

**8840.6300 VARIANCE.**

Subpart 1. **Elements.** The commissioner may grant a variance from parts 8840.5100 to 8840.6300, except part 8840.5400. An application for a variance must be in writing, state the specific rule part or subpart from which a variance is requested, and show that:

A. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;

B. the application of the rule in question would impose an excessive burden on the applicant; and

C. the granting of the variance will not adversely affect the public health and safety.

Subp. 1a. **Consultation with Council on Disability.** Before granting a variance, the commissioner shall consult with the Minnesota State Council on Disability. The commissioner shall provide to the council a copy of the variance application, documents filed by the provider or other persons that support or oppose the variance, and other material that the commissioner intends to consult in deciding whether to grant or deny the variance. The commissioner shall not provide information that is classified as private, confidential, nonpublic, or protected nonpublic data under the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. The commissioner shall transmit the relevant information to the council on receipt of the variance application and shall tell the council when the 30-day period for granting or denying the variance will expire. If the council chooses to make a recommendation to the commissioner, it shall do so in writing at least seven days before the 30-day period expires.

Subp. 2. **Written answer in 30 days.** The commissioner shall set forth in writing the reasons for granting or denying the variance within 30 days of receiving the application. If the variance is denied, the applicant may, within 30 days of receiving notice of the denial, request a contested case hearing. The commissioner shall notify the Minnesota State Council on Disability of each grant or denial of a variance and each request for a contested case hearing on a variance denial.

Subp. 3. **Compliance.** Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

Subp. 4. **Material change in circumstances.** Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

Subp. 5. **Revocation of variance.** A variance must be revoked if a material change occurs in the circumstances that justified the variance or if the applicant fails to comply with

the alternative practice specified in the application for a variance. The commissioner shall notify the Minnesota State Council on Disability of each variance revocation.

**Statutory Authority:** *MS s 174.30*

**History:** *17 SR 634; 28 SR 1578*

**Published Electronically:** *October 11, 2007*