MISSOURI DEPARTMENT OF
HEALTH

Mel Carnahan
Governor

Coleen Kivlahan, M.D., M.S.P.H.
Director

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April 1, 1993

Margaret M. MacDonell, PhD.
Argonne National Laboratory
9700 S. Cass Ave, Building 900
Argonne, Illinois 60439

Dear Dr. MacDonell:

This letter pretains to the action item on soil cleanup levels which was discussed at the ROD Review/Coordination meeting for the Weldon Spring site on Thursday, March 25, 1993.

At the meeting you had requested a formal document relating to the temporary withdrawl of the rule pertaining to soil cleanup levels, which is entitled "*Any-Use Soil Levels For Residential Settings*" (ASLs). Enclosed is the formal document. It is our intention to revise the rule in light of the numerous comments received and to again submit a new rule. The new submission date is uncertain at this time.

If you intend to revise the texts in the Proposed Plan and in the Feasibility Study regarding cleanup levels, the most recent levels (ASLs) for the PAHs are as follows:

Benzo (a) pyrene	0.7	milligrams/kg
Benz (a) anthracene	7	milligrams/kg
Benzo (b) fluoranthene	7	milligrams/kg
Benzo (k) fluoranthene	7	milligrams/kg
Chrysene	70	milligrams/kg
Indeno (1,2,3,cd) pyrene	7	milligrams/kg

We trust this information will fulfill the requirements of the action item, and if you need further information, please contact Dr. Richard Gnaedinger at (314)751-6102 or (800)392-7245.

Sincerely,

Daryl W. Roberts
Chief
for Bureau of Environmental Epidemiology

DWR:RG:je

Enclosure

cc: Lou Gonzales, Weldon Spring

Recycled Paper

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER — Services provided on a non-discriminatory basis

COMMENT: In the pre-August 1, 1991 regulation, the description of covered oral surgery services included the following language: An oral surgery not shown in the manual may be allowed and shall be explained on the claim. The coverage permitted by this language must be restored in the final rule. Without this coverage, the final rule would impermissible deny coverage of medically necessary oral surgery as determined by the treating dentist/oral surgeon.
RESPONSE: The current Medicaid dental procedure codes contain oral surgery codes. Specifically, procedure code D9999 provides for the billing of medically necessary Unspecified Adjunctive Procedure (Describe Procedure on Claim—Emergency Treatment, Oral Surgery, Other). The regulation is amended for clarification.

COMMENT: In the new section (9), the list of services is deleted and in its place the department offers the list of services described more fully in new section (9) as supplemented by the *Medicaid Dental Manual*. It would appear the department is attempting to circumvent the provisions of section 536.021, RSMo by giving itself the ability to change covered services by the *Medicaid Dental Manual* rather than promulgating it as a rule. This violates the provisions of section 536.021 requiring the publication of policies of statewide applicability. It also violates the requirements of notice to providers and recipients contained in the federal regulations. This concern applies to other references to the *Medicaid Dental Manual*, in new sections (5), (7), (8) and throughout the subsections in new section (9).
RESPONSE: The Division of Medical Services is not attempting to circumvent the provisions of Chapter 536, RSMo—Administrative Procedure and Review. Section 536.031 allows "the secretary of state may omit from the code of state regulations such rules and such material incorporated by reference in any rule, the publication of which would be unduly cumbersome or expensive, provided that the full text of such rule or the full text of the material incorporated by reference is made available to any interested person at both the office of the secretary of state and the office of the adopting state agency, and copies thereof made available to any interested party at a cost not to exceed the actual cost of copy reproduction."

The Division of Medical Services makes the full text of the *Medicaid Dental Manual* and all amending bulletins available at both the Office of the Secretary of State and the Division of Medical Services—615 Howerton Court. The regulation is amended for clarification.

[illegible] CSR 70-35.010 Dental Benefits and Limitations, Medicaid Program

(9) Services, Covered and Noncovered. [~~A partial list of services is shown in this section. the *Medicaid Dental Manual* shall supplement this list.~~] The list shown in this section represents the groupings of medically necessary services covered by the Missouri Medicaid program. The *Medicaid Dental Manual* shall provide the detailed listing of procedure codes and pricing information.

(M) Oral Surgery (or Other Qualified Dentist Specialist). Oral surgery is limited to medically necessary care. Cosmetic oral surgeries shall not be paid. Procedures as covered for a certified oral surgeon (or other qualified dentist specialist) shall be indicated in the *Medicaid Dental Manual*. A medically necessary oral surgery procedure not specifically listed in the *Medicaid Dental Manual* may be billed using the procedure code identified in the dental manual as Unspecified. The Unspecified procedure must be explained on the claim form.

REVISED STATE AGENCY AND PRIVATE ENTITY COSTS: Since changes made in the Proposed Amendment do not alter the cost estimates by more than ten percent, revised cost estimates are not necessary.

Title 16—RETIREMENT SYSTEMS
Division 40—Highway and Transportation Employees and Highway Patrol Retirement System
Chapter 1—General Organization

ORDER OF RULEMAKING

By the authority vested in the Highway and Transportation Employees and Highway Patrol Retirement System under section 104.210.2., RSMo (Supp. 1988), the system amends rules as follows:

16 CSR 40-1.010 Definitions is amended.
16 CSR 40-1.020 Election to Fill Vacancy on Board of Trustees is amended.

Notices of Proposed Rulemaking containing the texts of the Proposed Amendments were published in the *Missouri Register* on September 1, 1992 (17 MoReg 1298, 1299). No changes have been made in the texts, so they are not reprinted here. These Proposed Amendments become effective *February 26, 1993*—ten days after publication of the next update (*February 16, 1993*) following their revised appearance (*January 5, 1993*) in the *Code of State Regulations*.

SUMMARY OF COMMENT: No comments were received.

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 9—Toxic Substances

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health under section 192.005.2., RSMo (1986), the director withdraws a rule as follows:

19 CSR 20-9.020 Any-Use Soil Levels for Residential Settings is withdrawn.

A Notice of Proposed Rulemaking containing the text of the Proposed Rule was published in the *Missouri Register* on September 1, 1992 (17 MoReg 1299—1304). A future proposal is planned to address issues brought up during the public comment period.

Title 19—DEPARTMENT OF HEALTH
Division 20—Division of Environmental Health and Epidemiology
Chapter 20—Communicable Diseases

ORDER OF RULEMAKING

By the authority vested in the Department of Health under section 192.005.2., RSMo (1986), the director amends a rule of the department as follows:

19 CSR 20-20.030 is amended.

A Notice of Proposed Rulemaking containing the text of the Proposed Amendment was published in the *Missouri Register* on September 1, 1992 (17 MoReg 1306). One typographical error has been corrected and that subsection is reprinted here. This Proposed Amendment becomes effective *February 26, 1993*—ten days after publication of the next update (*February 16, 1993*) following its appearance (*January 5, 1993*) in the *Code of State Regulations*.

SUMMARY OF COMMENT: No comments were received.

19 CSR 20-20.030 Exclusion from School and Readmission

(2) Any person excluded from school under section (1) of this rule may be readmitted to school by one (1) of the following methods:

(B) After a period of time equal to the longest period of communicability of the disease as established in the 1990 fifteenth edition of the *Control of Communicable Diseases in Man*