



Office of the State Auditor

Local Government Cooperation Waiver Application

1. Applicant Name(s). *All entities listed must be local units of government. If request is on behalf of a nonprofit organization, include name of nonprofit organization.*

Hennepin County
Human Services & Public Health Department
Attn: Todd Monson, HSPHD Area Director
A-1500 Government Center (MC-150)
300 S. 6th Street
Minneapolis, MN 55487

2. Application Contact Person. *The contact person should be able to respond to questions regarding this application.*

Name: Todd Monson	Phone: 612-348-4464
Title: Human Services & Public Health Department Area Director	Fax: 612-348-2856
Agency: Hennepin County Human Services & Public Health Department	Address: A-1500 Government Center (MC-150) 300 S. 6th Street Minneapolis, MN 55487
E-mail: todd.monson@co.hennepin.mn.us	

3. Service/Program. *Identify the specific service or program for which you are requesting a waiver.*

Group Residential Housing Program (GRH)
Minnesota Supplemental Aid Program / Shelter Needy Benefit

4. Rule/Law. *Specifically identify the rule(s) or procedural law(s) governing the delivery of services from which you are requesting a waiver as well as any related rule(s) or law(s) (for example: M.R. 9525.0125, subp. 1 or M.S. 279.03, subd. 1).*

M.S. 256 I

M.S. 256D.44, subd 5 & 256D.35 Subd.11a

5. Is the request for a waiver from a statutory notice requirement?

_____ Yes No

If yes, application need not be submitted, because the State Auditor's may not grant the application pursuant to Minn. Stat. § 6.80, subd. 3.

6. School Districts: Does the Commissioner of Education have authority to grant variance under section 122A.163.

_____ Yes No

If yes, the State Auditor cannot grant a waiver or variance pursuant to Minn. Stat. § 6.80.

7. Do you know of any state statute, federal law, or state or federal constitutional doctrine that could be interpreted to inhibit the waiver of the rule or law requested?

_____ Yes (CITE AND DISCUSS AS APPROPRIATE) No

8. Is there a Minnesota statute or a federal law, other than Minn. Stat. §§ 6.80, 14.055 and 14.056 that currently allows a waiver from the rule or law?

_____ Yes No

If yes, please cite the applicable rule or law and explain why a waiver or exemption is then needed from the State Auditor.

9. Does the requested waiver or exemption only change the procedural requirements imposed on the applicant?

Yes _____ No

If yes, please explain. It is not sufficient merely to affirm that granting the waiver will only change the procedural requirements of the applicant. You are required to describe; (1) who must deliver a service; (2) where the service must be delivered; (3) to whom and in what form reports regarding the service must be made; and (4) how long or how often the service must be made available to a given recipient. In addition, you must describe the nature of the law or rule and show that its waiver will not have any substantive impacts on the applicant's responsibilities.

This is a request from Hennepin County Human Services and Public Health Department (HSPHD) for a temporary limited exemption of selected parts of state procedural laws governing two State funded programs: 1) Group Residential Housing (GRH) and 2) Minnesota Supplemental Aid (MSA). The purpose of the exemption is to allow more housing and service flexibility for people with disabilities who would be able to live more independently in less expensive unlicensed settings if they were to receive GRH or MSA. These individuals are currently unable to receive GRH or MSA while living in unlicensed settings due to Statute limitations.

10. Previous Requests. *If request is for exemption from an administrative rule, has the petitioner requested and been denied an exemption from the appropriate agency per Minn. Stat. §§ 14.055 and 143056?*

N/A _____ Yes, when: _____ No

If yes, please attach the agency's findings.

If no, you must request an exemption from the appropriate agency and be denied before submitting this application.

11. In the past three years, has the applicant or any related party been involved in any litigation, mediation, arbitration, or review by an agency or tribunal involving the applicable rule or law for which a waiver is requested?

_____ Yes _____ X _____ No

If yes, identify the parties and all persons having information about the action. Also, include all relevant documentation from the action.

12. Overseeing Agency. *List any state or metropolitan agencies having jurisdiction over the rule or law from which the waiver or exemption is sought.*

Minnesota Department of Human Services

13. For waivers of administrative rules, indicate the length of time for which you would like the waiver to be effective.

Waiver of administrative rules can be granted for no less than two years and no more than four year, subject to renewal if both parties agree. Exemptions from enforcement of procedural laws automatically expire ten days after the adjournment of the next regular legislative session in the next calendar year, unless extended by the legislature.

_____ N/A _____ Years

14. Affected Parties. *List the name, address, and telephone number of any person, business, or other government unit you know would be adversely affected by the grant of this petition. In addition, include any materials you may have relating to their position on this issue.*

None

15. Exclusive Representatives. *You must provide a copy of this application to the exclusive representative (union) certified under M.S. 179A.12 to represent employees who provide the service or program affected by your request.*

Are the affected employees represented by an exclusive representative? Yes: _____ No: X

List all applicable exclusive representatives and indicate the date on which you sent the copy:

Exclusive representatives: You may submit written comments on this application, including objections, to the State Auditor within 60 days of receipt of the application.

This application is submitted to the State Auditor pursuant to Minn. Stat. §6.80. The local government unit(s) requesting the waiver agrees (agree) to abide by the requirements of Minnesota law and the operating procedures of the Office of the State Auditor. To the best of my (our) knowledge the information contained in this application, including the attached narrative and resolution, is accurate and complete.

(Signature)

(Title)

(Date)

Todd Mouson
(Signature)

Service Area Director
(Title)

3/5/07
(Date)

Hennepin County Flexible Housing Project

A) Background:

Group Residential Housing (GRH) MN Stat. 256 I.

The Group Residential Housing Program (GRH) is administered under MN Stat. §256 I. GRH currently pays for room and board in a number of licensed settings, including Adult Foster Care, Board and Lodging Establishments, non-certified Boarding Care Homes and various forms of Assisted Living settings registered under the Housing with Services Act.

To qualify for GRH, an individual must be disabled, over the age of 18, have an adjusted income less than the county negotiated GRH agreement rate (Hennepin County's rate is currently \$737 per month), and live in a licensed setting (with the exception of certain long-term homeless initiatives). The individual contributes a calculated portion of their income to the room and board costs, keeping a personal needs allowance; while the State GRH program pays for the remainder up to a maximum of \$737 per month (adjusted annually).

This temporary and limited GRH exemption that Hennepin County is proposing has already been changed in Minnesota statute for certain long-term homeless "supportive housing" programs. The individuals that Hennepin County is considering for this limited project do not meet the definition of "long-term homeless" as defined by the State, even though they may be homeless and therefore are not eligible for these other programs.

Effective August 1, 2005, supportive housing establishments developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, Chapter 128, Article 15, Section 9, may voluntarily register as housing with services under the provisions of MN Statutes section 144D.025. Housing with services registration allows these establishments to be eligible to enter into a GRH agreement with their host counties.

If a GRH-eligible individual moves into one of these registered (may be unlicensed) apartment buildings, they may receive up to the monthly base \$737 GRH rate and an additional monthly supplementary service rate of \$478 for individuals discharged from shelters; plus food stamps (currently \$152 per month) and keep a personal needs allowance. The GRH exemption amount that Hennepin County is proposing for this project for certain persons with disabilities is only the current base rate of up to \$737 (to be adjusted annually) and NOT the additional supplementary service rate. Additionally, the request includes full food support benefits for individuals receiving this exemption (Currently \$152 per month per individual) such as that which is currently available for participants in the long-term homeless GRH programs.

The intent of this temporary and limited exemption is that the GRH benefit "follow the individual" into less restrictive, unlicensed settings when appropriate.

Minnesota Supplemental Aid (MSA) Shelter Needy Program MN Stat. §256D.44 Subd. 5 & 256D.35 Subd.11a

Minnesota Supplemental Aid (MSA) Shelter-Needy funds (as outlined in MN Stat. §256D.44 Subd. 5) are an income supplement of \$149 per month (adjusted annually) for individuals exiting an institution (such as a hospital, a regional treatment center, a nursing facility, an Intermediate Care Facility for persons with Mental Retardation or Related Conditions (ICF MR/RC), or an Intensive Residential Treatment Service (IRTS) program for mental health services) to a community setting. As the statute is written, the definition of institution does not include corporate adult foster care settings.

To be eligible for MSA Shelter-Needy funds, an individual currently must be:

- a recipient of Supplemental Security Income (SSI),
- between the ages of 18-65,
- certified disabled,
- exiting an institution as defined below, and
- meet the definition of shelter-needy.

256D.35 Subd.11a Institution: "Institution" means a hospital, consistent with Code of Federal Regulations, title 42, section 440.10; regional treatment center inpatient services, consistent with section 245.474; a nursing facility; and an intermediate care facility for persons with mental retardation." *[or an adult mental health residential treatment program under section 256B.0622] [256D.44 below]*

The MSA Shelter Needy income supplement currently may be used wherever the individual chooses to live, with the exceptions of GRH settings or subsidized apartment units (where the individual pays 30% of their adjusted income for rent), so this requirement of the statute is flexible and is not an issue.

B) Barriers / Issues

- 1) Currently, a number of individuals are in living arrangements that are more restrictive and costly than necessary, such as adult foster care homes, due to the requirement that they must live in a licensed setting to receive their GRH benefit. This limits consumer choice, is inefficient and is not necessarily cost effective. In addition there are approximately 900 individuals at any given time under the age of 65 residing in institutions in Hennepin County at a monthly average cost to the County of \$300,000. Many of these individuals could be discharged to semi-independent living in the community in an unlicensed apartment or housing setting with services. However, unlicensed settings are currently ineligible to receive GRH (with the exception of the long term homeless initiatives). These individuals may not require or choose to live in a adult foster care home setting, which may be more costly and restrictive than another housing setting with services.

- 2) Individuals with Developmental Disabilities, who are unable to access the MR/RC waiver due to long waiting lists, have no access to GRH, even though they may be eligible, unless they were to pay privately for 24 hour supported living services in a licensed group home, which is unrealistic; or if they were to move into a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9. The target population for these particular GRH apartments is long - term homeless individuals; so this is a very limited option.
- 3) Individuals with disabilities who choose the "Consumer Directed Community Supports (CDCS)" option are unable to access GRH and since there are extremely limited housing subsidies available, have no rental assistance programs available to them. CDCS is not available for a person living in a foster care or other licensed or registered setting. GRH is currently only available in a licensed setting (with the exception of the long-term homeless initiatives).
- 4) The GRH program was developed in response to the deinstitutionalization movement of the early 1980's for individuals with Developmental Disabilities residing in "state hospitals." The individual is allowed to keep only a personal needs allowance (currently \$111 for a person on Supplemental Security Income (SSI), while the remainder of their income goes toward the room and board costs, just as if the person were residing in an institution. An individual on the GRH program is ineligible for food stamps (with the exception of the long-term homeless initiatives discussed below). If GRH were to "follow" the individual to an unlicensed setting, it could only work if they were to also receive the full food support benefit, such as with the long-term homeless initiatives.
- 5) Buildings providing assisted living plus services to a younger disabled population where less than 80% of individuals are age 55 and older, are currently not eligible to be a provider of Group Residential Housing (GRH), for the following reason:

Buildings who serve less than 80% of individuals who are age 55 and older, are not required to be registered under Chapter 144D by the Minnesota Department of Health (MDH). However, they are required to be registered under Chapter 144D by the Minnesota Department of Human Services (DHS) in order to provide and bill the waivers for assisted living plus services. Therefore they **MUST** register with the MDH under 144D.025/ Optional Registration, which then makes them ineligible to be a provider of Group Residential Housing (GRH) under the following GRH statute:

261 1.04, Subdivision 2 (4): "An establishment voluntarily registered under section 144D.025, other than a supportive housing establishment under clause (3) *[developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9]* **is not eligible** to provide group residential housing."

- 6) The Minnesota Supplemental Aid (MSA) Shelter Needy option, as an alternative to GRH, is only available to eligible individuals who are relocating from an institution or an adult mental health residential treatment program under section 256B.0622, and who are on Supplemental Security Income (SSI). Since there is no minimum institution stay

requirement, this may tend to encourage temporary institutional stays in order to access the Shelter Needy cash benefit. Many disabled persons under the age of 65 move to foster care settings because they require the 24-hour supervision provided by such settings. As they become more independent and need less than 24-hour support, it would be most cost effective and more life enhancing for these individuals to move to unlicensed, less restrictive community settings. However, their limited financial resources restrict affordable housing options.

C) Temporary Limited Exemption Proposal:

The proposed limited exemption request would allow Hennepin County HSPHD the flexibility to enter into agreements for the provision of GRH services at the current base rate with a limited number of unlicensed housing settings that are currently not eligible for GRH. This statute is procedural in nature because it dictates with what type of settings Hennepin County can enter into a GRH Agreement. The exemption request does not change the funding requirements or amounts, administrative requirements, nor does it change the individual eligibility requirements. Hennepin County is responsible for approving all GRH settings prior to entering into a formal agreement.

The proposed limited exemption request would also extend eligibility for the MSA Shelter-Needy funds to individuals exiting from corporate foster care settings or transitioning from the family home and otherwise would go into a corporate adult foster home or Intermediate Care Facility for the Mentally Retarded (ICF/MR). The MSA Shelter-Needy income supplement would help to cover the costs of housing expenses (e.g., rent, gas and electric) and enable the individuals to move into more independent and less costly living arrangements. The exemption request does not change the funding requirements or amounts, administrative requirements, nor does it change the individual eligibility requirements.

The intended service outcomes for these temporary and limited exemptions are housing flexibility in unlicensed, less restrictive settings when appropriate, improved consumer quality of life and choice, and service cost savings by providing what is needed for an individual, not what is required by a license. Total recipients will be limited to 500 individuals or less for both program exemptions.

This GRH exemption would not have substantive impacts on the applicant's responsibilities. The results will be either cost neutral, or more likely cost savings, since the individuals will already be receiving GRH, but in a more restrictive and costly living arrangement, or are currently residing in a much more costly institutional setting.

The new flexibility in the MSA Shelter-Needy funds will be either cost neutral, or more likely will be a cost savings, since operating costs and support services in corporate foster care or similar settings (e.g., 24-hour support services), tend to be more costly than operating costs for housing and support services provided in less restrictive settings.

D) Where the Service Must be Delivered

For the purposes of this exemption, the housing settings would be either:

- 1) Buildings where licensed assisted living services are available but the building is currently ineligible to be a GRH provider due to serving a younger population and are voluntarily registered; or

- 2) Unlicensed housing settings, where the individual has access to community service providers who will agree to enter into a GRH service agreement with Hennepin County. This practice has already been piloted with the *Housing First Long Term Homeless Initiative*, and is currently an available option for individuals who meet the State definition of "long term homeless." Individuals residing in institutions generally do not meet the definition of "long term homeless," so this option is currently unavailable to them; or
- 3) The MSA Shelter Needy income supplement may be used wherever the individual chooses to live, with the exceptions of GRH settings or subsidized apartment units (where the individual pays 30% of their adjusted income for rent).

E) Recipients of the Service

For the purposes of the GRH limited exemption, individuals eligible to live in these unlicensed, less restrictive settings must:

- 1) Meet the current individual qualifications for GRH, including disabled, over the age of 18, have an adjusted income less than the county negotiated GRH agreement rate (Hennepin County's rate is currently \$737 per month. This is adjusted annually in July); and
- 2) Be relocating from institutions or adult foster care homes or are transitioning from the family home and otherwise would go into an adult foster home or Intermediate Care Facility for the Mentally Retarded (ICF/MR); and
- 3) Be ineligible for the Minnesota Supplemental Aid (MSA) Shelter Needy program; and
- 4) Be a recipient of Medical Assistance waiver services and / or County Service Coordination services.

For the purposes of the MSA Shelter Needy Benefit exemption, individuals must:

- 1) Meet all of the current individual qualifications for MSA Shelter Needy, with one exception underline below, including be a recipient of Supplemental Security Income (SSI), certified disabled, be between the ages of 18-65, meet the definition of shelter-needy, relocating from institutions or adult foster care homes or are transitioning from the family home and otherwise would go into an adult foster home or Intermediate Care Facility for the Mentally Retarded (ICF/MR); and
- 2) Be a recipient of Medical Assistance waiver services and / or County Service Coordination services.

F) Reporting Requirements

- 1) County Contracted service providers are currently required to report outcomes on performance measures, budget and other information to the County on a regular basis per the requirements of the contract. They are also required by contract to report changes in the individuals' conditions, safety and service needs immediately to the County Service Coordinator.

- 2) Hennepin County is currently in the process of expanding performance measures/outcome requirements to all GRH Agreements.
- 3) In addition, for the purposes of this limited exemption, providers will be required to report tenancy stability and quality of life / consumer satisfaction outcomes to the project manager in Hennepin County HSPHD Housing & Homeless Initiatives area. These outcomes, in addition to cost analysis for each individual, will be available to the State Office of the Auditor upon request, should the exemption be granted.

G) Alternatives

Hennepin County, in collaboration with several advocacy groups and State organizations, has been significantly proactive on these and other housing issues for years; including working with the Department of Human Services (DHS) on innovative housing options and proposed legislation; the *Options Too* Committee; the Governors' Council on Disabilities; the Consortium of Consumers with Disabilities and others. Over the past few years, State priority has been given to housing legislation that addresses long-term homelessness. In 2003, the Minnesota Legislature, at the request of Governor Tim Pawlenty, directed the State Commissioners of Human Services, Corrections, and Housing Finance to convene a broadly representative Working Group to address the issue of chronic or long-term homelessness in Minnesota. The Working Group consisted of representatives from government (state, local, and federal), the private sector (developers and business interests), and faith-based organizations. The goals and funding for this plan was set forth in Minnesota laws 2003, chapter 128, article 15, section 9.

Legislation that would expand the MSA Shelter Needy benefit has been introduced in the current 2007 session. Hennepin County is supporting this legislation. Prospective GRH flexibility legislation is still under consideration by the Minnesota Department of Human Services and Hennepin County.

Ramsey County Human Services was granted a similar statutory waiver in 2006 to allow more efficient and flexible delivery of "Alternative Day Services."

Hennepin County, Minnesota
RESOLUTION NO. 07-1-22

The following Resolution was offered by the Human Services Committee:

BE IT RESOLVED, that Hennepin County Human Services and Public Health Department is authorized to request from the Minnesota Office of the State Auditor a temporary limited exemption from the enforcement of state procedural laws governing the delivery of Group Residential Housing (GRH) services (MN Stat. §256I.04) and the Minnesota Supplemental Aid (MSA) Shelter Needy cash benefit (MN Stat. §256D.44) to qualified individuals.

The question was on the adoption of the Resolution and there were 7 YEAS and 0 NAYS, as follows:

COUNTY OF HENNEPIN BOARD OF COUNTY COMMISSIONERS	<u>YEA</u>	<u>NAY</u>	<u>OTHER</u>
Michael Opat	<u>X</u>	_____	_____
Mark Stenglein	<u>X</u>	_____	_____
Gail Dorfman	<u>X</u>	_____	_____
Peter McLaughlin	<u>X</u>	_____	_____
Linda L Koblick	<u>X</u>	_____	_____
Penny Steele	<u>X</u>	_____	_____
Randy Johnson, Chair	<u>X</u>	_____	_____

RESOLUTION ADOPTED ON 01/23/07

ATTEST: _____
Clerk of the County Board

THIS AGREEMENT, made and entered into this _____ day of _____, 2007, by and between the Minnesota Office of the State Auditor (referred to as the State Auditor's Office") and Hennepin County (referred to as the "County").

WHEREAS, the State Auditor's Office has the authority to grant a waiver from administrative rules or a temporary limited exemption from the enforcement of state procedural laws governing the delivery of services by local government; and

WHEREAS, Hennepin County [has been granted] a temporary limited exemption to M.S. §256D.44 Subd. 5 & M.S. 256D.35 Subd.11a by the State Auditor's Office; and

WHEREAS, Hennepin County agrees to the following:

- A. To keep record of each individual who utilizes the flexible housing options;
- B. To keep a list of GRH Agreements with new vendors to implement this flexible housing option;
- C. To compile the average monthly cost of housing and services for this list of individuals and compare to the previous costs;
- D. To report overall results of tenancy stability and quality of life / consumer satisfaction outcomes.

Pursuant to M.S. 6.80, this agreement is for the period beginning _____, 2007 and ending ten days following the adjournment of the 2008 regular legislative session.

APPROVAL:

For State Auditor's Office

For Hennepin County

Minnesota State Auditor

Chair, Hennepin County Board of
Commissioners

Chief Clerk, Hennepin County Board of
Commissioners

Recommended by:

Hennepin County Human Services &
Public Health Department Area Director

Approved as to form:

Assistant Hennepin County Attorney