blue Shield Association Medical Advisory Committee determination of whether a health service procedure lacks wide recognition as a proven and effective procedure in clinical medicine. The repeal is necessary because the National Blue Cross and Blue Shield Association Medical Advisory Committee no longer exists. As presently written, the rule also names Blue Cross and Blue Shield of Minnesota. Following the repeal, the rule will rely on the determination of Blue Cross and Blue Shield of Minnesota regarding whether a health service procedure is investigative.

The agency also anticipates undertaking a separate rulemaking process in the future to adopt a new rule defining the term “investigative” without reliance on the determination of an outside entity. This obsolete rule repeal will serve to provide clarity in the interim.

The agency identified the proposed obsolete rules to be repealed in its 2012 annual obsolete rules report under Minnesota Statutes section 14.05, subdivision 5. The statutory authority to repeal the obsolete rules is found in Minnesota Statutes, section 14.3895. A copy of the proposed obsolete rules to be repealed is published in the State Register and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Monday, October 20, 2014, to submit written comment in support of or in opposition to the proposed repeal of obsolete rules and any part or subpart of the repeal. Your comment must be in writing and received by the agency contact person by the due date. The Department encourages comment. Your comment should identify the portion of the proposed obsolete rules to be repealed addressed and the reason for the comment. In addition,

you are encouraged to object to the repeal of any part or subpart. You must also make any comments on the legality of the proposed rules during this comment period.

Request for Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. You must make your request in writing and the agency contact person must receive it by 4:30 p.m. on October 20, 2014. Your written request must include your name and address. You must identify the portion of the proposed repealed rules to which you object 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 for 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.

- **Effect of Requests.** If 25 or more people submit a written request, the agency will have to meet the requirements of Minnesota Statutes, sections 14.131 to 14.20 for rules adopted after a hearing or the requirements of Minnesota Statutes, sections 14.22 to 14.28 for rules adopted without a hearing, including the preparation of a statement of need and reasonableness and the opportunity for a hearing.

Modifications. The agency might modify its choice of these designated rules or parts proposed for repeal (e.g. fixing a typo or deciding not to repeal a rule because the rule is discovered not to be obsolete), based on comments and information submitted to the agency. If the final rules are identical to the rules originally published in the State Register, the agency will publish a notice of adopting the repealers in the State Register. If the final rules are different from the rules originally published in the State Register, the agency must publish a copy of the changes in the State Register. If the proposed repeal of obsolete rules affects you in any way, the agency encourages you to participate in the rulemaking process.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You may direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

Repeal and Review of Obsolete Rules. If no hearing is required, the agency may repeal the obsolete rules at the end of the comment period. The agency will then submit rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date that the agency submits the rules. If you want to be so notified, or want to receive a copy of the repealed obsolete rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Date

Lucinda E. Jesson, Commissioner
Minnesota Department of Human Services