

CHAPTER 9550
DEPARTMENT OF HUMAN SERVICES
GENERAL ADMINISTRATION OF SOCIAL SERVICES

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ADMINISTRATION OF COMMUNITY SOCIAL SERVICES

9550.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9550.0010 to 9550.0093, the following terms have the meanings given them.

Subp. 2. **Approved vendors.** "Approved vendors" means providers of community social services that have met the standards established by state licensing laws, department rules, or, in the absence of state law or rule, local agency criteria established in accordance with part 9550.0040, subpart 4.

Subp. 2a. **Authorized representative.** "Authorized representative" means a parent of a minor child, a guardian, a person who is authorized by power of attorney under Minnesota Statutes, section 523.01, a person who is appointed by the applicant or client, or a person who is authorized by a court of law to act on the applicant's or client's behalf in matters involving community social services. The case record must document the name of the person or names of the persons appointed and the reason or reasons for the appointment.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 4. **Community social services.** "Community social services" means the services included in a county's community social services plan in order to fulfill the county responsibility, as prescribed in Minnesota Statutes, section 256E.08, subdivision 1, to groups or subgroups specified in Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a). These services are administered by county boards and provided or arranged for the groups or subgroups according to the county board's community social services plan.

Subp. 5. **Community social services plan.** "Community social services plan" means the biennial social services plan required of the county board by Minnesota Statutes, section 256E.09, subdivision 3.

Subp. 6. **County board.** "County board" means the county board of commissioners in each county. When a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10 it shall be considered to be the county board for purposes of this chapter.

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Subp. 7. **County of financial responsibility.** "County of financial responsibility" means the county responsible for the payment of individual client social services as specified in Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 8. **County of service.** "County of service" means the county arranging for or providing community social services to individual clients at the request of the client, the client's authorized representative, or the county of financial responsibility.

Subp. 9. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 10. [Repealed, 20 SR 2427]

Subp. 11. [Repealed, 20 SR 2427]

Subp. 12. **Goal.** "Goal" means the intended outcome for a client.

Subp. 13. [Repealed, 20 SR 2427]

Subp. 13a. **Indicator.** "Indicator" means the measure to be used to determine outcome attainment.

Subp. 14. **Individual service plan.** "Individual service plan" means the plan agreed upon between the local agency and the client or the client's authorized representative for the provision of social services to the client by the local agency.

Subp. 14a. **Lead county.** "Lead county" means a county that negotiates and administers a contract with an approved vendor on behalf of itself and other local agencies requesting to purchase social services from that vendor.

Subp. 15. **Local agency.** "Local agency" means the social services agency authorized by the county board to provide community social services.

Subp. 16. [Repealed, 20 SR 2427]

Subp. 17. **Outcome.** "Outcome" means the change or difference for a client in terms of the client's condition, behavior, knowledge, or skills and abilities during the provision of services.

Subp. 18. **Placement agreement.** "Placement agreement" means a written document specifying the terms for provision of services to a client that is signed by the approved vendor and the county of financial responsibility or its designee.

Subp. 19. **Publish.** "Publish" means to print in the official newspaper of the county, or if there is no official newspaper, in a newspaper of general circulation in the county.

Subp. 20. [Repealed, 20 SR 2427]

Subp. 21. [Repealed, 20 SR 2427]

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; L 1991 c 292 art 6 s 58; 20 SR 2427*

9550.0020 COUNTY RESPONSIBILITY FOR COMMUNITY SOCIAL SERVICES.

Subpart 1. **Responsibility of counties.** A county board is responsible for administering, planning, monitoring, and evaluating community social services, and for disbursing funds made available for community social services under Minnesota Statutes, sections 256E.06 and 256E.07.

Subp. 2. **Social services clients.** A county board must provide community social services in accordance with Minnesota Statutes, section 256E.08, subdivision 1, to groups of persons identified in Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a).

Subp. 3. **Methods of providing services.** A county board must provide community social services directly through the local agency, by contracting with or making grants to approved vendors, or by arranging for the voluntary provision of services at no cost to the county board.

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Subp. 4. **Eligibility policy and criteria.** The county board must establish eligibility policies and criteria for community social services and describe them in the county's biennial community social services plan.

Subp. 5. **Annual effectiveness report.** The county board must submit an annual effectiveness report to the commissioner pursuant to Minnesota Statutes, section 256E.10, subdivision 1. The report must include an evaluation of the outcomes as stated in the county's community social services plan.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0030 COMMUNITY SOCIAL SERVICES PLAN.

Subpart 1. **County board responsibility.** A county board must submit biennially a proposed and a final community social services plan for the next two calendar years to the commissioner for certification.

If the commissioner does not approve a proposed plan or if a county wishes to change its proposed plan, the county must submit a revised plan. If the commissioner approves a proposed plan and the county does not wish to change the plan, the county must notify the commissioner that it will adopt the proposed plan as a final plan.

A county's revised plan or notice of intent to adopt a proposed plan as a final plan must be received by the commissioner no later than 30 calendar days after final adoption of the county's budget by the county board. If the final plan submitted by a county is not approved, the commissioner must notify the county in writing of the reasons for not approving the plan. The county has 30 days from receiving the commissioner's notice to submit a plan that will comply with the requirements cited by the commissioner. If the county fails within the 30-day period to submit a plan that complies, the payment reduction specified in Minnesota Statutes, section 256E.05, subdivision 2, applies.

If the commissioner's certification of a county's final plan is delayed beyond January 1 of the first year of the plan, the community social services plan in effect on December 31 of the year immediately preceding the first year of the plan shall remain in effect until the final plan is certified.

Subp. 2. **Notice of opportunity for citizen participation.** The county board must provide and publicize an opportunity for county citizens, including representatives of service users, to participate in developing the proposed community social services plan. The notice of an opportunity for citizen participation must also indicate when a copy of the proposed community social services plan will be available to county residents upon request. Consistent with subpart 4, item A, the notice of opportunity for citizen participation must be published at least 60 calendar days before the date when the proposed plan becomes available for public distribution.

Subp. 3. **Plan availability.** After submitting its proposed plan to the commissioner, the county board must publish notice of the availability of their proposed community social services plan and make the proposed plan available to residents of the county upon request. The plan made available to the public must be the proposed plan or a summary of the proposed plan that the county board considers in its budget deliberations. Summaries must include approximate levels of budgeting. Summaries must also include a prominent notice that the complete proposed plan to be considered by the county board is also available upon request.

Subp. 4. **Certification standards.** The plan approved by the county board must comply with the standards in items A to I in order to have the commissioner certify that the county's community social services plan fulfills the purposes and requirements of Minnesota Statutes, section 256E.09, other state and federal law, and the rules of the department. Compliance with items A to I does not exempt a county from meeting the requirements of other categorical grant applications and plans that have been included as part of the community social services plan.

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A. The proposed community social services plan must document the county's efforts to obtain citizen participation in plan development by:

(1) showing that notice of opportunity for citizen participation in plan development was published at least 60 calendar days before the proposed plan became available to the public;

(2) describing methods and timetables used by the county board to achieve citizen participation; and

(3) summarizing public comments by content, source, and effect on determining priorities within and services to be offered to each group identified in Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a).

B. The plan must specify each group or subgroup identified in Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a). When a plan addresses the needs of other groups pursuant to Minnesota Statutes, section 256E.03, subdivision 2, paragraph (a), clause (9), the county must define or describe each group and the services proposed must be consistent with the overall purpose of Minnesota Statutes, chapter 256E.

C. The plan must include eligibility policies and criteria and client fee policies and schedules.

D. The plan must include the methods used to assess the needs of each group or subgroup in item B.

E. For each group or subgroup specified in item B, the plan must state:

(1) at least one client-focused goal and outcome indicator; and

(2) a description of how the service system will be coordinated.

F. Using codes from the current statewide reporting system for community social services, the plan must describe all services the county board proposes to provide for each group or subgroup in item B, and the planned expenditures for each group.

G. The plan must specify how the county board plans to facilitate access to services for persons with mental or physical disabilities.

H. The plan must include an analysis of the adequacy of resources available to support the proposed plan and an estimate of unmet needs.

I. The plan must include estimates of the amount and source of all anticipated federal, state, and local revenues.

Subp. 5. Availability of final plan. The county board must make copies of the final community social services plan, or a summary of the plan that includes actual levels of funding, available to county residents on request no later than 60 days after the commissioner certifies the plan.

Subp. 6. Duration of plan. The community social services plan shall be in effect from January 1 of each even-numbered year through December 31 of the following year except when a new final plan has not been certified and subpart 1 applies.

Subp. 7. Amendment to plan. The county board must amend its community social services plan pursuant to Minnesota Statutes, section 256E.09, subdivision 6, and this subpart when the county proposes to:

A. add, reduce, or delete a service;

B. change eligibility categories, including expansion, restriction, or deletion of a category;

C. change fee policies or schedules; or

D. exercise the fiscal limitations provisions in Minnesota Statutes, section 256E.081.

The county board must publish notice of the proposed amendment and make it available to county residents upon request. The county board must permit the public to review and comment on the proposed amendment for a minimum of 30 calendar days following notice of the proposed amendment. If the county board approves the

proposed amendment following the period for public comment, it must submit the amendment to the commissioner unless the amendment concerns fee schedules.

All provisions of the current approved plan must remain in effect until the proposed amendment becomes final. The proposed amendment becomes final when the commissioner certifies the amendment or, in the case of an amendment concerning fee schedules, when the county board approves the amendment.

Subp. 8. Exception to amendment process. A county board need not go through the amendment process to implement the following changes:

A. a specific proposal already contained in the approved community social services plan for a future change of the type specified in subpart 7, items A to C, provided the dates of proposed implementation are included in the original plan; or

B. a contingency plan, already specified in the approved community social services plan, for prioritizing and delivering services not required by federal or state law or regulation when funds are insufficient to provide services to all applicants.

Subp. 9. County board right to appeal. Before the commissioner certifies any reductions in aid under Minnesota Statutes, section 256E.05, subdivision 2, the commissioner shall give 30 days written notice to the county board. The written notice shall inform the county board of the reasons its community social services plan is not approved, the commissioner's intent to certify a reduction in the county board's next quarterly payment, and the county board's right to a hearing under the contested case procedures of Minnesota Statutes, chapter 14. If the commissioner receives a written appeal from the county board within 30 days of the date the written notice is sent, the commissioner shall initiate a contested case proceeding. The commissioner shall not certify any reduction in aid until the hearing is conducted and a decision rendered in accordance with Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0040 GRANTS AND PURCHASE OF SERVICE CONTRACTS.

Subpart 1. Authority. The local agency may purchase community social services by grant or purchase of service contract from agencies or individuals approved as vendors.

Subp. 2. Grant and contract requirements. Grants and purchase of service contracts for community social services must contain the following:

A. the beginning and ending dates of the grant or contract;

B. a description of the service or services as defined in the community social services plan;

C. the total dollar amount of the grant or the unit cost of each service for a purchase of service contract;

D. a statement that the amount, frequency, and duration of purchased services will be provided in accordance with the client's individual service plan;

E. a statement that the provider must notify the client and the local agency, in writing, before discharge or termination of services to an individual client;

F. an itemized list of program and fiscal records to be maintained by the approved vendor;

G. a retention schedule for program and fiscal records;

H. statement of compliance with the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13, and identification of the person responsible for compliance with data practices;

I. provisions for addressing liability; and

J. provisions for termination of the grant or contract.

Subp. 3. Duties of local agency. The local agency must:

A. use a written grant or purchase of service contract containing all provisions specified in subpart 2 when purchasing community social services. Every grant and

purchase of service contract must be completed, signed, and approved by all parties to the agreement, including the county board unless the county board has designated the local agency to sign on its behalf. No service shall be provided before the effective date of the grant or purchase of service contract;

B. determine client's eligibility for purchased services, or delegate the responsibility for making the preliminary determination to the approved vendor under the terms of the grant or purchase of service contract;

C. ensure the development of an individual social service plan based on the needs of the client;

D. monitor purchased services and evaluate grants and contracts on the basis of client outcomes; and

E. purchase only from approved vendors.

Subp. 4. Local agency criteria. When the local agency chooses to purchase community social services from a vendor that is not subject to state licensing laws or department rules, the local agency must establish written criteria for vendor approval to ensure the health, safety, and well-being of clients.

Subp. 5. Case records and reporting requirements. Case records and data reporting requirements for grants and purchased services are the same as case record and data reporting requirements for direct services.

Subp. 6. Files. The local agency must keep an administrative file for each grant and contract. The file must contain:

A. a copy of the signed and completed grant or contract;

B. copies of correspondence between the approved vendor and the local agency;

C. copies of monitoring and evaluation reports;

D. copies of correspondence between the local agency and the department relating to the grant or contract;

E. copies of hearing transcripts, complaints, grievances, and inquiries relating to grant or contract performance; and

F. financial, statistical, and any other reports specified in the grant or contract.

Subp. 7. [Repealed, 20 SR 2427]

Subp. 7a. Contracting within and across county lines; lead county contracts. Items A to E govern contracting within and across county lines and lead county contracts.

A. Once a local agency and an approved vendor execute a contract that meets the requirements of this part, that contract governs all other purchases of service from that vendor by all other local agencies for the term of the contract. The local agency that negotiated and entered into the contract becomes the lead county for that contract.

(1) Terms of a contract negotiated under this subpart may be renegotiated by the parties to the contract with the concurrence of all agencies purchasing services under the contract.

(2) If, at the time the contract expires, one or more agencies want to continue purchasing from the vendor, the new contract must be negotiated according to the terms of this subpart.

B. When the local agency in the county where a vendor is located wants to purchase services from that vendor and the vendor has no contract with the local agency or any other county, the local agency must negotiate and execute a contract with the vendor.

C. When a local agency in one county wants to purchase services from a vendor located in another county, it must notify the local agency in the county where the vendor is located. Within 30 days of being notified, the local agency in the vendor's county must:

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(1) if it has a contract with the vendor, send a copy to the inquiring agency;

(2) if there is a contract with the vendor for which another local agency is the lead county, identify the lead county to the inquiring agency; or

(3) if no local agency has a contract with the vendor, inform the inquiring agency whether it will negotiate a contract and become the lead county. If the agency where the vendor is located will not negotiate a contract with the vendor because of concerns related to clients' health and safety, the agency must share those concerns with the inquiring agency.

D. If the local agency in the county where the vendor is located declines to negotiate a contract with the vendor or fails to respond within 30 days of receiving the notification in item C, the inquiring agency is authorized to negotiate a contract and must notify the local agency that declined or failed to respond.

E. When the inquiring county in item D becomes the lead county for a contract and the contract expires and needs to be renegotiated, that county must again follow the requirements of item C and notify the local agency where the vendor is located. The local agency where the vendor is located again has the option of becoming the lead county for the new contract. If the local agency does not exercise the option, item D again applies.

F. This subpart does not affect the requirement to seek county concurrence under Minnesota Statutes, section 256B.092, subdivision 8a, when the services are to be purchased for a person with mental retardation or a related condition or under Minnesota Statutes, section 245.4711, subdivision 3, when the services to be purchased are for an adult with serious and persistent mental illness.

Subp. 8. **Contracts with community mental health boards.** Notwithstanding subpart 7a, a local agency within the geographic area served by a community mental health board authorized by Minnesota Statutes, sections 245.61 to 245.69, may contract directly with that community mental health board. However, if a local agency outside of the geographic area served by a community mental health board wishes to purchase services from the board, the local agency must follow the requirements in subpart 7a.

Subp. 9. **Placement agreements.** A placement agreement must be used for residential services. Placement agreements are valid when signed by authorized representatives of the facility and the county of financial responsibility. If the county of financial responsibility and the county where the approved vendor is located are not the same, the county of financial responsibility must, if requested, mail a copy of the placement agreement to the county where the approved vendor is providing the service and to the lead county within ten calendar days after the date on which the placement agreement is signed. The placement agreement must specify that the service will be provided in accordance with the individual service plan as required under part 9550.0090, subpart 2, and must specify the unit cost, the date of placement, and the date for the review of the placement. A placement agreement may also be used for nonresidential services.

Statutory Authority: *MS s 256B.092; 256E.05*

History: *10 SR 1502; 18 SR 2244; 20 SR 2427*

9550.0050 PROCEDURES WHEN THE COUNTY OF SERVICE AND THE COUNTY OF FINANCIAL RESPONSIBILITY ARE NOT THE SAME.

Subpart 1. **Establishing financial responsibility.** When a local agency takes an application from a person the local agency believes is the financial responsibility of another county, the procedures in Minnesota Statutes, section 256G.09, apply.

Subp. 2. **Client information for county of financial responsibility.** Within 60 calendar days after the approval date of an application, the county of service must send the county it believes is financially responsible copies of the client's:

A. application;

B. eligibility documents; and

C. individual service plan.

Subp. 3. **Disapproval of an individual service plan by county of financial responsibility.** The county of financial responsibility may disapprove an individual service plan for either of the following reasons:

A. the client's need for service is not established to the satisfaction of the county of financial responsibility; or

B. the county of financial responsibility makes an alternative offer of service that meets the needs of the client.

When the county of financial responsibility disapproves an individual service plan, the county must document the reasons for the decision and send this information to the client and the county of service within 30 calendar days after receiving the client's application, eligibility documents, and the individual service plan.

Subp. 4. [Repealed, 20 SR 2427]

Subp. 5. **Notice to client.** Within 15 calendar days after receiving the decision of the county of financial responsibility, the county of service must notify the client in writing that the county of financial responsibility approves or disapproves the individual service plan. If the county of financial responsibility disapproves the individual service plan, the county of service must advise the client in writing of the right and the procedures to appeal the decision as provided by Minnesota Statutes, section 256.045, subdivision 3.

Subp. 6. **Emergency social services.** The county of service must provide emergency social services. The county of financial responsibility must fully reimburse the county of service for emergency social services for up to 30 calendar days for each client in need of these services.

When a service initiated as an emergency social service is extended beyond 30 calendar days, the county of service must obtain the prior approval of the county of financial responsibility.

Subp. 7. [Repealed, 20 SR 2427]

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0060 SOCIAL SERVICES FEES.

Subpart 1. **County's option to set fees.** A county board may set fees for any community social service for which a fee or fee schedule is not specified by Minnesota Statutes. County-established fees and fee schedules must be included in the county's community social services plan.

A written copy of the applicable fee schedule must be made available to the client upon request. Fees charged must not exceed the actual cost of the service.

Subp. 2. **Ability to pay.** County-established fees and fee schedules must be based upon a client's ability to pay. In determining ability to pay, counties must consider family size and income and may consider other resources. Fees and fee schedules must reflect a sliding scale in which the fee charged varies in accordance with factors that would affect the amount a client is able to pay.

Fees must not be based upon a minimum charge to all clients.

Subp. 3. **Exceptions.** A county board must not charge a fee when a condition specified in items A to E applies.

A. The client is a person or family whose adjusted gross household income is at or below 100 percent of the federal poverty guidelines as determined and published annually by the United States Department of Health and Human Services. For purposes of this part, "adjusted gross household income" means the person's or family's adjusted gross income as determined by following federal income tax guidelines for calculating adjusted gross income.

If the client is a minor child, "family" includes the following persons living in the same dwelling unit: the client; the client's birth or adoptive parents; and the client's siblings who are minors. If the client is an adult, "family" includes the following persons living in the same dwelling unit: the client; the client's spouse; the client's minor children; and the client's spouse's minor children.

B. The client receives Aid to Families with Dependent Children, Minnesota Supplemental Assistance, or General Assistance, or participates in the Minnesota Family Investment Program.

C. The service provided is related to adopting a hard-to-place or special needs child as defined by Minnesota Statutes, section 259.67, subdivision 1 or 4.

D. The services provided are family preservation services as described in Minnesota Statutes, section 256.8711 or sections 256F.01 to 256F.07 and 256F.11, subdivisions 1 and 2.

E. The client is affected by the requirement in Minnesota Statutes, section 125A.36, governing the interagency early childhood intervention system.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; L 1994 c 631 s 31; 20 SR 2427; L 1998 c 397 art 11 s 3*

9550.0070 APPLICATION FOR SOCIAL SERVICES.

Subpart 1. **Right to apply.** The local agency must post a notice in a prominent place within the local agency advising individuals of their right to apply for social services. The local agency must advise all individuals who ask about receiving social services or request social services of their right to sign an application form for social services without delay during normal business hours and that the application form will be processed after it is signed and completed.

Subp. 2. **Information about available services.** The local social services agency must give prospective applicants or their authorized representatives a written list of the services available according to the county's community social services plan.

Subp. 3. **Application requirement.** Except for information and referral services, an individual must make written application prior to receiving community social services. A local agency may provide emergency social services to an individual who has not signed an application form by following the procedure in subpart 5.

Subp. 4. **Statement of applicant rights and responsibilities.** Before the applicant or the applicant's authorized representative signs the application form, the local agency must provide the applicant or the applicant's authorized representative, on a form prescribed or approved by the commissioner, a written statement that explains the applicant's rights and responsibilities and how data collected about the applicant will be used. If for any reason an applicant or the applicant's authorized representative does not understand the written statement, an agency worker must read the written statement aloud and explain the written statement to the applicant or the applicant's authorized representative. The local agency must provide interpreters for hearing-impaired persons and foreign language interpretive services if necessary. The agency worker must answer questions that the applicant or the applicant's authorized representative asks about the application process.

Subp. 5. **Filling out application form.** The applicant or the applicant's authorized representative must complete, sign, and date the application form. If the applicant cannot or does not sign the application form, the applicant's authorized representative or the agency worker may sign the form. The reasons why the applicant or the applicant's authorized representative did not sign the application form must be recorded in the case record.

Subp. 6. **Eligibility.** In addition to submitting the application form, the applicant or the applicant's authorized representative must provide information about the applicant's eligibility on forms made available by the local agency and approved by the commissioner. The forms must be signed and dated by the applicant or the applicant's

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authorized representative and copies of both the application and the eligibility forms must be given to the applicant or the applicant's authorized representative.

Subp. 7. Local agency decision about eligibility and notification to applicant. The local agency must determine the applicant's eligibility within 30 calendar days after the date on which the application and eligibility forms are completed, signed, and received by the agency or as otherwise required under applicable program rules. Within 15 calendar days after determining eligibility, the local agency must notify the applicant or the applicant's authorized representative in writing that the application has been approved or denied or whether the client has been placed on a waiting list unless social services are initiated prior to the end of the 15 calendar day notice period.

Subp. 8. Denial of application. If the application is denied, the local agency must follow the procedures for client notification in part 9550.0092, subpart 1a.

Subp. 9. Approval of application. When an application is approved, the local agency must authorize social services within 15 calendar days after the applicant has been notified of eligibility or at an appropriate later date which has been mutually agreed upon by the local agency and the applicant or the applicant's authorized representative.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0080 INFORMATION ABOUT CLIENTS.

Subpart 1. Client data. All data collected, stored, used, and disseminated about an applicant or client by the local agency is governed by Minnesota Statutes, chapter 13.

Subp. 2. Contracts and grants. When a contract or grant administered by the local agency requires that data on applicants or clients be made available to the contracting parties, access to that data is governed by Minnesota Statutes, chapter 13.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0090 INDIVIDUAL SERVICE PLAN.

Subpart 1. Agreement on plan. The local agency and the client or client's authorized representative must agree on a plan for providing community social services other than emergency social services to attain identified client-focused goals.

Subp. 2. Requirements. The individual service plan must be in writing and must:

- A. be developed with the client or the client's authorized representative;
- B. state the goals to be achieved based on an assessment of the client's individual service needs;
- C. state the basis for the local agency's involvement;
- D. state the indicators that will be used to measure attainment of the goals;
- E. state the specific services to be provided in terms of the amount, frequency, duration, and provider of each service; and

F. specify agreed-upon times to review the plan with the client or the client's authorized representative, to address the client's progress toward attaining outcomes based on the selected indicators, and to revise the plan as necessary. The plan must be reviewed at least annually. The review and assessment requirements of this part do not negate the requirements of other laws or department rules.

The plan must be signed by the client or the client's authorized representative and by a person authorized to sign for the local agency. The local agency must give a copy of the plan to the client or the client's authorized representative.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0091 CLIENT'S RIGHT TO ACCEPT OR REJECT SERVICES.

An applicant or client or the applicant's or client's authorized representative may accept or reject a local agency assessment of a need for community social services or an offer of community social services aimed at attaining specified goals. When a social service is rejected, the local agency must give a clear explanation of the possible consequences of the rejection to the applicant, client, or the applicant's or client's authorized representative. A person's refusal to accept community social services must not affect payments to the person under public assistance maintenance programs unless a statute or rule governing a specific program directs otherwise.

Local agencies are required to offer and provide protective services under Minnesota Statutes, sections 626.556 and 626.557. When an individual who needs protective services or a person acting on the individual's behalf rejects those services, the local agency shall follow the procedures established under parts 9555.7600, 9560.0220, and 9560.0228.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0092 RIGHT TO A FAIR HEARING.

Subpart 1. **Right to a fair hearing.** An applicant for or recipient of community social services has the right to a fair hearing under Minnesota Statutes, section 256.045.

Subp. 1a. **Notice that application has been denied.** The local agency must notify the applicant and the applicant's authorized representative in writing within 15 calendar days after denying eligibility. A copy of the notice mailed or given to the applicant and the applicant's authorized representative must be filed at the agency. The notice must contain the following information:

- A. the reason for denial;
- B. a reference to the specific rule or approved community social services plan provision which is the basis for denial;
- C. an explanation of the applicant's right to appeal the decision to the department; and
- D. a description of the appeal procedure.

Subp. 2. **Notice that services will be reduced, suspended, or terminated.** The local agency must notify the client or the client's authorized representative ten calendar days before taking action to reduce, suspend, or terminate services to the client. The notice must be in writing and must be mailed or given to the client and the client's authorized representative. The notice must state the client's right to appeal the action and to be represented by an attorney or other person of the client's choice at the hearing. The notice must also state that community social services will be continued if the appeal is filed prior to the reduction, suspension, or termination date specified in the notice. The notice must also state the specific reason for the reduction, suspension, or termination of services and cite the specific rule or approved community social services plan amendment upon which the reduction, suspension, or termination is based.

Subp. 3. **Appealable actions.** The applicant, client, or the applicant's or client's authorized representative may appeal if:

- A. the local agency fails to act upon the application within the time limits prescribed in parts 9550.0050 and 9550.0070;
- B. the local agency fails to develop or to implement an individual service plan in accordance with part 9550.0090, subpart 2;
- C. the local agency reduces the quantity of social services from that agreed on in the individual service plan;
- D. the local agency denies a request for a specific social service;
- E. the local agency suspends or terminates social services; or
- F. the applicant or client or the applicant's or client's authorized representative fails to agree with the services identified in the individual service plan developed

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between the applicant or the client or the applicant's or client's authorized representative and the local agency.

Subp. 4. Submittal of appeals. All appeals must be submitted in writing to the local agency or to the department within 30 days after receiving written notice of the appealable action, or within 90 days of such written notice if a justified reason for delay can be shown.

Subp. 5. Notice in suspected fraud cases. If the local agency obtains information indicating that social services should be discontinued, reduced, or terminated because of suspected fraud on the part of the client, and, where possible, evidence of fraud has been verified through collateral sources, then notice of agency action is timely if it is mailed at least five calendar days before the action becomes effective.

Statutory Authority: *MS s 256E.05*

History: *10 SR 1502; 20 SR 2427*

9550.0093 COUNTY COMPLIANCE AND APPEAL RIGHTS.

County boards must comply with parts 9550.0010 to 9550.0092. If the commissioner determines that a county board has failed to comply with parts 9550.0010 to 9550.0092 or other applicable state and federal law, the corrective action procedures under Minnesota Statutes, section 256E.05, apply. A county board's appeal of action taken by the commissioner is governed by Minnesota Statutes, section 256E.06, subdivision 10.

Statutory Authority: *MS s 256E.05*

History: *20 SR 2427*

9550.0100 [Repealed, 10 SR 1502]

9550.0200 [Repealed, 10 SR 1502]

TITLE IV-E FUNDING ALLOCATION

9550.0300 MR 1985 [Repealed, 10 SR 1502]

9550.0300 PURPOSE.

The purpose of parts 9550.0300 to 9550.0370 is to establish the methods to be used in distributing to local agencies the dollars received by the Department of Human Services from the federal government for administrative and training costs incurred in providing social services under Title IV-E and Title XIX.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

9550.0310 DEFINITIONS.

Subpart 1. Scope. For the purpose of parts 9550.0300 to 9550.0370, the following terms have the meanings given them.

Subp. 2. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 3. County board. "County board" means the county board of commissioners in each county. When a human services board or welfare board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board for the purposes of parts 9550.0300 to 9550.0370.

Subp. 4. Department. "Department" means the Minnesota Department of Human Services.

Subp. 5. Local agency. "Local agency" means the social services agency authorized by the county board to provide community social services.

Subp. 6. Social service cost pool. "Social service cost pool" means all direct and indirect costs incurred by local agencies in providing community social services as

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defined in part 9550.0010, subpart 4, except costs that are not allocated through the use of the social service time study.

Subp. 7. **Social service time study.** "Social service time study" means the study conducted by the department that measures the portion of local agency staff time spent on various social service activities for the purpose of determining the percentage of administrative costs attributable to social service expenditures that are federally reimbursable.

Subp. 8. **Substitute care.** "Substitute care" means placement in a group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county, other political subdivision, or any of their agencies, to provide those services.

Subp. 9. **Title IV-E.** "Title IV-E" means the federal program that reimburses administrative and training costs incurred in providing services under Public Law Number 96-272 as amended through June 17, 1980.

Subp. 10. **Title IV-E money.** "Title IV-E money" means the federal dollars claimed and received by the department as reimbursement for administrative and training costs incurred by the local agencies under Title IV-E.

Subp. 11. **Title XIX.** "Title XIX" means the federal program that reimburses the costs incurred in providing health care to eligible persons under United States Code, title 42, sections 1396 to 1396p.

Subp. 12. **Title XIX money.** "Title XIX money" means the federal dollars claimed and received by the department under Title XIX as reimbursement for administrative costs incurred by the local agencies in providing social services to medical assistance program recipients.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

9550.0320 TITLE IV-E REIMBURSEMENT.

The following equation shall be used to calculate the local agency's share of the Title IV-E money received by the department each quarter of the federal fiscal year:

$$A_i = B \frac{C_i \left(\frac{D_i + F}{E_i + 10} \right)}{\sum_{i=1} C_i \left(\frac{D_i + F}{E_i + 10} \right)}$$

where:

A_i = the i th local agency's share of Title IV-E money received by the department

B = the total amount of Title IV-E money received by the department to be distributed for the quarter

C_i = the social service cost pool reported by the i th local agency during the quarter

D_i = the average monthly number of IV-E eligible children on the i th local agency's caseload for the quarter

E_i = the average monthly number of children in substitute care on the i th local agency's caseload for the quarter

F = a stabilizing factor, equal to the statewide ratio of children eligible under Title IV-E to all children in substitute care, multiplied by ten

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

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9550.0330 TITLE XIX REIMBURSEMENT.

The following equation shall be used to calculate the local agency's share of the Title XIX money received by the department:

$$A_i = B \frac{\sqrt{C_i * D_i}}{\sum_{i=1}^{87} \sqrt{C_i * D_i}}$$

where:

A_i = the i th local agency's share of the Title XIX money to be distributed by the department

B = the total amount of Title XIX money received for distribution by the department

C_i = the social service cost pool reported by the i th local agency for the quarter

D_i = the average monthly number of persons receiving medical assistance in the i th local agency during the quarter for whom the local agency is financially responsible

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

9550.0340 REPORTING REQUIREMENTS.

Subpart 1. **Information required.** To receive reimbursement under parts 9550.0300 to 9550.0370, the local agency must:

A. provide the information required by the department to conduct the social service time studies on which the state's federal reimbursement claims for administrative costs under Title IV-E and Title XIX are based; and

B. submit quarterly reports to the department no later than 20 calendar days after the end of the quarter on forms specified by the commissioner. The quarterly reports must provide the information needed to make the calculations specified in parts 9550.0320 and 9550.0330, including:

- (1) the local agency's social service cost pool for the quarter;
- (2) the average monthly number of children in the county who are eligible under Title IV-E during the quarter; and
- (3) the average monthly number of children in substitute care in the county during the quarter.

Subp. 2. **Penalty.** A local agency shall not receive its Title IV-E or Title XIX reimbursement until the agency has provided the information required under subpart 1. If the local agency does not meet the reporting requirements of subpart 1, the commissioner shall send a written notice of noncompliance to the local agency. If a local agency does not comply with subpart 1 within 30 days of the date written notice was sent, the commissioner shall certify a reduction in the local agency's reimbursement by 20 percent for the quarter of noncompliance. When a local agency is notified of this action, it may make an appeal under Minnesota Statutes, section 256E.06, subdivision 10. Money received or retained by the department as a result of the penalty must be distributed to all local agencies that were not penalized. The percentage of penalty money received by each local agency must be equal to the percentage of Title IV-E money received by the local agency for the quarter.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

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9550.0350 DISALLOWANCES.

Any disallowances due to audits of federal claims for administrative reimbursement must be shared by all local agencies. A local agency's percentage share of a disallowance must be equal to the percentage of the federal administrative reimbursement received by the local agency for the quarter and program to which the disallowance applies. The commissioner shall notify each county of the action to be taken and the reasons for the action.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

9550.0360 HOLD HARMLESS CLAUSE.

Subpart 1. **Effect.** For the federal fiscal year 1986, each county shall receive as reimbursement under part 9550.0320 no less than the amount of Title IV-E reimbursement received by the county as of April 1, 1987, for federal fiscal year 1985. The funds needed to satisfy the requirements of this part must be obtained by deducting an equal percentage from the federal fiscal year 1986 Title IV-E allocation to each local agency that did not submit a Title IV-E claim in federal fiscal year 1985.

Subp. 2. **Applicability.** This part applies only to allocations for federal fiscal year 1986.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

9550.0370 PRIOR PERIOD ADJUSTMENT.

Subpart 1. **Prior adjustments permitted.** A local agency may provide the department with amended reports to correct inaccuracies in data provided for previous quarters. Additional federal revenue obtained as a result of corrections in data for previous quarters must be distributed to all local agencies in accordance with the formulas in parts 9550.0320 and 9550.0330. Any money owed to the federal government because of amended local agency reports under this part must be billed to all local agencies in accordance with the formulas in parts 9550.0320 and 9550.0330.

Subp. 2. **Limitation on prior adjustments.** An amended report must be received by the department no later than 12 months after the reporting deadline for the quarter being amended.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

9550.0400 [Repealed, 10 SR 1502]

9550.0500 [Repealed, 10 SR 1502]

9550.0600 [Repealed, 10 SR 1502]

9550.0700 [Repealed, 10 SR 1502]

9550.0800 [Repealed, 10 SR 1502]

9550.0900 [Repealed, 10 SR 1502]

9550.1000 [Repealed, 10 SR 1502]

9550.1100 [Repealed, 10 SR 1502]

9550.1200 [Repealed, 10 SR 1502]

9550.1300 [Repealed, 10 SR 1502]

9550.1400 [Repealed, 10 SR 1502]

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- 9550.1500 [Repealed, 10 SR 1502]
- 9550.1600 [Repealed, 10 SR 1502]
- 9550.1700 [Repealed, 10 SR 1502]
- 9550.1800 [Repealed, 10 SR 1502]
- 9550.1900 [Repealed, 10 SR 1502]
- 9550.2000 [Repealed, 10 SR 1502]
- 9550.2100 [Repealed, 10 SR 1502]
- 9550.2200 [Repealed, 10 SR 1502]
- 9550.2300 [Repealed, 10 SR 1502]
- 9550.2400 [Repealed, 10 SR 1502]
- 9550.2500 [Repealed, 10 SR 1502]
- 9550.2600 [Repealed, 10 SR 1502]
- 9550.2700 [Repealed, 10 SR 1502]
- 9550.2800 [Repealed, 10 SR 1502]
- 9550.2900 [Repealed, 10 SR 1502]
- 9550.4100 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4200 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4300 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4400 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4500 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4600 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4700 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4800 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.4900 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.5000 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]
- 9550.5100 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

PARENTAL FEES FOR CARE OF CHILDREN

9550.6200 SCOPE.

Subpart 1. **Applicability.** Parts 9550.6200 to 9550.6240 govern the assessment and collection of parental fees by county boards or the Department of Human Services from parents of children in 24-hour care outside the home, including respite care, in a facility licensed by the commissioner, who:

- A. have mental retardation or a related condition;
- B. have a severe emotional disturbance;
- C. have a physical disability; or

D. are in a state facility.

Parts 9550.6200 to 9550.6240 also specify parental responsibility for the cost of services of children who are not specified in items A to D, who are living in or out of their parents' home, and whose eligibility for medical assistance was determined without considering parental resources or income as specified in Minnesota Statutes, section 256B.14, subdivision 2.

Subp. 2. **Exclusion.** Children who are under court order and subject to Minnesota Statutes, section 260B.331, subdivision 1, or 260C.331, subdivision 1, and who also do not fall under the provisions of Minnesota Statutes, section 252.27, are excluded from the scope of parts 9550.6200 to 9550.6240.

Parents of a minor child identified in subpart 1 must contribute monthly to the cost of services unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to Minnesota Statutes, section 259.67, or through title IV-E of the Social Security Act, or the parents are determined not to owe a fee under the formula in Minnesota Statutes, section 252.27, subdivision 2a.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780; L 1994 c 631 s 31; L 1999 c 139 art 4 s 2*

9550.6210 DEFINITIONS.

Subpart 1. **Applicability.** As used in parts 9550.6200 to 9550.6240, the following terms have the meanings given them.

Subp. 2. **Child or children.** "Child" or "children" means a person or persons under 18 years of age.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 4. **Cost of services.** "Cost of services" means the cost for:

A. the per diem rate established by the department or the per diem and negotiated monthly rate adopted by the county board for the 24-hour care outside the home, treatment, and training of a child provided in a facility licensed by the Department of Health, Department of Human Services, or approved by the commissioner according to the interstate placement compacts of Minnesota Statutes, sections 245.51 to 245.53, 260.51 to 260.57, and 260.851 to 260.91; and

B. services to children whose eligibility for medical assistance was determined without consideration of parental income or assets as specified in part 9550.6200, subpart 1.

Subp. 5. **County board.** "County board" means the county board of commissioners in each county. When a Human Services Board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board for purposes of parts 9550.6200 to 9550.6240.

Subp. 6. **County of financial responsibility.** "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

Subp. 7. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 8. **Emotional handicap or emotional disturbance.** "Emotional handicap" or "emotional disturbance" has the meaning given it in Minnesota Statutes, section 245.4871, subdivision 15.

Subp. 9. **Income.** "Income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form as specified in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (d), or a verified statement of the adjusted gross income if no tax forms are available.

Subp. 10. **Medical assistance.** "Medical assistance" means the program which provides for the health service needs of eligible clients, as specified in Minnesota

Statutes, chapter 256B, and title XIX of the Social Security Act, United States Code, title 42, section 1396.

Subp. 11. **Mental retardation or a related condition.** “Mental retardation or a related condition” has the meaning of “mental retardation” under part 9525.0016, subpart 2, and the meaning of “related condition” given in Minnesota Statutes, section 252.27, subdivision 1a.

Subp. 12. **Parents.** “Parents” means the natural or adoptive parents.

Subp. 13. **Physical handicap or physical disability.** “Physical handicap” or “physical disability” has the meaning given it in part 9570.2200, subpart 7.

Subp. 13a. **Respite care.** “Respite care” means short-term supervision and care provided to a child due to temporary absence or need for relief of the child’s parents. Respite care may include day, overnight, in-home, or out-of-home services, as needed.

Subp. 14. [Repealed, 16 SR 2780]

Subp. 15. **Severe emotional disturbance.** “Severe emotional disturbance” means an emotional disturbance that has:

A. resulted in the child’s admission within the last three years or the child’s being at risk of admission to inpatient treatment or residential treatment for an emotional disturbance;

B. required the child to receive inpatient treatment or residential treatment for an emotional disturbance as a Minnesota resident through the interstate compact; or

C. resulted in a determination by a mental health professional that the child has one of the following conditions:

(1) psychosis or clinical depression;

(2) risk of harming self or others as a result of an emotional disturbance;

(3) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or

(4) resulted in the child’s having significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.

Subp. 16. **State facility.** “State facility” means any facility owned or operated by the state of Minnesota that is under the programmatic direction or fiscal control of the commissioner. State facility includes regional treatment centers; the state nursing homes; state-operated community-based programs; and other facilities owned or operated by the state and under the commissioner’s control.

Statutory Authority: *MS s 246.511; 252.27; 256B.092; 256B.14*

History: *10 SR 2005; 12 SR 102; L 1987 c 403 art 3 s 96; 16 SR 2780; 18 SR 2244; L 1999 c 139 art 4 s 2*

9550.6220 DETERMINATION OF PARENTAL FEE.

Subpart 1. **Parental responsibility.** The extent to which parents are responsible for reimbursing the county of financial responsibility or the department for the cost of services must be determined according to subparts 2 to 13. Parents have no obligation to contribute assets. The parental responsibility and the role of the agency responsible for collection of the parental fee shall be explained in writing to the parents at the time eligibility for services is being determined. The parental fee shall be retroactive to the first date covered services are received, including any services received in months of retroactive eligibility.

Subp. 2. **Determination of household size.** Natural and adoptive parents and their dependents under the age of 21, as specified in Minnesota Statutes, section 290A.03, subdivision 7, including the child receiving services, shall be counted as members of the household when determining the fee, except that a stepparent shall not be included.

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Subp. 3. **Determination of income.** Income must be determined according to Minnesota Statutes, section 252.27, subdivision 2a, paragraph (d).

Subp. 4. **Percentage schedule.** The parental fee shall be computed according to the formula specified in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b).

The fee amounts obtained from Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), are added to equal the annual parental fee. The annual fee is then divided into 12 monthly payments as specified in subpart 6, item E.

Subp. 5. **Annual revision of federal poverty guidelines.** The parental fee shall be revised annually on July 1 to reflect changes in the federal poverty guidelines. The revised guidelines are effective on the first day of July following the publication of changes in the Federal Register.

Subp. 5a. **Parental income deduction.** The parental income deduction amount is determined by using the applicable figure from the annual federal poverty guidelines under subpart 5, and multiplying that amount by two.

Subp. 6. **Determination of monthly parental fee.** The monthly parental fee assessed must be determined according to parts 9550.6200 to 9550.6240 and the following formula:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. The parental income deduction amount must be determined as specified in subpart 5a.

D. Using the household size, income figures, and parental income deduction in items A, B, and C, refer to the percentage schedule in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), and determine the applicable percentages to be applied to the parents' income.

E. The monthly parental fee must be determined according to the following steps:

(1) start with the parents' adjusted gross income from last year's federal Income Tax Form 1040, line 31, or 1040A, line 13, or, if no tax form is available, then a verified statement regarding the previous year's income;

(2) subtract the parental income deduction as determined in subpart 5a;

(3) multiply remaining income by each applicable percentage from the percentage schedule in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b);

(4) add the amounts in subitem (3) and add five percent to the percentage if health insurance was available to the parents, as specified in part 9550.6225, but was not taken, to determine the annual parental fee;

(5) divide by 12 to determine the monthly parental fee;

(6) subtract \$200 if the child receiving services lives with the parents; and

(7) subtract the monthly amount of any court-ordered child support payments actually paid by the parent for the child receiving services and received by the obligee.

Subp. 7. [Repealed, 16 SR 2780]

Subp. 8. [Repealed, 16 SR 2780]

Subp. 9. **Parental responsibility for clothing or personal needs.** Payment of the parental fee specified in subpart 6 does not exempt the parents from responsibility for the child's clothing and personal needs not included in the cost of services, except as specified in Minnesota Statutes, section 256B.35, subdivision 1.

Subp. 10. **Discharge.** Except as provided in subpart 10a, the full monthly parental fee must be assessed unless services are terminated before the end of a calendar month. In this case, the full fee must be reduced only if the actual cost of services during that month is less than the regular fee.

Subp. 10a. **Parental fee for respite care.** When a child is receiving respite care services, the parental fee must be a per diem fee multiplied by the number of days the child receives respite care. The parental fee for respite care shall be used only when respite care is the single service the child is receiving. When the child is receiving additional services governed by parts 9550.6200 to 9550.6240, the parental fee determined under part 9550.6220 shall apply. The per diem fee must be determined in the following manner:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. Using the household size and income figures in items A and B, the percentage schedule in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), must be used to determine the applicable percent to be applied to the parents' income.

D. Determine the per diem fee by multiplying the income from item B by the percent from item C and divide the product by 365.

E. Any part of a day spent in respite care must be counted as a full day for purposes of this fee.

F. The parental fee must be determined at the end of a month when respite care is used.

Subp. 11. **Number of fees.** As specified in Minnesota Statutes, section 252.27, subdivision 2, parents who have more than one child receiving services who meet the criteria identified in part 9550.6200, subpart 1, shall not be required to pay more than the amount for the child with the highest expenditures.

Subp. 12. **Parents not living with each other.** Parents of a minor child who do not live with each other as specified in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (g), shall each pay a fee using the formula in subpart 6.

Subp. 13. **Child support payments.** A court-ordered child support payment actually paid on behalf of the child receiving services shall reduce the fee of the parent making the payment.

Subp. 14. **Fees in excess of cost.** The total amount parents must pay between the time the first monthly payment is due under either the initial determination of the fee amount or notice of an increase in the fee amount, and the end of the state's fiscal year in June of each year cannot be higher than the cost of services the child receives during the fiscal year. At the end of each state fiscal year, the department or county board shall review the total amount that the parent paid in fees during the fiscal year and the total cost of services paid by the department or county board, not including payments made to school districts for medical services identified in an individualized education plan and covered under the medical assistance state plan, that the child received during the fiscal year. If the total amount of fees paid by the parents exceeds the total cost of services, the department or county board shall: (1) reimburse the parents the excess amount if their child is no longer receiving services; or (2) apply the excess amount to parental fees due starting July 1 of that year, until the excess amount is exhausted.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 12 SR 102; 16 SR 2780*

9550.6225 HEALTH INSURANCE BENEFITS.

The parental fee determined under part 9550.6220 shall be increased by an additional five percent if the department or local agency determines that insurance coverage is available to the parents, but not obtained for the child receiving services. For purposes of this part, "available" and "insurance" have following meanings.

A. "Available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income.

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B. "Insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6226 RESPONSIBILITY OF PARENTS TO COOPERATE.

Subpart 1. **Request for information.** The department or county board shall send the parents a form describing:

- A. the formula used to determine the fee;
- B. how to obtain information on possible variances from the fee amount;
- C. information on the circumstances under which a fee may be reviewed or redetermined;
- D. the right to appeal a fee determination; and
- E. the consequences for not complying with a request to provide information when a request for information is sent in the following instances:

(1) when making an initial determination of the amount of the parental fee under part 9550.6220; and

(2) when a review and redetermination of the parental fee is required under part 9550.6228.

Parents shall provide any and all information that is required by the department or county board as necessary to determine or review the parental fee.

Subp. 2. **Determination of parental fees.** Parents shall attach to the form requesting financial information, a copy of their previous year's federal income tax return or a verified statement concerning their income if no federal income tax form is available. Failure or refusal by the parents to provide to the department or county board within 30 calendar days after the date the request is postmarked, the financial information needed to determine parental responsibility for a fee shall result in notification to the parents that the department or county board may institute civil action to recover the required reimbursement under Minnesota Statutes, sections 252.27, subdivision 3, and 256B.14, subdivision 2.

Subp. 3. **Review and redetermination of parental fees.** When parents are requesting a review or redetermination of the fee under part 9550.6228, a request for information shall be sent to the parents within ten calendar days after the department or county board receives the parents' request for review. Parents shall:

A. notify the department or county board within 30 calendar days of a gain in income or a loss of a household member; and

B. provide to the department or county board all information required under part 9550.6228, subpart 3, to verify the need for redetermination of the fee.

No action shall be taken on a review or redetermination of the parental fee until the required information is received by the department or county board.

Subp. 4. **Variance requests.** No action shall be taken by the department or county board on a request for a variance until the department or county board receives all information required under part 9550.6230. Failure of the parents to cooperate by completing and returning the form requesting parental information to the department or county board within 30 calendar days after the date the request is postmarked, will result in a final written notice to the parents stating that the request for a variance will be denied unless the parents complete and return this information within ten calendar days after the date this final notice is postmarked.

Subp. 5. **Refusal or failure to pay.** If the parents refuse or fail to pay the fee as determined under parts 9550.6200 to 9550.6240, the department or county board may

institute civil action to enforce payment of the required amount when the action is cost effective.

Statutory Authority: *MS s 252.27; 256B.14*

History: *16 SR 2780*

9550.6228 REVIEW AND REDETERMINATION OF FEES.

Subpart 1. **Review.** Parental fees must be reviewed by the county board or the department according to Minnesota Statutes, section 252.27, subdivision 2a, paragraph (f), in any of the following situations:

- A. at least once every 12 months;
- B. when there is a change in household size as specified in part 9550.6220, subpart 2;
- C. when the department or county billing records, on the history of service use, indicate a disparity between the fee amount and the cost of services provided of 60 percent or more; or
- D. when there is a loss of or gain in income from one month to another in excess of ten percent.

For self-employed individuals, the following conditions shall apply to the verification of loss or gain of income under item D:

- (1) the loss or gain in income shall be documented over a three-month period;
- (2) paystubs, signed statements from employers and contractors, and/or bank statements or verified statements from the parents shall be furnished to support the request for redetermination; and
- (3) the county or department may require other information which is necessary to support the request for redetermination.

Subp. 2. [Repealed, 16 SR 2780]

Subp. 3. **Procedures for review.** In reviewing the parental fees under this part, the department or county board shall use the following procedures:

A. The annual review of parental fees under subpart 1, item A, shall be done according to procedures in part 9550.6220, subpart 14.

B. The review of parental fees under subpart 1, item B, shall be done within ten calendar days after the department or county board receives a copy of the certificate of birth or other supporting documents as verification of the change in household size.

C. The review of parental fees under subpart 1, item C, shall consist of a review of historical department or county billing records. Parents whose fee is adjusted under subpart 1, item C, shall sign a written agreement in which the parents agree to report to the department or county board any increase in the amount of services provided and to make up any shortfall at the end of the fiscal year based upon the increase in the amount of services provided.

D. The review of parental fees under subpart 1, item D, shall be done within ten calendar days after the department or county board receives completed information that verifies a loss or gain in income in excess of ten percent.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6229 NOTIFICATION OF CHANGE IN FEE.

Subpart 1. **Increase in fee.** Notice of an increase in the parental fee amount shall be mailed by the department or county board to the parents of children currently receiving services, 30 calendar days before the increased fee is effective. An increase in the parental fee is effective in the month in which the decrease in household size or

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increase in parental income occurs for parents who fail to comply with part 9550.6226, subpart 3.

Subp. 2. **Decrease in fee.** A decrease in the parental fee is effective in the month that the parents verify a reduction in income or a change in household size occurred, retroactive to no earlier than the beginning of the current fiscal year.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6230 VARIANCE FOR UNDUE HARDSHIP.

Subpart 1. **Definition; limitations on variance.** For purposes of this part, "variance" means any modification of the parental fee as determined by Minnesota Statutes, section 252.27, subdivision 2a, when it is determined that strict enforcement of the parental fee would cause undue hardship. All variances shall be granted for a term not to exceed 12 months, unless otherwise determined by the department or county board. The parents' liability to pay under Minnesota Statutes, section 252.27, subdivision 2a, shall be modified only by the provisions in subparts 1a and 2.

Subp. 1a. **Variance for undue hardship.** A variance of the parental fee determined according to Minnesota Statutes, section 252.27, subdivision 2a, and parts 9550.6220 to 9550.6240 may be requested when expenditures for items A through D are made by the parents and the expenditures are not reimbursable by any public or private source. Each expenditure may be the basis for a variance only one time. The total amount of items A, B, C, and D shall be deducted from income as defined in part 9550.6210, subpart 9.

A. Payments made since the last review of the fee or within the last 12 months for medical expenditures for the child receiving services or for that child's parents and parents' other dependents when the medical expenditures are not covered by medical assistance or health insurance and are a type, irrespective of amount, which would be allowable as a federal tax deduction under the Internal Revenue Code.

B. Expenditures since the last review of the fee or within the last 12 months for adaptations to the parents' vehicle which are necessary to accommodate the child's medical needs and are a type, irrespective of amount, which would be allowable as a federal tax deduction under the Internal Revenue Code.

C. Expenditures since the last review of the fee or within the last 12 months for physical adaptations to the child's home which are necessary to accommodate the child's physical, behavioral, or sensory needs and are a type, irrespective of amount, that would be allowable as a deductible medical expense under the Internal Revenue Code. A variance for physical adaptations to the child's home will be granted only for that portion of the adaptation that does not increase the value of the property.

D. Unexpected, sudden, or unusual expenditures by the parents since the last review or within the past 12 months that are not reimbursed by any type of insurance or civil action and which are a type, irrespective of amount, which would be allowable as a casualty loss deduction under the Internal Revenue Code.

Subp. 2. **Variance for tax status.** A variance shall be granted, in the form of a deduction from income, as defined in part 9550.6210, subpart 9, if the parents can show that, as a result of the parents' peculiar tax status, there is a gross disparity between the amount of income, as defined in part 9550.6210, subpart 9, allocated to the parents and the amount of the cash distributions made to the parents.

A. The disparity must adversely affect the parents' actual ability to pay.

B. A variance shall not be granted in cases where the tax status was created in whole or in part for the purpose of avoiding liability under parts 9550.6200 to 9550.6240.

C. Income to be deducted under this subpart shall be deducted only if:

(1) the income has never been legally available to the parents as a cash distribution; and

(2) the parents have no authority to alter the amount of cash distributed during a given year, or the method whereby the cash is distributed.

D. A variance granted under this subpart shall only be made on the recommendation of the department or county board according to subpart 5.

E. Parents who are granted a variance under this subpart must sign a written agreement in which the parents agree to report any change in the circumstances which gave rise to the tax status variance, such as an increased distribution, a sale, transfer, or any other transaction affecting the parents' ability to pay within 30 days of that change.

Subp. 3. **Exceptions.** The following expenses shall not be considered to constitute undue hardship and shall not reduce the parental fee or income as defined in part 9550.6210, subpart 9:

A. new home purchases, other than that portion of the cost of a new home that is directly attributable to the physical, behavioral, or sensory needs of the child receiving services and that is a type, irrespective of amount, which would be allowable as a deductible medical expense under the Internal Revenue Code;

B. college education expenses;

C. clothing and personal expenses, other than expenses allowed in subpart 1a such as specialized clothing needed by the child receiving services due to their disability; or

D. any expenditures that are usual and typical, other than those which are allowable under subpart 1a.

Subp. 4. **Procedures for requesting a variance.** Parents may request a variance from parts 9550.6200 to 9550.6240 by submitting a written request to the department or county board that states why compliance with parts 9550.6200 to 9550.6240 would cause undue hardship.

The department or county board shall forward to the parents a request for financial information within ten calendar days after receiving a written request for a variance. Parents must provide the department or county board with the requested financial information, including the previous year's tax forms, and verification of any physical adaptations to the home or vehicle, medical expenditures, casualty losses, or peculiar tax status. The information supplied must be sufficient to verify the existence of undue hardship necessitating a variance. Parents must cooperate by completing and returning all information requested by the department or the county board as necessary to determine or review the parental fee. If parents fail to cooperate by providing this required information, part 9550.6226, subpart 4, applies.

Subp. 5. **Department and county authority to grant variances.**

A. The commissioner shall delegate to the county board the authority to grant variances according to parts 9550.6200 to 9550.6240 for children in 24-hour care outside the home, other than a state facility, where only social services funds are expended for the cost of services.

B. The department shall grant variances according to parts 9550.6200 to 9550.6240 for parents of children who have mental retardation or a related condition, a severe emotional disturbance, or a physical disability and who are:

(1) residing in state facilities;

(2) residing outside the home where medical assistance funds are expended for the costs of services;

(3) residing outside the home when both medical assistance and social services funds are expended for the cost of services; and

(4) determined eligible for medical assistance without consideration of parental income or assets.

Subp. 6. **Payment pending determination of variance request.** Those parents requesting a variance from a notice of an increase in the amount of the parental fee shall continue to make monthly payments at the lower amount pending determination of the variance request. Those parents requesting a variance from an initial determina-

tion of the parental fee amount shall not be required to make payment pending determination of the variance request. However, these parents may make payments as desired during the determination. If the variance is granted, any payments made pending outcome of the request that result in overpayment, shall be: (1) reimbursed to the parents if the child is no longer receiving services; or (2) applied to the parental fees remaining in the current fiscal year and the remainder of the excess amount applied to the parental fees due starting in the next fiscal year, if the child is still receiving services. If the variance is denied, the parents shall pay to the department or county board:

A. the additional amount due from the effective date of the increase in the parental fee; or

B. the total amount due from the effective date of the original notice of determination of the parental fee as specified in part 9550.6235, subpart 3.

Subp. 7. Insurance settlements; settlements in civil actions. Parents who are granted a variance under subpart 1a, item D, shall sign a written agreement in which the parents agree to report to the department or the county board any changes in circumstances that gave rise to the undue hardship variance, such as subsequent payment by the insurer on a medical or casualty claim or receipt of settlement in a civil action. Failure by the parents to sign this agreement will result in denial of the variance. The variance shall terminate or be adjusted effective on the date of the parents' receipt of any such settlement.

Subp. 8. Grant or denial of variance. When the department or county board receives a request for a variance, written notice of a grant or denial of the variance shall be mailed to the parents within 30 calendar days after the department or county board receives the financial information required under subpart 4. A grant will necessitate a written agreement between the parents and the department or county board with regard to the specific terms of the variance. The variance will not become effective until the written agreement is signed by the parents. If the department or the county board denies in whole or in part the parents' request for a variance, the denial notice shall set forth in writing the reasons for the denial that address the specific hardship raised by the parents and of the parents' right to appeal under part 9550.6235.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6235 APPEALS.

Subpart 1. Right of appeal. Parents aggrieved by an action under parts 9550.6200 to 9550.6240 have the right to appeal according to Minnesota Statutes, section 256.045.

Subp. 2. Appeal process. Parents may appeal an action under parts 9550.6200 to 9550.6240 by submitting a written request for a hearing to the department within 30 calendar days after the aggrieved action, or within 90 calendar days if an appeals referee finds that the parents have good cause for failing to request a hearing within 30 calendar days. The hearing is governed by Minnesota Statutes, section 256.045.

Subp. 3. Rights pending hearing. If parents appeal on or before the effective date of the increase in the parental fee, the parents shall continue to make payments to the department or the county board in the lower amount while the appeal is pending. Parents appealing an initial determination of a parental fee shall not be required to make monthly payments pending an appeal decision. However, parents may continue to make monthly payments as desired during the appeal process. Any payments made that result in an overpayment shall be: (1) reimbursed to the parents if their child is no longer receiving services; or (2) applied to the parental fees remaining in the current fiscal year and the remainder of the excess amount applied to the parental fees due starting in the next fiscal year.

If the department's or county board's determination is affirmed, the parents shall pay to the department or the county board, within 90 calendar days after the date of the order, the total amount due from the effective date of the original notice of

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determination of the parental fee. The commissioner's order is binding on the parents and the department or county board and shall be implemented subject to Minnesota Statutes, section 256.045, subdivision 7. No additional notice is required to enforce the commissioner's order.

Statutory Authority: *MS s 252.27; 256B.14*

History: *16 SR 2780*

9550.6240 COLLECTIONS.

Subpart 1. **County responsibility.** The county board shall be responsible for the assessment and collection of parental fees for children in 24-hour care outside the home other than state facilities, where only social services funds are expended for the cost of services.

Subp. 2. **Department responsibility.** The department shall be responsible for the assessment and collection of fees for children who have mental retardation or a related condition, a severe emotional disturbance, or a physical disability and who are:

A. residing in state facilities;

B. residing outside the home when medical assistance funds are expended for the cost of services;

C. residing outside the home when both medical assistance and social services funds are expended for the costs of services; and

D. determined eligible for medical assistance without consideration of parental income or assets.

If the parental fee is for reimbursement for the cost of services to both the local agency and medical assistance, the department shall reimburse the local agency for its expenses first and the remainder shall be reimbursed to the medical assistance account.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*