

A bill for an act

relating to human services; providing county mandate relief; repealing diversionary work program and family stabilization services; making technical and conforming changes; modifying the Children and Community Services Act plan; amending Minnesota Statutes 2008, sections 119B.011, subdivision 20; 119B.03, subdivisions 3, 4; 256J.08, subdivision 65; 256J.626, subdivisions 2, 3; 256J.751, subdivision 2; 256M.01; 256M.30, subdivisions 1, 5; 256M.80, subdivision 2; 393.07, subdivision 10a; Minnesota Statutes 2009 Supplement, section 256J.621; repealing Minnesota Statutes 2008, sections 119B.011, subdivision 10a; 256J.08, subdivision 24b; 256J.575, subdivisions 1, 2, 5, 8; 256J.95, subdivisions 1, 2, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19; Minnesota Statutes 2009 Supplement, sections 256J.575, subdivisions 3, 4, 6, 7; 256J.95, subdivisions 3, 11, 12, 13.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

COUNTY MANDATE RELIEF

Section 1. Minnesota Statutes 2008, section 256M.01, is amended to read:

256M.01 CITATION.

Sections 256M.01 to 256M.80 may be cited as the "Children and Community Services Act." This act establishes a fund to address the needs of children, adolescents, and adults within each county in accordance with a service plan entered into by the board of county commissioners of each county and the commissioner. The service plan shall specify the outcomes to be achieved, the general strategies to be employed, and the respective state and county roles. The service plan shall be reviewed and updated ~~every two years, or sooner if both~~ either the state ~~and~~ or the county deem it necessary.

Sec. 2. Minnesota Statutes 2008, section 256M.30, subdivision 1, is amended to read:

Subdivision 1. **Service plan submitted to commissioner.** Effective January 1, ~~2004, and each two-year period thereafter~~ 2010, each county must have a ~~biennial~~ service plan approved by the commissioner in order to receive funds. Counties may submit multicounty or regional service plans.

Sec. 3. Minnesota Statutes 2008, section 256M.30, subdivision 5, is amended to read:

Subd. 5. **Timelines.** The preliminary service plan must be submitted to the commissioner by October 15, ~~2003, and October 15 of every two years thereafter~~ 2009.

Sec. 4. Minnesota Statutes 2008, section 256M.80, subdivision 2, is amended to read:

Subd. 2. **Statewide evaluation.** Six months after the end of the first full calendar year and annually thereafter, the commissioner shall review and prepare a report on the counties' progress in improving the outcomes of children, adolescents, and adults related to mental health, safety, permanency, and well-being. This report shall be disseminated throughout the state. The commissioner may order a county to revise its service plan under section 256M.30 based on a review of the data submitted under subdivision 1. Revisions may be ordered no more than once every two years.

Sec. 5. Minnesota Statutes 2008, section 393.07, subdivision 10a, is amended to read:

Subd. 10a. **Expedited issuance of food stamps.** The commissioner of human services shall continually monitor the expedited issuance of food stamp benefits to ensure that each county complies with federal regulations and that households eligible for expedited issuance of food stamps are identified, processed, and certified within the time frames prescribed in federal regulations.

County food stamp offices shall screen and issue food stamps to applicants on the day of application. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive within seven days either:

(1) a manual Authorization to Participate (ATP) card; or

(2) the ~~immediate~~ issuance of food stamp coupons.

The local food stamp agency shall conspicuously post in each food stamp office a notice of the availability of and the procedure for applying for expedited issuance and verbally advise each applicant of the availability of the expedited process.

Sec. 6. **TEMPORARY SUSPENSION OF RULE.**

Minnesota Rules, part 9525.0012, subpart 2, is temporarily suspended until June 30, 2011.

Sec. 7. **REPEALER.**

(a) Minnesota Statutes 2008, sections 256J.575, subdivisions 1, 2, 5, and 8; and 256J.95, subdivisions 1, 2, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, and 19, are repealed.

(b) Minnesota Statutes 2009 Supplement, sections 256J.575, subdivisions 3, 4, 6, and 7; and 256J.95, subdivisions 3, 11, 12, and 13, are repealed.

ARTICLE 2

TECHNICAL

Section 1. Minnesota Statutes 2008, section 119B.011, subdivision 20, is amended to read:

Subd. 20. **Transition year families.** "Transition year families" means families who have received MFIP assistance, or who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 256J.31, subdivision 12, ~~or families who have received DWP assistance under section 256J.95 for at least three of the last six months before losing eligibility for MFIP or DWP.~~ Transition year child care may be used to support employment or job search. Transition year child care is not available to families who have been disqualified from MFIP or DWP due to fraud.

Sec. 2. Minnesota Statutes 2008, section 119B.03, subdivision 3, is amended to read:

Subd. 3. **Eligible participants.** Families that meet the eligibility requirements under sections 119B.07, 119B.09, and 119B.10, except MFIP participants, ~~diversionary work program,~~ and transition year families, are eligible for child care assistance under the basic sliding fee program. Families enrolled in the basic sliding fee program shall be continued until they are no longer eligible. Child care assistance provided through the child care fund is considered assistance to the parent.

Sec. 3. Minnesota Statutes 2008, section 119B.03, subdivision 4, is amended to read:

Subd. 4. **Funding priority.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. Within this priority, the following subpriorities must be used:

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP ~~or DWP~~ transition year, ~~or parents who are no longer receiving or eligible for diversionary work program supports.~~

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Fourth priority must be given to families in which at least one parent is a veteran as defined under section 197.447.

(e) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

Sec. 4. Minnesota Statutes 2008, section 256J.08, subdivision 65, is amended to read:

Subd. 65. **Participant.** (a) "Participant" includes any of the following:

(1) a person who is currently receiving cash assistance or the food portion available through MFIP;

(2) a person who withdraws a cash or food assistance payment by electronic transfer or receives and cashes an MFIP assistance check or food coupons and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid;

(3) the caregiver relative and the minor child whose needs are included in the assistance payment;

(4) a person in an assistance unit who does not receive a cash and food assistance payment because the case has been suspended from MFIP; and

~~(5) a person who receives cash payments under the diversionary work program under section 256J.95 is a participant; and~~

~~(6)~~ a person who receives cash payments under family stabilization services under section 256J.575.

(b) "Participant" does not include a person who fails to withdraw or access electronically any portion of the person's cash and food assistance payment by the end of the payment month, who makes a written request for closure before the first of a payment month and repays cash and food assistance electronically issued for that payment month within that payment month, or who returns any uncashed assistance check and food coupons and withdraws from the program.

Sec. 5. Minnesota Statutes 2009 Supplement, section 256J.621, is amended to read:

256J.621 WORK PARTICIPATION CASH BENEFITS.

(a) Effective October 1, 2009, ~~upon exiting the diversionary work program (DWP)~~
~~or~~ upon terminating the Minnesota family investment program with earnings, a participant
who is employed may be eligible for work participation cash benefits of \$50 per month
to assist in meeting the family's basic needs as the participant continues to move toward
self-sufficiency.

(b) To be eligible for work participation cash benefits, the participant shall not
receive MFIP ~~or diversionary work program~~ assistance during the month and the
participant or participants must meet the following work requirements:

(1) if the participant is a single caregiver and has a child under six years of age, the
participant must be employed at least 87 hours per month;

(2) if the participant is a single caregiver and does not have a child under six years of
age, the participant must be employed at least 130 hours per month; or

(3) if the household is a two-parent family, at least one of the parents must be
employed an average of at least 130 hours per month.

Whenever a participant ~~exits the diversionary work program or~~ is terminated from
MFIP and meets the other criteria in this section, work participation cash benefits are
available for up to 24 consecutive months.

(c) Expenditures on the program are maintenance of effort state funds under
a separate state program for participants under paragraph (b), clauses (1) and (2).
Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort
funds. Months in which a participant receives work participation cash benefits under this
section do not count toward the participant's MFIP 60-month time limit.

Sec. 6. Minnesota Statutes 2008, section 256J.626, subdivision 2, is amended to read:

Subd. 2. **Allowable expenditures.** (a) The commissioner must restrict expenditures
under the consolidated fund to benefits and services allowed under title IV-A of the federal
Social Security Act. Allowable expenditures under the consolidated fund may include, but
are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the
definition of assistance under Code of Federal Regulations, title 45, section 260.31, for
families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a.
Payments under this subdivision are not considered TANF cash assistance and are not
counted towards the 60-month time limit;

(2) transportation needed to obtain or retain employment or to participate in other approved work activities or activities under a family stabilization plan;

(3) direct and administrative costs of staff to deliver employment services for MFIP, ~~the diversionary work program~~, or family stabilization services; to administer financial assistance; and to provide specialized services intended to assist hard-to-employ participants to transition to work or transition from family stabilization services to MFIP;

(4) costs of education and training including functional work literacy and English as a second language;

(5) cost of work supports including tools, clothing, boots, telephone service, and other work-related expenses;

(6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);

(7) services to parenting and pregnant teens;

(8) supported work;

(9) wage subsidies;

(10) child care needed for MFIP, ~~the diversionary work program~~, or family stabilization services participants to participate in social services;

(11) child care to ensure that families leaving MFIP ~~or diversionary work program~~ will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program;

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP ~~or DWP~~ assistance, but do not live in the same household as the child, obtain or retain employment; and

(13) services to help families participating in family stabilization services achieve the greatest possible degree of self-sufficiency.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's allocation under this section. The commissioner shall define administrative costs for purposes of this subdivision.

(c) The commissioner may waive the cap on administrative costs for a county or tribe that elects to provide an approved supported employment, unpaid work, or community work experience program for a major segment of the county's or tribe's MFIP population. The county or tribe must apply for the waiver on forms provided by the commissioner. In no case shall total administrative costs exceed the TANF limits.

7.1 Sec. 7. Minnesota Statutes 2008, section 256J.626, subdivision 3, is amended to read:

7.2 Subd. 3. **Eligibility for services.** Families with a minor child, a pregnant woman,
7.3 or a noncustodial parent of a minor child receiving assistance, with incomes below 200
7.4 percent of the federal poverty guideline for a family of the applicable size, are eligible for
7.5 services funded under the consolidated fund. Counties and tribes must give priority to
7.6 families currently receiving MFIP, ~~the diversionary work program~~, or family stabilization
7.7 services, and families at risk of receiving MFIP ~~or diversionary work program~~. A county
7.8 or tribe shall not impose a residency requirement on families, except for the residency
7.9 requirement under section 256J.12.

7.10 Sec. 8. Minnesota Statutes 2008, section 256J.751, subdivision 2, is amended to read:

7.11 Subd. 2. **Quarterly comparison report.** The commissioner shall report quarterly to
7.12 all counties on each county's performance on the following measures:

- 7.13 (1) percent of MFIP caseload working in paid employment;
7.14 (2) percent of MFIP caseload receiving only the food portion of assistance;
7.15 (3) number of MFIP cases that have left assistance;
7.16 (4) median placement wage rate;
7.17 (5) caseload by months of TANF assistance;
7.18 (6) percent of MFIP ~~and diversionary work program (DWP)~~ cases off cash assistance
7.19 or working 30 or more hours per week at one-year, two-year, and three-year follow-up
7.20 points from a baseline quarter. This measure is called the self-support index. The
7.21 commissioner shall report quarterly an expected range of performance for each county,
7.22 county grouping, and tribe on the self-support index. The expected range shall be derived
7.23 by a statistical methodology developed by the commissioner in consultation with the
7.24 counties and tribes. The statistical methodology shall control differences across counties
7.25 in economic conditions and demographics of the MFIP ~~and DWP~~ case load; and
7.26 (7) the TANF work participation rate, defined as the participation requirements
7.27 specified under Public Law 109-171, the Deficit Reduction Act of 2005.

7.28 Sec. 9. **REPEALER.**

7.29 Minnesota Statutes 2008, sections 119B.011, subdivision 10a; and 256J.08,
7.30 subdivision 24b, are repealed.

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ARTICLE 2 TECHNICAL Page.Ln 3.6

119B.011 DEFINITIONS.

Subd. 10a. **Diversionsary work program.** "Diversionsary work program" means the program established under section 256J.95.

256J.08 DEFINITIONS.

Subd. 24b. **Diversionsary work program or DWP.** "Diversionsary work program" or "DWP" has the meaning given in section 256J.95.

256J.575 FAMILY STABILIZATION SERVICES.

Subdivision 1. **Purpose.** (a) The family stabilization services serve families who are not making significant progress within the Minnesota family investment program (MFIP) due to a variety of barriers to employment.

(b) The goal of the services is to stabilize and improve the lives of families at risk of long-term welfare dependency or family instability due to employment barriers such as physical disability, mental disability, age, or providing care for a disabled household member. These services promote and support families to achieve the greatest possible degree of self-sufficiency.

Subd. 2. **Definitions.** The terms used in this section have the meanings given them in paragraphs (a) to (d).

(a) "Case manager" means the county-designated staff person or employment services counselor.

(b) "Case management" means the services provided by or through the county agency or through the employment services agency to participating families, including assessment, information, referrals, and assistance in the preparation and implementation of a family stabilization plan under subdivision 5.

(c) "Family stabilization plan" means a plan developed by a case manager and the participant, which identifies the participant's most appropriate path to unsubsidized employment, family stability, and barrier reduction, taking into account the family's circumstances.

(d) "Family stabilization services" means programs, activities, and services in this section that provide participants and their family members with assistance regarding, but not limited to:

- (1) obtaining and retaining unsubsidized employment;
- (2) family stability;
- (3) economic stability; and
- (4) barrier reduction.

The goal of the services is to achieve the greatest degree of economic self-sufficiency and family well-being possible for the family under the circumstances.

Subd. 3. **Eligibility.** (a) The following MFIP participants are eligible for the services under this section:

(1) a participant who meets the requirements for or has been granted a hardship extension under section 256J.425, subdivision 2 or 3, except that it is not necessary for the participant to have reached or be approaching 60 months of eligibility for this section to apply;

(2) a participant who is applying for Supplemental Security Income or Social Security disability insurance;

(3) a participant who is a noncitizen who has been in the United States for 12 or fewer months; and

(4) a participant who is age 60 or older.

(b) Families must meet all other eligibility requirements for MFIP established in this chapter. Families are eligible for financial assistance to the same extent as if they were participating in MFIP.

(c) A participant under paragraph (a), clause (3), must be provided with English as a second language opportunities and skills training for up to 12 months. After 12 months, the case manager and participant must determine whether the participant should continue with English as a second language classes or skills training, or both, and continue to receive family stabilization services.

(d) If a county agency or employment services provider has information that an MFIP participant may meet the eligibility criteria set forth in this subdivision, the county agency or employment services provider must assist the participant in obtaining the documentation necessary to determine eligibility.

Subd. 4. **Universal participation.** All caregivers must participate in family stabilization services as defined in subdivision 2, except for caregivers exempt under section 256J.561, subdivision 3.

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Subd. 5. **Case management; family stabilization plans; coordinated services.** (a)

The county agency or employment services provider shall provide family stabilization services to families through a case management model. A case manager shall be assigned to each participating family within 30 days after the family is determined to be eligible for family stabilization services. The case manager, with the full involvement of the participant, shall recommend, and the county agency shall establish and modify as necessary, a family stabilization plan for each participating family. If a participant is already assigned to a county case manager or a county-designated case manager in social services, disability services, or housing services that case manager already assigned may be the case manager for purposes of these services.

(b) The family stabilization plan must include:

(1) each participant's plan for long-term self-sufficiency, including an employment goal where applicable;

(2) an assessment of each participant's strengths and barriers, and any special circumstances of the participant's family that impact, or are likely to impact, the participant's progress towards the goals in the plan; and

(3) an identification of the services, supports, education, training, and accommodations needed to reduce or overcome any barriers to enable the family to achieve self-sufficiency and to fulfill each caregiver's personal and family responsibilities.

(c) The case manager and the participant shall meet within 30 days of the family's referral to the case manager. The initial family stabilization plan must be completed within 30 days of the first meeting with the case manager. The case manager shall establish a schedule for periodic review of the family stabilization plan that includes personal contact with the participant at least once per month. In addition, the case manager shall review and, if necessary, modify the plan under the following circumstances:

(1) there is a lack of satisfactory progress in achieving the goals of the plan;

(2) the participant has lost unsubsidized or subsidized employment;

(3) a family member has failed or is unable to comply with a family stabilization plan requirement;

(4) services, supports, or other activities required by the plan are unavailable;

(5) changes to the plan are needed to promote the well-being of the children; or

(6) the participant and case manager determine that the plan is no longer appropriate for any other reason.

Subd. 6. **Cooperation with services requirements.** (a) A participant who is eligible for family stabilization services under this section shall comply with paragraphs (b) to (d).

(b) Participants shall engage in family stabilization plan services for the appropriate number of hours per week that the activities are scheduled and available, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1. The appropriate number of hours must be based on the participant's plan.

(c) The case manager shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.

(d) A participant's requirement to comply with any or all family stabilization plan requirements under this subdivision is excused when the case management services, training and educational services, or family support services identified in the participant's family stabilization plan are unavailable for reasons beyond the control of the participant, including when money appropriated is not sufficient to provide the services.

Subd. 7. **Sanctions.** (a) The county agency or employment services provider must follow the requirements of this subdivision at the time the county agency or employment services provider has information that an MFIP recipient may meet the eligibility criteria in subdivision 3.

(b) The financial assistance grant of a participating family is reduced according to section 256J.46, if a participating adult fails without good cause to comply or continue to comply with the family stabilization plan requirements in this subdivision, unless compliance has been excused under subdivision 6, paragraph (d).

(c) Given the purpose of the family stabilization services in this section and the nature of the underlying family circumstances that act as barriers to both employment and full compliance with program requirements, there must be a review by the county agency prior to imposing a sanction to determine whether the plan was appropriated to the needs of the participant and family. There must be a current assessment by a behavioral health or medical professional confirming that the participant in all ways had the ability to comply with the plan.

(d) Prior to the imposition of a sanction, the county agency or employment services provider shall review the participant's case to determine if the family stabilization plan is still

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appropriate and meet with the participant face-to-face. The county agency or employment services provider must inform the participant of the right to bring an advocate to the face-to-face meeting.

During the face-to-face meeting, the county agency shall:

- (1) determine whether the continued noncompliance can be explained and mitigated by providing a needed family stabilization service, as defined in subdivision 2, paragraph (d);
- (2) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;
- (3) determine whether activities in the family stabilization plan are appropriate based on the family's circumstances;
- (4) explain the consequences of continuing noncompliance;
- (5) identify other resources that may be available to the participant to meet the needs of the family; and
- (6) inform the participant of the right to appeal under section 256J.40.

If the lack of an identified activity or service can explain the noncompliance, the county shall work with the participant to provide the identified activity.

(e) If the participant fails to come to the face-to-face meeting, the case manager or a designee shall attempt at least one home visit. If a face-to-face meeting is not conducted, the county agency shall send the participant a written notice that includes the information under paragraph (d).

(f) After the requirements of paragraphs (d) and (e) are met and prior to imposition of a sanction, the county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action under section 256J.31.

(g) Section 256J.57 applies to this section except to the extent that it is modified by this subdivision.

Subd. 8. Funding. (a) The commissioner of human services shall treat MFIP expenditures made to or on behalf of any minor child under this section, who is part of a household that meets criteria in subdivision 3, as expenditures under a separately funded state program. These expenditures shall not count toward the state's maintenance of effort requirements under the federal TANF program.

(b) A family is no longer part of a separately funded program under this section if the caregiver no longer meets the criteria for family stabilization services in subdivision 3, or if it is determined at recertification that a caregiver with a child under the age of six is working at least 87 hours per month in paid or unpaid employment, or a caregiver without a child under the age of six is working at least 130 hours per month in paid or unpaid employment, whichever occurs sooner.

256J.95 DIVERSIONARY WORK PROGRAM.

Subdivision 1. Establishing a diversionary work program (DWP). (a) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, establishes block grants to states for temporary assistance for needy families (TANF). TANF provisions allow states to use TANF dollars for nonrecurrent, short-term diversionary benefits. The diversionary work program established on July 1, 2003, is Minnesota's TANF program to provide short-term diversionary benefits to eligible recipients of the diversionary work program.

(b) The goal of the diversionary work program is to provide short-term, necessary services and supports to families which will lead to unsubsidized employment, increase economic stability, and reduce the risk of those families needing longer term assistance, under the Minnesota family investment program (MFIP).

(c) When a family unit meets the eligibility criteria in this section, the family must receive a diversionary work program grant and is not eligible for MFIP.

(d) A family unit is eligible for the diversionary work program for a maximum of four consecutive months. During the four consecutive months, family maintenance needs as defined in subdivision 2, shall be vendor paid, up to the cash portion of the MFIP standard of need for the same size household. To the extent there is a balance available between the amount paid for family maintenance needs and the cash portion of the transitional standard, a personal needs allowance of up to \$70 per DWP recipient in the family unit shall be issued. The personal needs allowance payment plus the family maintenance needs shall not exceed the cash portion of the MFIP standard of need. Counties may provide supportive and other allowable services funded by the MFIP consolidated fund under section 256J.626 to eligible participants during the four-month diversionary period.

Subd. 2. Definitions. The terms used in this section have the following meanings.

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(a) "Diversionary Work Program (DWP)" means the program established under this section.

(b) "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step. For participants who request and qualify for a family violence waiver in section 256J.521, subdivision 3, an employment plan must be developed by the job counselor, the participant, and a person trained in domestic violence and follow the employment plan provisions in section 256J.521, subdivision 3. Employment plans under this section shall be written for a period of time not to exceed four months.

(c) "Employment services" means programs, activities, and services in this section that are designed to assist participants in obtaining and retaining employment.

(d) "Family maintenance needs" means current housing costs including rent; manufactured home lot rental costs, or monthly principal, interest, insurance premiums, and property taxes due for mortgages or contracts for deed; association fees required for homeownership; utility costs for current month expenses of gas and electric, garbage, water and sewer; and a flat rate of \$35 for telephone services.

(e) "Family unit" means a group of people applying for or receiving DWP benefits together. For the purposes of determining eligibility for this program, the composition of the family unit is determined according to section 256J.24, subdivisions 1 to 4.

(f) "Minnesota family investment program (MFIP)" means the assistance program as defined in section 256J.08, subdivision 57.

(g) "Personal needs allowance" means an allowance of up to \$70 per month per DWP unit member to pay for expenses such as household products and personal products.

(h) "Work activities" means allowable work activities as defined in section 256J.49, subdivision 13.

(i) "Caregiver" means the caregiver as defined in section 256J.08, subdivision 11.

Subd. 3. Eligibility for diversionary work program. (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

- (1) child only cases;
- (2) a single-parent family unit that includes a child under 12 months of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;
- (3) a minor parent without a high school diploma or its equivalent;
- (4) an 18- or 19-year-old caregiver without a high school diploma or its equivalent who chooses to have an employment plan with an education option;
- (5) a caregiver age 60 or over;
- (6) family units with a caregiver who received DWP benefits in the 12 months prior to the month the family applied for DWP, except as provided in paragraph (c);
- (7) family units with a caregiver who received MFIP within the 12 months prior to the month the family unit applied for DWP;
- (8) a family unit with a caregiver who received 60 or more months of TANF assistance;
- (9) a family unit with a caregiver who is disqualified from DWP or MFIP due to fraud; and
- (10) refugees and asylees as defined in Code of Federal Regulations, title 45, part 400, subpart d, section 400.43, who arrived in the United States in the 12 months prior to the date of application for family cash assistance.

(b) A two-parent family must participate in DWP unless both caregivers meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6), (7), (8), (9), or (10).

(c) Once DWP eligibility is determined, the four months run consecutively. If a participant leaves the program for any reason and reapplies during the four-month period, the county must redetermine eligibility for DWP.

Subd. 4. Cooperation with program requirements. (a) To be eligible for DWP, an applicant must comply with the requirements of paragraphs (b) to (d).

(b) Applicants and participants must cooperate with the requirements of the child support enforcement program but will not be charged a fee under section 518A.51.

(c) The applicant must provide each member of the family unit's Social Security number to the county agency. This requirement is satisfied when each member of the family unit cooperates with the procedures for verification of numbers, issuance of duplicate cards, and issuance of

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new numbers which have been established jointly between the Social Security Administration and the commissioner.

(d) Before DWP benefits can be issued to a family unit, the caregiver must, in conjunction with a job counselor, develop and sign an employment plan. In two-parent family units, both parents must develop and sign employment plans before benefits can be issued. Food support and health care benefits are not contingent on the requirement for a signed employment plan.

Subd. 5. **Submitting application form.** The eligibility date for the diversionary work program begins with the date the signed combined application form (CAF) is received by the county agency or the date diversionary work program eligibility criteria are met, whichever is later. The county agency must inform the applicant that any delay in submitting the application will reduce the benefits paid for the month of application. The county agency must inform a person that an application may be submitted before the person has an interview appointment. Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The applicant may withdraw the application at any time prior to approval by giving written or oral notice to the county agency. The county agency must follow the notice requirements in section 256J.09, subdivision 3, when issuing a notice confirming the withdrawal.

Subd. 6. **Initial screening of applications.** Upon receipt of the application, the county agency must determine if the applicant may be eligible for other benefits as required in sections 256J.09, subdivision 3a, and 256J.28, subdivisions 1 and 5. The county must screen and the applicant must apply for other benefits as required under section 256J.30, subdivision 2. The county must also follow the provisions in section 256J.09, subdivision 3b, clause (2).

Subd. 7. **Program and processing standards.** (a) The interview to determine financial eligibility for the diversionary work program must be conducted within five working days of the receipt of the cash application form. During the intake interview, the financial worker must discuss:

- (1) the goals, requirements, and services of the diversionary work program;
- (2) the availability of child care assistance. If child care is needed, the worker must obtain a completed application for child care from the applicant before the interview is terminated. The same day the application for child care is received, the application must be forwarded to the appropriate child care worker. For purposes of eligibility for child care assistance under chapter 119B, DWP participants shall be eligible for the same benefits as MFIP recipients; and
- (3) if the applicant has not requested food support and health care assistance on the application, the county agency shall, during the interview process, talk with the applicant about the availability of these benefits.

(b) The county shall follow section 256J.74, subdivision 2, paragraph (b), clauses (1) and (2), when an applicant or a recipient of DWP has a person who is a member of more than one assistance unit in a given payment month.

(c) If within 30 days the county agency cannot determine eligibility for the diversionary work program, the county must deny the application and inform the applicant of the decision according to the notice provisions in section 256J.31. A family unit is eligible for a fair hearing under section 256J.40.

Subd. 8. **Verification requirements.** (a) A county agency must only require verification of information necessary to determine DWP eligibility and the amount of the payment. The applicant or participant must document the information required or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so.

(b) A county agency must not request information about an applicant or participant that is not a matter of public record from a source other than county agencies, the Department of Human Services, or the United States Department of Health and Human Services without the person's prior written consent. An applicant's signature on an application form constitutes consent for contact with the sources specified on the application. A county agency may use a single consent form to contact a group of similar sources, but the sources to be contacted must be identified by the county agency prior to requesting an applicant's consent.

(c) Factors to be verified shall follow section 256J.32, subdivision 4. Except for personal needs, family maintenance needs must be verified before the expense can be allowed in the calculation of the DWP grant.

Subd. 9. **Property and income limitations.** The asset limits and exclusions in section 256J.20 apply to applicants and recipients of DWP. All payments, unless excluded in section 256J.21, must be counted as income to determine eligibility for the diversionary work program. The county shall treat income as outlined in section 256J.37, except for subdivision 3a. The initial

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income test and the disregards in section 256J.21, subdivision 3, shall be followed for determining eligibility for the diversionary work program.

Subd. 10. **Diversionary work program grant.** (a) The amount of cash benefits that a family unit is eligible for under the diversionary work program is based on the number of persons in the family unit, the family maintenance needs, personal needs allowance, and countable income. The county agency shall evaluate the income of the family unit that is requesting payments under the diversionary work program. Countable income means gross earned and unearned income not excluded or disregarded under MFIP. The same disregards for earned income that are allowed under MFIP are allowed for the diversionary work program.

(b) The DWP grant is based on the family maintenance needs for which the DWP family unit is responsible plus a personal needs allowance. Housing and utilities, except for telephone service, shall be vendor paid. Unless otherwise stated in this section, actual housing and utility expenses shall be used when determining the amount of the DWP grant.

(c) The maximum monthly benefit amount available under the diversionary work program is the difference between the family unit's needs under paragraph (b) and the family unit's countable income not to exceed the cash portion of the MFIP standard of need as defined in section 256J.08, subdivision 55a, for the family unit's size.

(d) Once the county has determined a grant amount, the DWP grant amount will not be decreased if the determination is based on the best information available at the time of approval and shall not be decreased because of any additional income to the family unit. The grant must be increased if a participant later verifies an increase in family maintenance needs or family unit size. The minimum cash benefit amount, if income and asset tests are met, is \$10. Benefits of \$10 shall not be vendor paid.

(e) When all criteria are met, including the development of an employment plan as described in subdivision 14 and eligibility exists for the month of application, the amount of benefits for the diversionary work program retroactive to the date of application is as specified in section 256J.35, paragraph (a).

(f) Any month during the four-month DWP period that a person receives a DWP benefit directly or through a vendor payment made on the person's behalf, that person is ineligible for MFIP or any other TANF cash assistance program except for benefits defined in section 256J.626, subdivision 2, clause (1).

If during the four-month period a family unit that receives DWP benefits moves to a county that has not established a diversionary work program, the family unit may be eligible for MFIP the month following the last month of the issuance of the DWP benefit.

Subd. 11. **Universal participation required.** (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, that may contain alternate activities and reduced hours.

(c) A participant who is a victim of family violence shall be allowed to develop an employment plan under section 256J.521, subdivision 3. A claim of family violence must be documented by the applicant or participant by providing a sworn statement which is supported by collateral documentation in section 256J.545, paragraph (b).

(d) One parent in a two-parent family unit that has a natural born child under 12 months of age is not required to have an employment plan until the child reaches 12 months of age unless the family unit has already used the exclusion under section 256J.561, subdivision 3, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 months of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet within ten working days after the child reaches 12 months of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 months of age that has already used the exclusion in section 256J.561 or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize the caregiving needs of the parent.

Subd. 12. **Conversion or referral to MFIP.** (a) If at any time during the DWP application process or during the four-month DWP eligibility period, it is determined that a participant is unlikely to benefit from the diversionary work program, the county shall convert or refer the

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participant to MFIP as specified in paragraph (d). Participants who are determined to be unlikely to benefit from the diversionary work program must develop and sign an employment plan.

(b) A participant who meets the eligibility requirements under section 256J.575, subdivision 3, must be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

(c) In a two-parent family unit, if one parent is determined to be unlikely to benefit from the diversionary work program, the family unit must be converted or referred to MFIP.

(d) A participant who is determined to be unlikely to benefit from the diversionary work program shall be converted to MFIP and, if the determination was made within 30 days of the initial application for benefits, no additional application form is required. A participant who is determined to be unlikely to benefit from the diversionary work program shall be referred to MFIP and, if the determination is made more than 30 days after the initial application, the participant must submit a program change request form. The county agency shall process the program change request form by the first of the following month to ensure that no gap in benefits is due to delayed action by the county agency. In processing the program change request form, the county must follow section 256J.32, subdivision 1, except that the county agency shall not require additional verification of the information in the case file from the DWP application unless the information in the case file is inaccurate, questionable, or no longer current.

(e) The county shall not request a combined application form for a participant who has exhausted the four months of the diversionary work program, has continued need for cash and food assistance, and has completed, signed, and submitted a program change request form within 30 days of the fourth month of the diversionary work program. The county must process the program change request according to section 256J.32, subdivision 1, except that the county agency shall not require additional verification of information in the case file unless the information is inaccurate, questionable, or no longer current. When a participant does not request MFIP within 30 days of the diversionary work program benefits being exhausted, a new combined application form must be completed for any subsequent request for MFIP.

Subd. 13. **Immediate referral to employment services.** Within one working day of determination that the applicant is eligible for the diversionary work program, but before benefits are issued to or on behalf of the family unit, the county shall refer all caregivers to employment services. The referral to the DWP employment services must be in writing and must contain the following information:

(1) notification that, as part of the application process, applicants are required to develop an employment plan or the DWP application will be denied;

(2) the employment services provider name and phone number;

(3) the immediate availability of supportive services, including, but not limited to, child care, transportation, and other work-related aid; and

(4) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for good cause, the consequences of refusing or failing to participate fully with program requirements, and the appeal process.

Subd. 14. **Employment plan; DWP benefits.** As soon as possible, but no later than ten working days of being notified that a participant is financially eligible for the diversionary work program, the employment services provider shall provide the participant with an opportunity to meet to develop an initial employment plan. Once the initial employment plan has been developed and signed by the participant and the job counselor, the employment services provider shall notify the county within one working day that the employment plan has been signed. The county shall issue DWP benefits within one working day after receiving notice that the employment plan has been signed.

Subd. 15. **Limitations on certain work activities.** (a) Except as specified in paragraphs (b) to (d), employment activities listed in section 256J.49, subdivision 13, are allowable under the diversionary work program.

(b) Work activities under section 256J.49, subdivision 13, clause (5), shall be allowable only when in combination with approved work activities under section 256J.49, subdivision 13, clauses (1) to (4), and shall be limited to no more than one-half of the hours required in the employment plan.

(c) In order for an English as a second language (ESL) class to be an approved work activity, a participant must:

(1) be below a spoken language proficiency level of SPL6 or its equivalent, as measured by a nationally recognized test; and

(2) not have been enrolled in ESL for more than 24 months while previously participating in MFIP or DWP. A participant who has been enrolled in ESL for 20 or more months may be approved for ESL until the participant has received 24 total months.

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(d) Work activities under section 256J.49, subdivision 13, clause (6), shall be allowable only when the training or education program will be completed within the four-month DWP period. Training or education programs that will not be completed within the four-month DWP period shall not be approved.

Subd. 16. **Failure to comply with requirements.** A family unit that includes a participant who fails to comply with DWP employment service or child support enforcement requirements, without good cause as defined in sections 256.741 and 256J.57, shall be disqualified from the diversionary work program. The county shall provide written notice as specified in section 256J.31 to the participant prior to disqualifying the family unit due to noncompliance with employment service or child support. The disqualification does not apply to food support or health care benefits.

Subd. 17. **Good cause for not complying with requirements.** A participant who fails to comply with the requirements of the diversionary work program may claim good cause for reasons listed in sections 256.741 and 256J.57, subdivision 1, clauses (1) to (13). The county shall not impose a disqualification if good cause exists.

Subd. 18. **Reinstatement following disqualification.** A participant who has been disqualified from the diversionary work program due to noncompliance with employment services may regain eligibility for the diversionary work program by complying with program requirements. A participant who has been disqualified from the diversionary work program due to noncooperation with child support enforcement requirements may regain eligibility by complying with child support requirements under section 256.741. Once a participant has been reinstated, the county shall issue prorated benefits for the remaining portion of the month. A family unit that has been disqualified from the diversionary work program due to noncompliance shall not be eligible for MFIP or any other TANF cash program for the remainder of the four-month period. In a two-parent family, both parents must be in compliance before the family unit can regain eligibility for benefits.

Subd. 19. **DWP overpayments and underpayments.** DWP benefits are subject to overpayments and underpayments. Anytime an overpayment or an underpayment is determined for DWP, the correction shall be calculated using prospective budgeting. Corrections shall be determined based on the policy in section 256J.34, subdivision 1, paragraphs (a), (b), and (c). ATM errors must be recovered as specified in section 256J.38, subdivision 5. Cross program recoupment of overpayments cannot be assigned to or from DWP.