



December 1, 2024

Governor Tim Walz
Senate Health and Human Services Committee Leadership
Senate Human Services Committee Leadership
House Children and Families Finance and Policy Committee Leadership
House Health Finance and Policy Committee Leadership
House Human Services Finance and Policy Committee Leadership
Office of the Revisor of Statutes
Legislative Coordinating Commission
Legislative Reference Library

VIA ELECTRONIC MAIL

RE: Annual Report on Obsolete, Unnecessary or Duplicative Rules as Required by Minnesota Statutes, Section 14.05, Subdivision 5

Dear Governor Walz, Senators, Representatives, Legislative Coordinating Commission, and Revisor Inman:

Minnesota Statutes, section 14.05, subdivision 5, directs state agencies to report to you by December 1 of each year whether any of its rules are obsolete, unnecessary, or duplicative, and to provide an update on the status of such rules identified in the prior year.

Last year, in 2023, the Minnesota Department of Human Services identified the following rules as obsolete:

Minnesota Rules, parts 9500.1221, 9500.1223, 9500.1225, and 9500.1226. These rules govern General Assistance. They are outdated and have been superseded by Minnesota Statutes, sections 256P.01 – 256P.06. **Update:** The Department still intends to repeal these rules using the rule repeal process identified in Minnesota Statutes, section 14.3895, along with other General Assistance rules discussed below.

Minnesota Rules, part 9505.0530, subpart 2. In order to determine whether an inpatient admission is “medically necessary” for purposes of eligibility for medical assistance payment, part 9505.0530, subparts 1-2, directs that “[t]he medical review agent shall follow the medical necessity criteria specified in subparts 2 and 3 in determining... whether a recipient’s admission is medically necessary...” Subpart 2 specifies the criteria for inpatient hospital admission, incorporating by reference a book published in 1984. However, the Department’s medical review agents no longer rely on this book, and instead apply a “prevailing community standard” approach under Minnesota Rules,

part 9505.0210. Therefore, part 9505.0530, subpart 2, is obsolete. **Update:** The Department intends to repeal this rule part using the rule repeal process identified in Minnesota Statutes, section 14.3895.

Minnesota Rules, parts 9505.2200, subpart 1; and 9505.2215, subpart 1, item B. Part 9505, subpart 1, references “recipient error” as a basis for investigating health services recipients for program compliance. Part 9505.2215, subpart 1, item B, gives the Department authority to seek monetary recovery if payment for a health service provided under a program was the result of “recipient error.” In 2022 the Department received guidance from the Center for Medicaid and Medicare Services that states cannot recover or recoup the cost of services from a beneficiary. The Department further clarified with CMS that this same analysis applies to Medicaid client error overpayments. Therefore, references to “recipient error” in rule are unnecessary and against CMS policy. **Update:** The Department has initiated the process to repeal this rule using the rule repeal process identified in Minnesota Statutes, section 14.389.

Minnesota Rules, parts 9543.0070, subpart 1, item B, 9555.5515, item N, 9555.5705, subpart 3, item D, 9555.7100, 9555.7200, 9555.7300, and 9555.7600. These rules govern protective services to vulnerable adults. They are duplicative of Minnesota Statutes, sections 626.557 and 626.5572, and are unnecessary under the Department’s policies and procedures. **Update:** The Department intends to repeal these rules using the rule repeal process identified in Minnesota Statutes, section 14.3895.

This year, the Minnesota Department of Human Services reviewed its rules and has identified the rules listed below as obsolete, unnecessary, or duplicative:

Minnesota Rules, parts 9500.1206, 9500.1215, 9500.1231, 9500.1233, 9500.1243, 9500.1245, 9500.1248, 9500.1254, and 9500.1272. These rules govern General Assistance and are all partly obsolete. Parts 9500.1215 and 9500.1231 are partly obsolete as they are superseded by Minn. Stat. Secs. 256P.04 and 256D.01, subd. 1. Parts 9500.1233, 9500.1243, and 9500.1245 are partly obsolete (or will become partly obsolete in March 2025) because of Minn. Stat. Secs. 256P.08, 256P.09, and 256P.10. Part 9500.1248 is obsolete because county of financial responsibility has no relevance to general assistance. Part 9500.1254 is partly obsolete because it conflicts with Minn. Stat. Sec. 256D.05, subd. 5. Part 9500.1272 is partly obsolete because certain subparts are legally questionable (e.g. subps. 2 and 3) or cannot be enforced by agencies (e.g. subps. 8-17). Part 9500.1206 is prospectively obsolete, as repeal of the above rules will make certain subparts of Part 9500.1206 obsolete. The Department intends to repeal these rules using the rule repeal process identified in Minnesota Statutes, section 14.3895.

Please let me know if I can provide further information by contacting me by email (kevin.slator@state.mn.us) or phone (651-431-4101).

Sincerely,

Minnesota Department of Human Services
Annual Obsolete Rules Report
December 1, 2024

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Administrative Law Office/General Counsel's Office

CC: Karen E. Sullivan Hook, DHS Administrative Law Office Manager
Kristy Graume, DHS Director of State Government Relations