

**CHAPTER 9560**  
**DEPARTMENT OF HUMAN SERVICES**  
**SOCIAL SERVICES FOR CHILDREN**

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**ADOPTION**

**9560.0010 PURPOSE OF STATE ADOPTION PROGRAM.**

Goal of the Minnesota adoption program: to ensure for each child, who is free to be legally adopted in the state, a suitable adoptive home and agency services supportive of his or her integration into the new family.

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## SOCIAL SERVICES FOR CHILDREN 9560.0020

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.29; 259.40 subs 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0015 SCOPE OF DEFINITIONS.

The terms used in parts 9560.0010 to 9560.0180 have the meanings given them in part 9560.0020.

**Statutory Authority:** *MS s 257.05; 259.40 subs 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0020 DEFINITIONS.

**Subpart 1. Adoptive home.** "Adoptive home" means a home approved by an authorized child-placing agency for the purpose of placing a child for adoption.

**Subp. 2. Authorized child-placing agency.** "Authorized child-placing agency" means the local social service agency or any agency licensed to place children by the commissioner or by a comparable authority in the state or country in which the agency exists.

**Subp. 3. Child.** "Child" means an individual under 18 years of age.

**Subp. 3a. Commissioner.** "Commissioner" means the commissioner of the Department of Human Services.

**Subp. 4. Foster family home.** "Foster family home" means a family home licensed to provide 24-hour-a-day care to children who are unrelated to the family.

**Subp. 5. Genetic parent.** "Genetic parent" means an individual who is referred to as the child's birth parent, who is named in the child's original birth certificate as a parent, whose claim to genetic parenthood is unchallenged, or whose genetic parenthood is established by a court of competent jurisdiction.

**Subp. 6. Independent placement.** "Independent placement" means a proposed or actual nonagency placement of a child by a parent or unlicensed third party with persons not related to the child within the third degree.

**Subp. 7. Infant.** "Infant" means a child under the age of 15 months.

**Subp. 8. Licensed child-placing agency.** "Licensed child-placing agency" means an agency authorized by the commissioner to place children for foster care or adoption.

**Subp. 9. Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board responsible for arranging and providing social services to individuals.

**Subp. 9a. Minority race or minority ethnic heritage.** "Minority race or minority ethnic heritage" means a legacy of common traits and customs that society recognizes as belonging to a part of the population which differs from its predominant culture or characteristics.

**Subp. 10. Placing agency.** "Placing agency" means the Minnesota licensed child-placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial and adoptive planning responsibility for a ward of the commissioner of human services. A placing agency may also include a supervisory agency which is providing adoptive planning services for the child.

**Subp. 11. Postplacement services.** "Postplacement services" means social services provided to the child and the adoptive parents from the time of placement until legal adoption.

**Subp. 12. Postadoption services.** "Postadoption services" means social services provided after legal adoption to the adoptive parents, genetic parents, or adopted individuals.

**Subp. 13. Relative.** "Relative" means an individual who is related to a child

within the third degree according to the civil table of consanguinity by blood, marriage, or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece, or nephew.

Subp. 14. **State adoption exchange.** "State adoption exchange" means the central adoptive home and child registration service operated by the Minnesota Department of Human Services' adoption unit for use by authorized child-placing agencies.

Subp. 15. **State agency.** "State agency" means the commissioner of human services or the Minnesota Department of Human Services.

Subp. 16. **Subsidized adoption.** "Subsidized adoption" means an adoption in which an agreement provides that financial assistance shall be made to the adoptive parents, subsequent guardian, or conservator because of special needs of a child who is certified as eligible for subsidy.

Subp. 17. **Suitability study.** "Suitability study" means the preadoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational, and health needs of a particular child.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

#### 9560.0030 LEGALLY FREEING A CHILD FOR ADOPTION.

Subpart 1. **Legal or voluntary termination.** Before a valid agency adoptive placement may occur, court termination of the parent's rights under Minnesota Statutes, sections 260.221 to 260.241 or an agreement under Minnesota Statutes, section 259.25 which confers authority to place a child for adoption with the commissioner or a licensed child-placing agency must be obtained from any individual recognized by state law as having parental rights.

A. A local social service agency shall seek to free a child for adoption through court termination of parental rights unless the commissioner states in writing that he will accept the agreement conferring authority to place the child.

B. On all agency adoptive placement plans, the local social service or licensed child-placing agency shall inform the genetic parent, who is identified on the child's birth certificate by birth registration, affidavit, or court order, of the statutory conditions under which birth certificate information and certain agency record information may or may not be released. The agency shall assist the genetic parent with the procedures in subitems (1) to (3).

(1) The genetic parent shall sign an affidavit to be filed in the agency record attesting that the genetic parent has been informed of statutory conditions that affect the agency release or nonrelease of identifying information, such as the genetic parent's name, last known address, birth date, and birthplace, to the adopted person after that person reaches adult age as defined in Minnesota Statutes, sections 259.47 to 259.49.

(2) The genetic parent may subsequently choose to file or not file in the agency adoption record an affidavit objecting to the agency release of any or all of the identifying information to the adopted person upon that person reaching adult age as specified in Minnesota Statutes, sections 259.47 to 259.49.

(3) The genetic parent may file an affidavit at any time with the state registrar of vital statistics consenting to or refusing to consent to disclosure of the original birth certificate information to the adopted person after that person reaches adult age as specified in Minnesota Statutes, sections 259.47 to 259.49.

Subp. 2. **Written consents.** All written consents to adoption, executed in a manner prescribed by Minnesota Statutes, sections 259.24, subdivision 5 and 259.25, must be filed with the court prior to the hearing on the adoption petition.

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**Subp. 3. Execution of consents.** All agreements with an agency to place a child and consents to adoption by the child's parent or legal guardian, must be executed before two competent witnesses and an agency representative. Consents to an adoption by the child's parent when that parent is either a copetitioner in the adoption proceedings or does not have custody of the child must be executed before two competent witnesses, but need not be executed before an agency representative. All consents by a parent must contain a notice to the parent of the right to revoke the consent for any reason within ten working days of its execution. Consents obtained in another state may be executed according to either Minnesota law or applicable consent laws of the other state.

The consensor's and the agency representative's signatures must each be duly notarized.

The two witnesses must be 18 years of age or older and of sound mind, and neither may be the subscribing notary public.

The agency representative must be a person qualified to counsel the consenting party on adoption matters.

Revocation of a parent's consent must be in writing and must be received by the agency no later than the tenth working day after the consent was executed.

**Subp. 4. Affidavits.** Affidavits submitted by individuals who allege or deny parenthood which contain a consent to adoption must be executed according to the requirements in subpart 3.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### **9560.0040 STATE PHOTOGRAPHIC ADOPTION EXCHANGE.**

**Subpart 1. Child placement.** To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all authorized child-placing agencies in accordance with procedures under Minnesota Statutes, section 259.45 and the commissioner.

A. Each authorized child-placing agency shall register the child on the exchange using the registration form prescribed by the commissioner accompanied by a recent photograph of the child.

B. An authorized child-placing agency seeking to defer registration of the child shall make a written request to the exchange for written approval. The request for deferral must meet one of the conditions in subitems (1) to (6).

(1) The child is placed in an agency adoptive home and legal adoption occurs within two years of placement. The agency's report of the adoptive placement to the state agency shall constitute the basis for deferral.

(2) The child's foster home is being considered and meets the criteria of subpart 3. A deferral granted for this reason may not exceed 90 days unless the placement status formally becomes an adoptive placement.

(3) The child's prospective adoptive home is being considered. A deferral granted for this reason may not exceed 90 days unless an adoptive placement occurs.

(4) The child is undergoing diagnostic evaluation to aid the agency in adoptive planning. A deferral granted for this reason may not exceed 90 days.

(5) The child is hospitalized and needs continuing daily care which will not permit placement in a family setting. A deferral granted for this reason may not exceed the length of hospitalization.

(6) The child is 14 years of age or older and, after counseling with the agency on permanent placement options, will not consent to an adoption plan. The agency shall then assist the child in executing an affidavit to file with

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the exchange in which the child states that decision and an awareness that the decision may be changed at any time.

**Subp. 2. Special needs.** The local authorized child-placing agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, minority racial or minority ethnic heritage, religious background, and health, social, and educational needs.

A. The placing agency shall follow the order of placement preference and exception guidelines under Minnesota Statutes, section 259.255, when placing a child of minority race or minority ethnic heritage.

B. The adoptive placement of an Indian child who comes under the Indian Child Welfare Act of 1978, United States Code, title 25, sections 19 et seq., as amended through December 31, 1982, must follow the order of preference as determined by the child's tribe.

C. The placing agency shall document in its record any recruitment efforts it made and any requests or decisions made by the child's parent, the tribe, court, or agency which affects the order of placement preference.

**Subp. 3. Recruitment.** As required in Minnesota Statutes, section 259.455, an agency shall make special efforts to recruit adoptive families from among the child's relatives, if feasible, and families of the same minority racial or minority ethnic heritage. The agency may work with various community and religious organizations, as well as the media, and may accept offers of service and monetary contributions to successfully recruit families for adoption.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## 9560.0050 CHILD'S FOSTER HOME.

**Subpart 1. Criteria.** The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

In such cases the criteria in items A to C apply.

A. The child has special needs as defined in part 9560.0040, subpart 2 which the foster family will be able to adequately meet, or the child is older than an infant, has lived at least 12 consecutive months in the foster home, and is an integrated member of the foster family.

B. The foster family will be able to accept the child and his background and help the child understand his adoption.

C. The foster family is either the best adoptive resource for the child or is at least comparable to available resources.

**Subp. 2. Joint decision required.** Except in Hennepin, Ramsey, and St. Louis counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child must be made. The agencies shall base their decision upon:

A. the local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

B. the state agency's written response either approving or disapproving the recommendation.

**Subp. 3. Local agency approval required.** Where a licensed child-placing agency which is supervising a child under state guardianship wishes to consider the foster home as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

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### 9560.0060 CHILD PLACEMENT.

Subpart 1. **In general.** The policies in subparts 2 and 3 govern the local social service agency's preplacement and postplacement activities.

Subp. 2. **Preplacement activities.** Preplacement activities must include those in items A to E.

A. The adoptive family's agency shall, prior to the child being placed in an adoptive home, meet with the child's agency in a preplacement conference, obtain written background and health history on the child, and visit the child in his foster home. The preplacement conference may only be waived if the child is under six months of age and is without special needs.

B. The child's agency shall prepare the child for adoptive placement and provide the adoptive parents with a written nonidentifying background and health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

C. An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived, in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

D. The adoptive parents shall enter into a written adoptive placement agreement with the commissioner.

E. During the time the child resides in the adoptive home, the local social service agency shall continue administrative reviews but is not required to schedule a court dispositional hearing unless the child is either removed from the home or is not legally adopted within two years of the date of placement.

Subp. 3. **Postplacement activities.** Postplacement activities must include items A and B.

A. The agency placing the child shall arrange for and obtain written placement and postplacement reports from the agency supervising the child in the adoptive home.

B. The supervising agency shall provide postplacement counseling with the adoptive parents in a manner that enables the child and adoptive family to become an integrated family.

**Statutory Authority:** *MS s 245A.09; 257.05; 257.175; 259.27; 259.40 subds 2, 10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

9560.0070 [Repealed, 13 SR 529]

### 9560.0071 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** Parts 9560.0071 to 9560.0102 establish the procedures and standards for determining a child's eligibility for an adoption subsidy and the terms of the adoption subsidy.

Subp. 2. **Purpose.** The purpose of the adoption subsidy program is to make possible adoptive placement of children whose special needs prevent adoption without subsidy assistance.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

9560.0080 [Repealed, 13 SR 529]

### 9560.0081 CRITERIA FOR ADOPTION SUBSIDY.

Subpart 1. **Special needs.** For the purpose of parts 9560.0071 to 9560.0102, "special needs" refers to:

A. sibling groups; or

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B. children entitled under Minnesota Statutes, section 259.255, to placement with an adoptive family of similar racial or ethnic background; or

C. children with physical, mental, emotional, or behavioral disabilities or children whose background indicates a high risk of developing such disabilities.

Subp. 2. **General criteria.** The commissioner shall make subsidy payments to an adoptive parent or parents who adopt a child with special needs if:

A. the child has been certified as eligible for an adoption subsidy;

B. a written agreement setting forth the terms of the subsidy has been entered into; and

C. the commissioner has determined that other resources or programs to meet the special needs are not available.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

## 9560.0082 CERTIFICATION.

Subpart 1. **Certification criteria.** A child is eligible for certification for an adoption subsidy if the child:

A. is a Minnesota resident;

B. is under the legal guardianship of the commissioner or of a Minnesota licensed child placing agency; and

C. has special needs that prevent adoptive placement without an adoption subsidy.

Subp. 2. **Certification criteria for foster children.** A child whose foster parents desire to adopt the child is eligible for certification for an adoption subsidy if:

A. the child meets the requirements of subpart 1;

B. the placing agency determines that adoption by the child's foster parents is in the best interest of the child according to part 9560.0050; and

C. the child's special needs make it difficult to provide the child an adoptive home without subsidy.

Subp. 3. **Eligibility period.** A child is not eligible for certification after a final decree of adoption has been issued for the child.

Subp. 4. **Certification by placing agency.** A child is certified as eligible for an adoption subsidy by the placing agency. The placing agency shall certify a child as eligible if:

A. the child meets the certification criteria in subpart 1 or 2; and

B. the placing agency has made reasonable efforts without success to place the child in an adoptive home without an adoption subsidy. These efforts must include:

(1) registration of the child with the state adoption exchange;

(2) contact with Hennepin, Ramsey, and St. Louis counties and Minnesota licensed child placing agencies for potential adoptive homes; and

(3) at least one additional special effort to locate an adoptive home, such as use of photo listing services, newsletters, or adoption exchange services.

The requirements in item B may be waived by the state adoption unit if an eligible child's specific condition requires recruitment of a particular family able to care for that child, or if the child is in a foster home and will be adopted by the foster parents.

Subp. 5. **Written certification statement.** The placing agency shall certify a child's eligibility for an adoption subsidy in writing in the format prescribed by the commissioner. The certification statement must include:

A. a description of the special needs of the child upon which eligibility is based;

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B. applicable supporting documents, such as:

- (1) a social history summary;
- (2) a medical evaluation;
- (3) a psychological evaluation; and
- (4) a special education evaluation (IEP); and

C. the signature of the director of the placing agency or the director's designee.

**Subp. 6. Commissioner review.** The commissioner shall review the facts upon which eligibility is based. The placing agency shall provide verification of eligibility factors at the request of the commissioner.

**Subp. 7. Eligibility for federal adoption assistance.** The placing agency shall determine the child's eligibility for federal adoption assistance under Title IV-E of the Social Security Act.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

### 9560.0083 DETERMINATION OF AMOUNT OF ADOPTION SUBSIDY.

**Subpart 1. Placing agency recommendation.** The placing agency shall recommend to the commissioner the amount and duration of subsidy payments.

The income of the adoptive parent or parents must not be considered in determining subsidy eligibility.

The placing agency shall provide written documentation to support its recommendation.

**Subp. 2. Identification of alternative resources.** The placing agency must identify resources available to meet the child's special needs before the amount of adoption subsidy payment is determined. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

**Subp. 3. Basis for subsidy.** The amount of an adoption subsidy is based on the special needs of the child and the determination that other resources to meet those special needs are not available.

**Subp. 4. Payment limit.** The amount of a monthly subsidy payment must not exceed the monthly foster care maintenance payment rate and difficulty of care payment that would be allowable for the child.

**Subp. 5. Basic maintenance needs; adoption by reference.** Adoption subsidy is available to meet basic maintenance needs of food, clothing, and shelter. Monthly basic maintenance subsidy payments are made according to the following schedule:

- A. age 0 through 5, \$218;
- B. age 6 through 11, \$248;
- C. age 12 through 14, \$278;
- D. age 15 through 17, \$308; and
- E. age 18 through 21, \$308.

Increases in the monthly payment are based on the annual percentage change indicated by the Minnesota Urban Area Consumer Price Index, at the time of adoption of this rule published by the United States Department of Labor, Bureau of Labor Statistics in August, 1987. The Consumer Price Index is incorporated by reference and is available from the Minitex interlibrary loan system. It is subject to frequent change.

**Subp. 6. Supplemental maintenance needs.** Adoption subsidy is available to meet supplemental maintenance expenses required to care for a child whose



physical, mental, emotional, or behavioral disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age.

A. The amount of payment for supplemental maintenance is based on the severity of the child's disability and the effect of the disability on the family, as assessed on a form prescribed by the commissioner. The 1987 version of the Supplemental Maintenance Needs Assessment form is incorporated by reference. It is available at the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155, and is not subject to frequent change. Monthly supplemental maintenance subsidy payments are made according to the following schedule:

- (1) assessment level I, \$150;
- (2) assessment level II, \$275;
- (3) assessment level III, \$400; and
- (4) assessment level IV, \$500.

B. The placing agency shall assess the child's need for supplemental maintenance on the prescribed form and provide supporting documentation. An authorized child placing agency shall reassess and document the continuing need for supplemental maintenance at the request of the commissioner.

Subp. 7. **Special nonmedical needs.** Adoption subsidy is available for non-medical services, items, or equipment periodically required to meet special needs documented at the time the child was certified as eligible for an adoption subsidy. Payment for nonmedical services, items, or equipment under this part is limited to:

A. Services for children under age three who are developmentally delayed if the programs are prescribed by a physician, psychologist, or developmental specialist and are not available through the public school system.

B. Child care during the adoptive parents' employment, training, or education hours if the child requires a caregiver trained to meet the child's special needs. The amount of subsidy payment is limited to:

- (1) the amount the local social service agency would pay for a trained caregiver in the home or in a licensed day care facility; or
- (2) the amount adoptive parents would pay under the child care sliding fee program authorized under Minnesota Statutes, section 268.91.

C. Family counseling required to meet the child's needs. Subsidy payments are limited to the prorated portion of the counseling fees allotted to the family when the family's insurance or the medical assistance program pays for the child's counseling but does not cover all fees for counseling the rest of the family.

D. Postadoption counseling to promote the child's integration into the adoptive family, provided by the placing agency during the first year following the date of the adoption decree. Subsidy payment is limited to 12 sessions of postadoption counseling.

E. Respite care provided in or out of the family residence for the relief of the child's family. Subsidy payments are limited to payment for 504 hours of respite care annually. If respite care is provided by the local social service agency, that amount of time is subtracted from the 504 hour annual total. Payment shall be no more than the respite care rate paid by the local social service agency.

F. The parental fee counties are authorized to charge parents under Minnesota Statutes, section 252.27, when a child is in 24 hour out-of-home care in a licensed residential facility. Subsidy payments shall not exceed the basic maintenance rate applicable under part 9560.0083, subpart 5.

G. Burial expenses up to \$1,000 if the special needs upon which eligibility for subsidy was based result in the death of the child.

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H. Camping programs adapted to meet the child's special needs. Subsidy payments are limited to two weeks of camp per year.

I. Specialized communications equipment prescribed through the local school district but not covered through educational, vocational, or other rehabilitation resources.

J. The following alterations to the family home or vehicle to accommodate the child's special physical needs:

(1) Home:

- (a) wheelchair ramps;
- (b) handrail and grab bars;
- (c) accessible shower;
- (d) elevated bathtubs and toilets;
- (e) widened doorways;
- (f) shatterproof windows;
- (g) blinking lights and tactile alarms as alternate warning systems;

- (h) lowered kitchen work surfaces;
- (i) modified cabinets and sinks that provide wheelchair space;
- (j) handles and hoses for showerheads;
- (k) door hinge replacements;
- (l) lifting devices;
- (m) special communication devices that enable caregivers not immediately present to monitor and respond to a child;
- (n) air conditioning required due to a child's medical condition;
- (o) special covers such as Plexiglas for appliances, windows, fireplaces, and radiators required to protect the child; and
- (p) door opening devices; and

(2) Vehicle:

- (a) door widening;
- (b) lifting devices;
- (c) wheelchair securing devices;
- (d) adapted seats;
- (e) handrails and grab bars;
- (f) door handle replacements; and
- (g) air conditioning required due to a child's medical condition.

K. Nonrecurring adoption expenses, up to \$2,000, for:

- (1) agency adoption fees;
- (2) travel, meal, and lodging expenses at the time of placement;
- (3) attorney fees;
- (4) court filing fee; and
- (5) replacement birth certificate fee.

Subp. 8. **Medical needs.** Children for whom a subsidy agreement has been executed are eligible for the medical assistance program until they reach age 21.

A. The placing agency shall assist in establishing a child's eligibility at the time of adoptive placement by:

- (1) notifying the medical assistance program of the child's eligibility for medical assistance;
- (2) providing the adoptive parent or parents with medical assistance program information;

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(3) informing the adoptive parent or parents of the procedure required to establish initial and continuing eligibility for medical assistance;

(4) assisting the adoptive parent or parents with completion of the medical assistance application forms;

(5) assisting the adoptive parent or parents, if the child is covered under family health insurance, with the insurance information and assignment forms required by the medical assistance program within 30 days of placement; and

(6) providing insurance documentation to the state adoption unit, including the adoptive parents' health insurance carrier, policy number, insurance holder, and the amount of deductible under the policy.

B. Subsidy payment is not available for any service or item covered under the medical assistance program. Subsidy payment is not available for any service or item that the medical assistance program has determined is not medically necessary.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

**9560.0090** [Repealed, 13 SR 529]

### **9560.0091 SUBSIDY AGREEMENT.**

**Subpart 1. Written subsidy agreement.** Before the final decree of adoption is issued, the placing agency, the adoptive parent or parents, and the commissioner shall enter into a written agreement stating the terms of the adoption subsidy.

**Subp. 2. Form of subsidy agreement.** The subsidy agreement must be in the form prescribed by the commissioner and must state:

A. the responsibilities of the parties;

B. the anticipated duration of the subsidy agreement;

C. the payment terms;

D. provision for modification of the terms of the agreement; and

E. the effective date, which is the date the final decree of adoption is issued.

**Subp. 3. Preparation of subsidy agreement.** The placing agency shall prepare and submit to the commissioner for review an initial draft of the subsidy agreement. After the placing agency, the adoptive parent or parents, and the commissioner have agreed to the terms of the subsidy agreement, the placing agency shall:

A. prepare six written copies;

B. ensure that all copies are signed by the adoptive parent or parents and the placing agency director or the director's designee; and

C. submit all copies to the state adoption unit for the commissioner's final approval and signature.

**Subp. 4. Duration.** The subsidy agreement continues in effect if the conditions in items A to C are met:

A. the special needs upon which eligibility for subsidy was based continue;

B. the child remains dependent on the adoptive parent or parents for care and financial support; and

C. the adoptive parent or parents annually submit to the commissioner the affidavit required in part 9560.0092.

**Subp. 5. Extension to age 22.** The subsidy agreement continues beyond the child's 18th birthday if the adopted person:

A. meets the requirements in subpart 4; and

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B. is enrolled in a secondary education program as a full-time student; or is incapable of self sustaining employment because of a physical or mental disability upon which eligibility for subsidy was based.

Within 30 days of each birthday, the adopted person must apply to the local social service agency and to the Social Security Administration for services and financial benefits to meet the person's special needs.

Written documentation that services are not available or that financial benefits are not adequate to meet those special needs must be submitted to the commissioner.

**Subp. 6. Out-of-state residence.** A subsidy agreement remains in effect regardless of the state of residence of the adoptive parent or parents.

**Subp. 7. Subsidy payment upon death of the adoptive parent or parents or termination of parental rights.** The subsidy agreement ends upon the death or upon the termination of parental rights of adoptive parents who are parties to a subsidy agreement except in the following circumstances:

A. if the need for subsidy continues and the subsidy agreement provides for assignment to a guardian or conservator; or

B. for up to six months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

If the child is placed under the custody of an authorized child placing agency, payment of the subsidy must cease.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

### 9560.0092 ANNUAL AFFIDAVIT.

**Subpart 1. Affidavit contents.** The adoptive parent or parents shall annually submit to the state adoption unit a notarized affidavit certifying that:

A. the adopted person remains under the care of the adoptive parent or parents; and

B. the need for adoption subsidy continues.

**Subp. 2. Affidavit timetable.** The state adoption unit shall send the adoptive parent or parents an affidavit form 30 days before the anniversary date of the subsidy agreement. The adoptive parent or parents shall return the signed and notarized affidavit to the state adoption unit within 30 days after the anniversary date of the subsidy agreement.

**Subp. 3. Failure to submit a timely affidavit.** The state adoption unit shall follow the procedures in items A and B if the annual affidavit is not received 30 days after the anniversary date of the agreement.

A. Thirty days after the anniversary date of the agreement, the state adoption unit shall mail the adoptive parent or parents a notice stating:

(1) the annual affidavit has not been received; and

(2) the subsidy agreement will be terminated 30 days from the date of the notice if the affidavit is not submitted within that time.

The state adoption unit shall send a copy of the notice to the local social service agency.

B. If the adoptive parent or parents do not submit the affidavit within 30 days of the mailing of the notice in item A, the subsidy agreement ends on the 30th day and the child's eligibility for medical assistance benefits ceases.

**Subp. 4. Medical assistance recertification.** On receiving the annual affidavit, the state adoption unit shall send a copy to the county of financial responsibility to recertify the child's continuing eligibility for medical assistance.

**Subp. 5. Local social service agency assistance.** The local social service agency shall, upon request, assist the adoptive parent or parents with:

- A. the affidavit; and
- B. health insurance information and assignment forms required for continued medical assistance eligibility.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

### 9560.0093 MODIFICATION OF THE SUBSIDY.

**Subpart 1. Modification or termination.** The parties to the subsidy agreement may at any time request modification or termination of the subsidy agreement. The subsidy agreement is subject to modification when a significant change in the child's circumstances affects the need for or amount of the subsidy. Requests for modification or termination must be made in writing.

The adoptive parent or parents shall notify the state adoption unit in writing within 30 days of any event affecting the need for or amount of subsidy payment, including:

- A. marriage of the child or adoptive parent;
- B. separation or divorce of the adoptive parents;
- C. residence of the child outside the adoptive home for a period exceeding 30 consecutive days; or
- D. death of the child or adoptive parent or parents.

The notification must describe the effect of the event on the need for subsidy.

**Subp. 2. Unilateral modification by the commissioner.** The commissioner shall modify the subsidy agreement if necessary to comply with changes in federal or state law or rules relating to the subsidy program. The commissioner shall notify the parties to the agreement in writing of the applicable statutory or regulatory amendments and the modifications needed in the subsidy agreement.

**Subp. 3. Appeal.** When the commissioner denies payment or otherwise modifies or discontinues the subsidy agreement, the adoptive parent or parents may appeal the commissioner's action under Minnesota Statutes, section 256.045.

**Subp. 4. Local social service agency assistance.** Upon request, the local social service agency in the county where the child resides shall assist the commissioner and the adoptive parent or parents with review or modification of the subsidy.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

9560.0100 [Repealed by amendment, 9 SR 909]

### 9560.0101 REIMBURSEMENT PROCEDURES.

**Subpart 1. Payment schedule.** Subsidy payments for basic maintenance and supplemental maintenance are made monthly to the adoptive parent or parents.

**Subp. 2. Payment of special nonmedical and medical expenses.** When requesting subsidy payment for special nonmedical or medical expenses provided for in the subsidy agreement, the adoptive parent or parents shall submit the expense statement to the state adoption unit for reimbursement.

**Subp. 3. Expenses not specified in subsidy agreement.** When requesting subsidy payment for expenses not specifically provided for in the subsidy agreement, the adoptive parent or parents shall follow the procedures in items A and B.

A. The adoptive parent or parents shall contact the local social service agency to determine whether the local social service plan includes services to meet the child's needs. If services are available, the adoptive parent or parents shall complete a local social service application. The adoptive parent or parents shall send a copy of the local social service agency response to their request for service to the state adoption unit or shall inform the state adoption unit in writing if the local social service agency refuses to accept an application.

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B. The adoptive parent or parents shall apply for other services to meet the child's needs when other resources are identified by the state adoption unit, for example:

- (1) the adoptive parent's or parents' insurance carrier;
- (2) the medical assistance program;
- (3) the community mental health center;
- (4) the local public school system; or
- (5) the local public health department.

**Subp. 4. Response time.** The state adoption unit shall answer requests for special expense authorizations within 30 days.

**Subp. 5. Cost estimates.** Requests for special equipment under part 9560.0083, subpart 7, item J, must include three estimates of cost.

**Subp. 6. Fiscal year.** The adoptive parent or parents shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

**Subp. 7. Address changes.** The adoptive parent or parents shall notify the state adoption unit of address changes.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

### **9560.0102 REIMBURSEMENT FOR PLACING AGENCY.**

**Subpart 1. General provisions.** Within the limitations of subpart 2, the commissioner shall reimburse placing agencies for the portion of costs of providing or purchasing adoption services for children certified as eligible for adoption subsidy that are not reimbursed under other federal or state funding sources.

**Subp. 2. Reimbursement limitations.** Reimbursement to placing agencies is subject to the following limitations:

A. The commissioner shall set aside an amount not to exceed five percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program to reimburse placing agencies for adoption services.

B. When subsidy payments for children's needs exceed 95 percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

C. Subsidy reimbursement for adoption services must not exceed \$4,000 for a single child.

D. Adoption services for which subsidy reimbursement is available are limited to services provided before the adoption decree including recruitment, counseling, and training of the adoptive family; preparation and placement of the child in an adoptive home; case management and supervision of the adoptive placement before a final decree of adoption; and referral services.

**Subp. 3. Procedures for reimbursement.** Placing agencies seeking reimbursement for the costs of adoption services provided for a child certified as eligible for adoption subsidy shall follow the procedures in items A to C. The Minnesota placing agency financially responsible for the child shall:

A. submit to the state adoption unit a statement describing the adoption services to be provided and the estimated costs;

B. submit to the state adoption unit itemized statements within 60 days after adoptive placement and within 60 days after the adoption decree is issued that list the adoption services provided and the cost for each service; and

C. use the purchase of service agreement form prescribed by the com-

missioner when adoption services are provided under a purchase of service agreement and submit to the state adoption unit for the commissioner's approval and signature a purchase of service agreement signed by the vendor of services.

**Statutory Authority:** *MS s 259.40 subd 10*

**History:** *13 SR 529*

### 9560.0110 TERMINATION OF ADOPTIVE PLACEMENT.

**Subpart 1. Notice and reason.** The local social service or licensed child-placing agency supervising the child shall notify the state agency's adoption unit within five working days that the child's adoptive placement is terminated when one of the following circumstances arise:

- A. the child is removed from the adoptive home;
- B. the child dies;
- C. the adoptive placement has continued for two years without the formalization of the adoption; or
- D. adoption is no longer the agency's permanent plan for the child.

**Subp. 2. Finding of good cause.** Termination of the adoptive placement by a local social service agency may be made only upon a specific finding of good cause by responsible agency personnel. Good cause exists when the placement is shown to be detrimental to the physical, mental, or emotional well-being of the child or the adoptive parents. Prior to seeking the removal of the child from the home, the agency shall:

A. inform the adoptive parents in writing of the reasons for removal; and

B. in an emergency situation involving danger to the child's health or well-being, request the assistance of the appropriate law enforcement authorities in the immediate removal of the child from the home.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0120 SERVICES TO CHILDREN IN INDEPENDENT PLACEMENTS.

**Subpart 1. Evaluation of identified family.** When the local social service agency learns that the child's parent or relative seeks to place the child for the purpose of adoption with a person who is an extended family member not defined in part 9560.0020, subpart 13 as a relative or is personally known to the child's parent, the agency shall:

- A. evaluate with the child's parent whether the placement will be in the interest of the child;
- B. arrange for a preadoption evaluation of the proposed home when it is needed to determine whether the placement plan is suitable for the child;
- C. assist the child's parents in legally freeing the child for adoption; and
- D. arrange the adoptive placement according to procedures in parts 9560.0040 to 9560.0110, unless a court of competent jurisdiction has determined that the best interests of the child are served by waiving the requirement of agency placement.

**Subp. 2. Waiver of agency placement requirement.** When the local social service agency is informed by the commissioner that a court of competent jurisdiction has waived the agency placement requirement, whether or not the child is already in the home:

- A. the local social service agency shall pursue licensing that home for foster care unless an adoption petition has been properly filed; and
- B. the prospective parents shall notify the commissioner of the child's

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placement within 30 days of that placement unless the commissioner was already involved in the proposed placement.

**Subp. 3. Unlicensed intermediary.** When the local social service agency learns that the child's parent or the prospective parent desires the adoptive placement of the child through the assistance of an unlicensed intermediary, the local social service agency shall take necessary steps, including legal actions, if necessary, to prohibit the placement.

**Subp. 4. Transportation of child.** When the local social service agency learns that the child's parent, legal guardian, prospective parents, or the unlicensed intermediary desire to transport the child into or out of Minnesota for adoptive placement, the local social service agency shall advise the party or parties that the transportation requires the prior approval and consent of the commissioner.

The commissioner shall not give consent to or approval of importation or exportation of the child when a proposed placement was or is being arranged by an unlicensed intermediary even though a court of competent jurisdiction may waive the requirement of agency placement.

Applications for importation or exportation of a child must be made by the child's parent or legal guardian according to the statutory provisions of both the sending and the receiving states.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

### 9560.0130 CHILDREN IN NONRELATIVE HOMES.

**Subpart 1. Requirement of services.** When the local social service agency learns that a child is residing in a nonrelative home for the purpose of adoption, it shall carry out the duties of the commissioner and provide all appropriate child protection services prescribed under Minnesota Statutes, chapter 245A and section 252.28, subdivision 2, child-placing under Minnesota Statutes, sections 257.03, 257.04, and 257.40, and the Juvenile Court Act under Minnesota Statutes, chapter 260.

Local social service agency actions include:

A. ensuring that the child is returned to a responsible person or agency in the state of origin when the child was imported into Minnesota in violation of statutes;

B. obtaining temporary legal custody;

C. placing the child into a licensed foster home or licensing the current home;

D. providing services to the child's parents in making appropriate permanent plans for the child.

**Subp. 2. Investigative report.** In addition, within 30 days of learning that a child resides in a nonrelative home for the purpose of adoption, the local social service agency shall submit to the state agency a full written report of its investigation of the proposed or actual placement. The report shall include:

A. names and addresses of the child's parents, the child, and the intended home;

B. the names, addresses, dates, and the activities of all individuals involved in the independent placement plan;

C. the circumstances surrounding the placement plan; and

D. any compensation, promise of payment, solicitation, receipt of payment by any person to any person for placing or assisting in the placement of the child.

**Subp. 3. Legal action against violators.** The local social service agency shall, in writing, request the county attorney's opinion on taking legal action against the individuals involved in violations of child placement statutes.



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Subp. 4. **Further recommendations.** The state agency's adoption unit shall recommend to the local social service agency any additional action required for the protection of the child.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909; 13 SR 1448*

## 9560.0140 SERVICES TO FAMILIES APPLYING FOR ADOPTION.

Subpart 1. **Intake policy.** Each local social service agency shall establish a written intake policy, including social service fees when applicable, which provides for:

A. performance of a suitability study upon the receipt of a properly filed adoption petition;

B. screening of applications received from potential adoptive parents for children under state guardianship and other adoptable children who have special needs;

C. supervision of adoptive families moving into Minnesota when so requested by the prior state of residence through the state agency's adoption unit; and

D. performance of suitability studies on prospective families when requested by the state agency's adoption unit for out-of-state adoption agencies.

Subp. 2. **Standards governing adoptive homes.** Local social service agencies shall consider at a minimum the basic standards in items A, B, and C when determining the suitability of prospective adoptive parents.

A. The applicant shall be primarily motivated to meet the child's needs, emotionally mature with healthy interpersonal relationships, in good physical and mental health, and able to adequately support and parent a child in a healthy and emotionally secure environment.

B. The applicant shall have the capacity to accept and incorporate into his family a child born to other parents and to assist the child in understanding his genetic background and adoption.

C. The applicant, who desires to adopt a child of minority race or minority ethnic heritage, shall demonstrate an understanding and appreciation of the minority heritage and an ability to assist the child with it.

Subp. 3. **Determining suitability of adoptive parents.** The local social service agency is responsible for determining the suitability of adoptive parents whom it has accepted for service.

Prospective adoptive parents which the local social service agency certifies as suitable for placement of a child shall be registered on the state adoption exchange. This requirement is optional for Hennepin, Ramsey, and St. Louis social service agencies.

Prospective adoptive parents deemed unsuitable by the local agency shall be informed in writing of that decision. Notification must be sent after the agency has counseled with the family on the relevant facts upon which the decision was based.

Prospective adoptive parents which the local agency determines are not suitable for an adoptive placement may be further reviewed by that agency, the county welfare or human service board, or the state agency's adoption unit upon the written request of the applicant. This review is limited to those factors on which the local agency based its decision.

Grievances arising out of adverse suitability studies are not subject to further administrative review pursuant to Minnesota Statutes, chapter 14, or Minnesota Statutes, section 256.045.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

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### 9560.0150 INTERSTATE AND INTERNATIONAL ADOPTIVE PLACEMENTS.

Subpart 1. **Requirements.** No child may be brought into or sent out of Minnesota for adoptive placement into a nonrelative's home unless one of the following conditions is met:

A. the commissioner, as state administrator of the Interstate Compact on the Placement of Children, issues written approval for the importation or exportation pursuant to the requirements of that compact; or

B. the commissioner has, in noncompact situations, issued a written consent to importation or exportation of the child, pursuant to applicable state law.

Subp. 2. **Unlicensed third parties.** The commissioner shall not issue consent or approval for the movement of a child across state lines if the proposed placement is planned or made by an unlicensed third party.

Subp. 3. **Approval for importation.** The commissioner, upon receipt of all required documentation, shall issue consent or approval for importation when:

A. the foreign country allows the child to be exported for the purpose of adoption in the United States;

B. an authorized child-placing agency in the sending state has adoptive planning rights to the child and requests the importation into Minnesota; or

C. a family plans to move to Minnesota and has a child placed with them according to the laws of the other state or country.

Subp. 4. **Documents required.** The documents required for the commissioner's consent and approval are:

A. an authorized child-placing agency's written confirmation that the family is approved for adoptive placement;

B. a document which identifies the child, his birth date, birthplace, and his parentage; and

C. legal documents which demonstrate that the child has been properly released for adoption.

Subp. 5. **Direct correspondence between agencies.** Local social service agencies, other than Hennepin, Ramsey, and St. Louis counties, shall route correspondence directed to out-of-state agencies through the state agency's adoption unit.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

### 9560.0160 LEGALIZATION OF THE ADOPTIVE PLACEMENT.

The commissioner or an authorized child-placing agency shall initiate the process of legalizing adoptive placements of agency-placed children by sending the petitioner, or his attorney, such nonidentifying information as is needed for completion of the adoption petition.

When an adoption petition which fails to meet the filing requirements of Minnesota Statutes, section 259.22, subdivisions 2 and 3 is nevertheless filed in a court of competent jurisdiction, the commissioner shall recommend to the court dismissal of that petition.

The final report and recommendation on a properly filed petition of an investigation by the commissioner or an authorized child-placing agency shall be made to the court within the 90-day time period.

The report and recommendation to the court on the form prescribed by the commissioner shall verify the allegations in the petition, determine whether the child is a proper subject for adoption, and ascertain the suitability of the proposed family and child to each other. When the child's placement was arranged

through the agency, the report shall also include a statement on how the agency applied the order of placement preference in part 9560.0040, subpart 2 in selecting the adoptive family. On intercounty adoptions, the order of placement preference is deemed to have occurred when the appropriate authority in the child's country of birth approved the placement of the child abroad.

The commissioner or an authorized child-placing agency shall request a continuance of the court when the investigation cannot be completed in the 90-day time period.

A copy of all requests for continuances must be filed with the state agency's adoption unit, the servicing agency, and the petitioner's attorney.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** *9 SR 909*

### 9560.0170 POSTADOPTION SERVICES.

**Subpart 1. Postadoption assistance.** Authorized child-placing agencies shall provide reasonable postadoption assistance and counseling services pursuant to Minnesota Statutes, sections 259.47 and 259.49 to adoptive parents, genetic parents, adult genetic siblings, and adopted persons who have reached the age of 19 at their request in a manner which strengthens the adoption contract and complies with Minnesota Statutes, sections 259.27, subdivision 3, 259.31, and 259.47, subdivision 4 and applicable federal regulations on confidentiality and privacy of child welfare and adoption records. The agency shall:

A. prepare general background and health information with the deletion of all identifying information such as names, specific dates, addresses, and locations, to aid the adoptive parents of a minor child or the adopted adult 19 years of age or older in understanding his genetic background and adoption;

B. contact any one of the parties, in a personal and confidential manner;

C. provide the services requested when there is a mutual desire to receive or share information or to have contact;

D. provide services to adult genetic siblings where the agency has determined that:

(1) there is no known violation of confidentiality of a genetic parent who is unknown to the genetic siblings or is deceased; or

(2) the genetic parent has given written consent in order to allow the agency to provide the services requested;

E. provide services to a genetic relative for information or contact upon the written consent of the genetic parent or verification that the genetic parent is deceased;

F. share with the requesting person what options the agency may consider using to locate the other person; and

G. determine the extent and frequency to which the person contacted wishes to share information or have contact whether directly or through the agency.

**Subp. 2. Notification of genetic parent.** Upon notice from the state agency adoption unit that the adopted adult of the age specified in the statute requests the original birth certificate, authorized child-placing agencies shall locate and notify each genetic parent named on that certificate. The agency shall:

A. make complete and reasonable efforts within six months to locate and notify the genetic parent in a personal and confidential contact of the right to file an affidavit with the state registrar and the effects of filing within the time allowed an affidavit of disclosure or nondisclosure, or of filing nothing, on the original birth certificate information; and

B. file through the state agency adoption unit the agency affidavit of noti-

fication for the state registrar that each named genetic parent was located and notified, was not located and notified, or was found to be deceased.

**Subp. 3. Notification of genetically related persons.** An authorized child-placing agency shall, as required by Minnesota Statutes, section 259.47, subdivision 1, make a diligent effort to locate and inform genetically related persons of the medical or genetic information the agency has received. If the genetically related person is an adopted minor, the agency shall relay the information to the adoptive parent, subsequent guardian, or conservator. The agency shall make a diligent effort to notify the genetic parents when the agency learns that the adopted person has died.

**Subp. 4. Locating genetic parent.** Adopted persons of adult age placed for adoption by an authorized agency on or after August 1, 1982, may, under Minnesota Statutes, section 259.47, subdivision 3, upon reaching adult age, request from the placing agency the name, last known address, birth date, and birthplace of the genetic parents who were identified on the adopted person's original birth certificate. The agency shall:

A. determine that the agency has on file the genetic parent's affidavit attesting to receipt of information in the provisions of Minnesota Statutes, section 259.47, subdivision 3;

B. determine that the genetic parent either has not filed a subsequent affidavit objecting to the release of identifying information or has withdrawn that affidavit;

C. disclose the identifying information to the adopted person when the condition in item A is met and when the agency has verified that the condition in item B exists or that the genetic parent is deceased; and

D. contact the genetic parent if requested by the court upon the adopted person's petition for release of identifying information. The agency shall advise the genetic parent of the opportunity for that genetic parent to present evidence to the court, either directly or through the agency, that nondisclosure of the information is a greater benefit to the genetic parent than disclosure to the adopted person.

**Subp. 5. Counseling services.** Authorized child-placing agencies shall provide liaison and skilled counseling services through appropriately trained social workers to the adoptive parents, adopted adults who have reached the age of 19, genetic parents, and adult genetic siblings.

**Subp. 6. Documentation of postadoption services.** Authorized child-placing agencies shall document the postadoption services provided in the agency's adoption service record.

**Subp. 7. Reimbursement.** Authorized child-placing agencies may require a reasonable expense reimbursement for providing postadoption services.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subs 2, 10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## 9560.0180 MAINTENANCE OF ADOPTION RECORDS.

**Subpart 1. Content.** The adoption records of authorized child-placing agencies shall contain copies of all relevant legal documents, responsibly collected genetic, medical, and social history, the child's placement record, documentation of the placement preference in part 9560.0040, subpart 2, copies of all pertinent agreements or contracts, copies of all reports and recommendations to the court, and copies of all pertinent correspondence and a summary of postadoption services. Nonidentifying information in the agency record may be disclosed to the parties it concerns according to the criteria in parts 9560.0060, subpart 2, item B and 9560.0170, subpart 1, item A. Identifying information may not be disclosed except under Minnesota Statutes, sections 259.31, 259.47, subdivision 3,

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and 259.49. The agency shall maintain a record of the postadoption services provided under part 9560.0170. Disclosure of identifying information within the standards of part 9560.0170, subpart 4 does not constitute disclosure of the agency's adoption record.

**Subp. 2. Use.** Each adoption record constitutes the permanent record upon which all court action is based, agency services are administered, and the adoptive family unit is identified and established.

**Subp. 3. Confidentiality.** All adoption records are confidential and permanent. Adoption records must be retained under a protected record system which ensures confidentiality and lasting preservation.

**Statutory Authority:** *MS s 257.05; 257.175; 259.27; 259.40 subds 2,10; 259.45 subd 9; 259.48*

**History:** 9 SR 909

## PROTECTIVE SERVICES FOR CHILDREN

### 9560.0210 PURPOSE.

The purpose of child protective services is to protect children from maltreatment.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** 13 SR 303

### 9560.0212 SCOPE.

Parts 9560.0210 to 9560.0234 govern the administration and provision of child protective services by local social service agencies.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** 13 SR 303

### 9560.0214 DEFINITIONS.

**Subpart 1. Scope.** As used in parts 9560.0210 to 9560.0234, the following terms have the meanings given them.

**Subp. 2. Alleged offender.** "Alleged offender" means a person who is reported to have committed maltreatment.

**Subp. 3. Assessment.** "Assessment" means a process for determining whether a child has been maltreated and whether child protective services are needed and that:

A. is conducted by a child protection worker;

B. includes gathering facts, assessing the risk to the child, and formulating a plan of services; and

C. includes authority to interview the child, any person responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment.

**Subp. 4. Child.** "Child" means a person under the age of 18.

**Subp. 5. Child protection worker.** "Child protection worker" means a social worker employed by a local agency who is responsible for providing child protective services or who is responsible for supervising social workers responsible for providing child protective services.

**Subp. 6. Child protective services.** "Child protective services" means services provided by the local agency to protect a child who has reportedly been maltreated by a person within the family unit or within a facility who is responsible for the child's care. Child protective services include assessment or investigation; protective intervention under parts 9560.0218, subpart 8, 9560.0220, subpart 8,

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and 9560.0222, subpart 11; and the planning and provision of services under part 9560.0228.

**Subp. 7. County board.** "County board" means the county board of commissioners in each county. A human services board established under Minnesota Statutes, chapter 402, or a welfare board established under Minnesota Statutes, chapter 393, shall be considered the county board for purposes of parts 9560.0210 to 9560.0234.

**Subp. 8. Department.** "Department" means the Minnesota Department of Human Services.

**Subp. 9. Emotional maltreatment.** "Emotional maltreatment" means the consistent or deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, adverse effect on the child's physical, mental, or emotional development.

**Subp. 10. Facility.** "Facility" means a facility or program for the care of children required to be licensed by the Department of Health under Minnesota Statutes, sections 144.50 to 144.58, the Department of Corrections under Minnesota Statutes, section 241.021, or the Department of Human Services under Minnesota Statutes, chapter 245A.

**Subp. 11. Family unit.** "Family unit" means all persons related to a child by blood, marriage, or adoption or persons living within the same household as the child or a child's guardian.

**Subp. 12. Imminent danger.** "Imminent danger" means that a child is threatened with immediate and present maltreatment that is life threatening or likely to result in abandonment, sexual abuse, or serious physical injury.

**Subp. 13. Infant medical neglect.** "Infant medical neglect" includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life threatening condition by providing treatment including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

A. the infant is chronically and irreversibly comatose;

B. the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life threatening conditions, or otherwise be futile in terms of the survival of the infant; or

C. the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane.

**Subp. 14. Investigation.** "Investigation" means a process for determining whether maltreatment has occurred:

A. that is conducted by a law enforcement agency; or

B. that is conducted by the department or a local agency when a report alleges maltreatment by a person within a facility who is responsible for the child's care.

**Subp. 15. Law enforcement agency.** "Law enforcement agency" means the Department of Public Safety, the local police or sheriff's department, or the state highway patrol.

**Subp. 16. Legal custody.** "Legal custody" means the right to care, custody, and control of a child as defined in Minnesota Statutes, section 260.015, subdivision 8.

**Subp. 17. Local agency.** "Local agency" means the social services agency

authorized by the county board to provide social services and financial assistance under Minnesota Statutes, section 393.07.

Subp. 18. **Maltreatment.** "Maltreatment" means physical or sexual abuse or neglect under Minnesota Statutes, section 626.556, subdivision 10e. "Neglect" includes emotional maltreatment and infant medical neglect.

Subp. 19. **Report or report of maltreatment.** "Report" or "report of maltreatment" means an oral or written report received by a local agency that alleges a child is being or has been maltreated.

Subp. 20. **Shelter care facility.** "Shelter care facility" means a physically unrestricting facility, such as a hospital, group home, or licensed facility for foster care, used for the temporary care of a child.

Subp. 21. **Subject.** "Subject" means any person on whom the local agency retains private or confidential information obtained from reports of maltreatment or during assessments or investigations of reports of maltreatment.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### 9560.0216 BASIC REQUIREMENTS.

Subpart 1. **Response to reports of maltreatment.** The local agency shall accept and screen according to subpart 3 every report of maltreatment received from any source.

Subp. 2. **Emergency assessment and protective intervention.** The local agency shall screen and assess reports of maltreatment of any child living in or found in the county without regard to the legal residence of the child or the child's family.

A. The local agency shall provide child protective services as an emergency social service under parts 9550.0010 to 9550.0092.

B. The local agency shall not seek a determination of the county of financial responsibility for the child and reimbursement for services provided until after providing for the safety of the child.

Subp. 3. **Screening reports.** The local agency shall screen reports of maltreatment to determine the need for assessment. If a report does not meet the criteria in items A to C, the local agency must not conduct an assessment:

A. the allegations in the report constitute maltreatment as defined under part 9560.0214, subpart 18;

B. sufficient identifying information exists to permit an assessment; and

C. the report contains information that has not previously been received by the local agency.

Subp. 4. **Notifying law enforcement.** The local agency shall notify the law enforcement agency orally and in writing within 24 hours of receiving a report of maltreatment.

Subp. 5. **Time frames for initiating an assessment.** The local agency shall respond to reports of maltreatment within the time limits under item A, B, or C.

A. When a report of maltreatment indicates that a child is in imminent danger, the local agency shall take action as soon as the report is received to provide for the safety of the child.

B. When a report of maltreatment alleges infant medical neglect, the local agency shall initiate an assessment as soon as the report is received.

C. When a report of maltreatment does not indicate a child is in imminent danger, the local agency shall initiate an assessment within one working day after receiving the report. The local agency may delay initiating the assessment up to 72 hours if:

(1) the local agency has reasonable grounds to believe the child will not be in imminent danger during that time; and

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(2) the need to respond to more serious reports prevents the local agency from acting within one working day.

**Subp. 6. In person observation.** When the local agency conducts an assessment, an in person observation must be made of the child reported to be maltreated.

**Subp. 7. Notice to persons being interviewed.** The local agency shall:

A. orally inform a person asked to provide private or confidential data about himself or herself as part of an assessment or investigation:

- (1) why the information is being requested;
- (2) how the information will be used;
- (3) that the person may refuse to answer the questions;
- (4) the consequences of either answering or refusing to answer questions;

(5) the other persons or agencies authorized to receive the information being requested; and

B. provide in writing:

- (1) the information given orally under item A;
- (2) rights to access data provided under Minnesota Statutes, section 13.04, subdivision 3; and
- (3) a description of the procedure for contesting the accuracy and completeness of the agency's records provided under Minnesota Statutes, section 13.04, subdivision 4.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### **9560.0218 RESPONSE TO REPORTS OF INFANT MEDICAL NEGLECT.**

**Subpart 1. Screening.** The local agency shall screen reports alleging infant medical neglect to determine whether the report meets the criteria in items A to E:

A. the child is an infant under one year of age;

B. the infant is hospitalized;

C. the allegations constitute infant medical neglect as defined in part 9560.0214, subpart 13;

D. the report contains sufficient identifying information to permit an assessment; and

E. the report contains information that has not previously been received by the local agency.

Reports meeting the criteria in items A to E must be assessed as soon as the report is received according to the procedures in subparts 2 to 6.

**Subp. 2. Hospital notice.** The local agency shall inform the hospital where the infant is hospitalized that a report of infant medical neglect has been received and contact the liaison designated by the hospital to handle reports of infant medical neglect.

**Subp. 3. Department consultation.** The local agency shall consult with the department's child protective services staff.

**Subp. 4. Consultation with parents and physician.** The local agency shall consult with the infant's parents, the attending physician, and other appropriate hospital staff to determine the parents' understanding of the infant's condition, treatment choices, and prognosis.

**Subp. 5. Medical consultation.** The local agency shall consult with an independent medical consultant who shall determine whether infant medical neglect has occurred.



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A. The local agency shall arrange for a review by the medical consultant of the infant's medical records.

B. The local agency shall arrange for an examination of the infant by the medical consultant if necessary to make the determination. The local agency shall:

- (1) obtain consent from the infant's parents for the examination; or
- (2) if the parents do not consent, ask the county attorney to obtain an expedited court order for the examination.

**Subp. 6. Parental authorization.** If the medical consultant confirms infant medical neglect and recommends treatment, the local agency shall, with the medical consultant, seek authorization from the infant's parents for the recommended treatment.

**Subp. 7. Local agency determinations.** The local agency shall make determinations in accordance with item A or B.

A. If the parents authorize the recommended treatment, the local agency shall make a determination that maltreatment has not occurred and that child protective services are not needed.

B. If the parents refuse to authorize the recommended treatment, the local agency shall make a determination that maltreatment occurred and that child protective services are needed.

**Subp. 8. Protective intervention.** If the local agency makes a determination that maltreatment occurred and that child protective services are needed, the local agency shall:

A. ask the county attorney to obtain a transfer of legal custody of the infant to the local agency in order to provide the recommended treatment; and

B. provide protective services under part 9560.0228.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

## 9560.0220 RESPONSE TO REPORTS OF MALTREATMENT WITHIN THE FAMILY UNIT.

**Subpart 1. Basic procedures.** The local agency shall follow the basic requirements in part 9560.0216 when a report alleges maltreatment by a person within the family unit who is responsible for the child's care.

**Subp. 2. Coordination with law enforcement.** The local agency shall:

A. ask a representative from a law enforcement agency to accompany the child protection worker to interview the child when a report of maltreatment:

- (1) indicates there is imminent danger to a child or danger to the child protection worker; or
- (2) alleges violation of a criminal statute involving sexual abuse or physical abuse;

B. coordinate its assessment with the law enforcement agency's investigation to avoid duplication of fact finding efforts and multiple interviews; and

C. prepare an independent report of its assessment.

**Subp. 3. Child interviews.** The local agency shall interview the child who is reported to be maltreated. When necessary to make the determinations in subpart 6, the local agency shall interview any other minors within the family unit. When interviewing children, the local agency shall follow the procedures in items A to F.

A. The local agency shall interview the child in a face-to-face meeting in a manner appropriate to the child's age, development, and ability to understand and verbalize.

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B. The local agency may waive the notice required in part 9560.0216, subpart 7, when interviewing a child under ten years of age who is reported to be maltreated.

C. The local agency may interview a child under this part without parental consent. By the time the assessment is completed, the local agency shall notify the parent, legal custodian, or guardian that the interview has occurred unless ordered by the juvenile court to withhold notification.

D. If a parent, legal custodian, or guardian prevents the local agency from interviewing a child, the local agency shall ask the county attorney to obtain a judicial order to produce the child for an interview.

E. The local agency shall make a record of every interview according to subitems (1) and (2):

(1) interviews must be videotaped, audiotaped, or recorded in writing; and

(2) the record must include:

(a) the date, time, place, and duration of the interview;

(b) the identity of the persons present at the interview; and

(c) a written summary completed within 72 hours if the interview is recorded in writing.

F. When a child is interviewed at the child's school, the local agency shall:

(1) before the interview, give the school a written notice, signed by the chair of the county board or the chair's designee, that includes the following:

(a) the name of the child to be interviewed;

(b) the purpose of the interview; and

(c) the authority of the local agency under Minnesota Statutes, section 626.556, subdivision 10, to interview the child on school premises;

(2) conduct the interview within 24 hours after the school receives the notification in subitem (1);

(3) determine the persons present during the interview; and

(4) cooperate with the school officials' reasonable conditions as to the time, place, and manner of the interview.

**Subp. 4. Parent interviews.** The local agency shall interview parents and persons responsible for the child's care within the family unit. These interviews must take place within 72 hours of interviewing the child unless postponement is necessary to prevent risk to a child or interference with law enforcement's investigation. If, after reasonable effort, the local agency is unable to locate a parent, this requirement is waived.

**Subp. 5. Other interviews.** When necessary to make the determinations in subpart 6, the local agency shall interview other persons whom the agency believes may have knowledge of the alleged maltreatment.

**Subp. 6. Local agency determinations.** When the local agency has completed its assessment under subparts 1 to 5, the local agency shall make determinations.

A. The local agency shall make a determination that maltreatment has occurred if:

(1) there is credible evidence a child has suffered physical, mental, or emotional harm; and

(2) the harm was caused by the act or failure to act of a person within the family unit who is responsible for the child's care.

B. The local agency shall make a determination that child protective services are needed when the agency has documented conditions sufficient to cause a child protection worker to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the persons responsible

for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment. This determination shall be made using a risk assessment tool that has been approved by the department and includes the factors in subitems (1) to (11):

- (1) vulnerability of the child;
- (2) location, severity, frequency, and recentness of abuse;
- (3) severity, frequency, and recentness of neglect, and condition of home;
- (4) physical, intellectual, or emotional capacities and control of the person or persons responsible for the child's care;
- (5) degree of cooperation of the person or persons responsible for the child's care;
- (6) parenting skills and knowledge of the person or persons responsible for the child's care;
- (7) alleged offender's access to the child;
- (8) presence of a parent substitute or other adult in the home;
- (9) previous history of child maltreatment;
- (10) strength of family support systems; and
- (11) stressors on the family.

**Subp. 7. Determining the need for protective intervention.** The local agency shall determine the need for protective intervention according to items A to D.

A. If there is a determination that maltreatment occurred and a determination that child protective services are needed, the local agency shall provide protective intervention under subpart 8.

B. If there is a determination that child protective services are needed without a determination that maltreatment occurred, the local agency shall provide protective intervention under subpart 8 or other needed services.

C. If there is a determination that maltreatment occurred and a determination that no child is in need of child protective services, the local agency shall offer any needed services.

D. If there is no determination that maltreatment occurred and no determination that child protective services are needed, the local agency shall not provide protective services.

**Subp. 8. Protective intervention procedure.** When the local agency provides protective intervention, the local agency shall:

- A. evaluate the risks of children remaining in the home;
- B. provide for the protection of the child under subitems (1) to (3), which are listed in order of preferred action:
  - (1) maintain the child within the home and provide protective services on a voluntary basis or through protective supervision;
  - (2) have the alleged offender removed from the home under Minnesota Statutes, section 260.133; or
  - (3) remove the child from the home according to subpart 9;
- C. if the family refuses to accept protective services, request the county attorney to obtain a judicial order authorizing the local agency to provide involuntary protective services; and
- D. if the family accepts or a court authorizes services, formulate a plan and provide protective services under part 9560.0228.

**Subp. 9. Removal procedures.** The local agency shall follow the procedures in items A to D when a child is removed from the home.

A. The local agency shall determine whether a voluntary placement provides for the child's health, safety, and welfare.

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B. If a child is not placed voluntarily and the child is in imminent danger, the local agency:

(1) shall obtain the emergency removal of the child from the home by:

(a) seeking the assistance of the law enforcement agency to take the child into immediate custody; or

(b) petitioning the juvenile court for immediate legal custody of the child; and

(2) if a child is placed in a shelter care facility, advise the person taking the child into custody or the court whether disclosure of the facility location would endanger the child.

C. If a child is not placed voluntarily and the child is not in imminent danger, the local agency shall ask the county attorney to petition the juvenile court for placement of the child under parts 9560.0500 to 9560.0670.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### **9560.0222 INVESTIGATION OF REPORTS OF MALTREATMENT IN A FACILITY.**

**Subpart 1. Screening.** The local agency shall screen reports of maltreatment to determine the need for investigation. Reports meeting the criteria in items A to C must be investigated by the local agency:

A. the allegations in the report constitute maltreatment as defined in part 9560.0214, subpart 18;

B. the report contains sufficient identifying information to permit an investigation; and

C. the report contains information that has not previously been investigated by the local agency.

A report that does not meet the criteria in items A to C must be reported as a possible licensing violation to the county and state agencies that license the facility.

**Subp. 2. Coordination with law enforcement.** The local agency shall:

A. ask a representative from a law enforcement agency to accompany the child protection worker to interview the child when a report of maltreatment indicates:

(1) imminent danger to a child or danger to the child protection worker; or

(2) an alleged violation of a criminal statute involving sexual abuse or physical abuse;

B. coordinate its investigation with the law enforcement agency investigation to avoid duplication of fact finding efforts and multiple interviews; and

C. prepare an independent report of its investigation.

**Subp. 3. Coordination with state licensing agencies.** The local agency shall coordinate the investigation of maltreatment within a facility with the state agencies responsible for licensing the facility.

A. The local agency shall notify the responsible state licensing agencies within 48 hours, excluding weekends and holidays, of receiving a report of maltreatment. This notification must include:

(1) the date and time the local agency received the report;

(2) identification of the facility, the child or children alleged to be maltreated, and the alleged offender;

(3) the nature of the maltreatment and extent of any injuries to children;

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(4) immediate treatment and protection measures being provided by the local agency; and

(5) the name of the child protection worker responsible for investigating the report.

B. The local agency shall provide the responsible state licensing agencies with ongoing information as the investigation proceeds.

**Subp. 4. Notice to ombudsman for mental health and mental retardation.** The local agency shall provide the notice in subpart 3, item A, to the ombudsman for mental health and mental retardation when a report of maltreatment involves a child receiving residential treatment services for mental health, mental retardation, chemical dependency, or emotional disturbance.

**Subp. 5. Notice to parents, guardians, or legal custodians.** The local agency shall provide the following notice when reports of maltreatment within a facility have been received.

A. The local agency shall provide the following information to the parents, guardians, or legal custodians, including agencies responsible for placement, of any child who is reported to be maltreated by a person within a facility who is responsible for the child's care:

- (1) the name of the facility;
- (2) that a report of maltreatment of their child has been received;
- (3) the nature of the alleged maltreatment;
- (4) that an investigation is being conducted;
- (5) the protective or corrective measures currently being provided;

and

(6) that a written report will be furnished when the investigation is completed.

B. The notice required in item A must be provided before the local agency interviews any child who is reported to be maltreated unless:

- (1) the interview is necessary to protect children within the facility;

and

(2) the local agency is unable, after reasonable effort, to locate the parents.

C. The local agency may provide the notice required in item A to the parents, guardians, or custodians of children within the facility who are not the subjects of the report. In making the decision to provide this notice, the local agency shall consider:

(1) whether there are reasonable grounds to believe maltreatment has occurred;

- (2) the seriousness of the maltreatment;
- (3) the number of children reported to be maltreated; and
- (4) the length of time it may take to complete the investigation.

**Subp. 6. Interviewing children.** When necessary to make the determination in subpart 10, the local agency shall interview any child within the facility in the course of the investigation. Interviews shall be conducted and recorded according to part 9560.0220, subpart 3.

**Subp. 7. Interviewing facility staff.** The local agency shall begin to interview the following facility staff within 24 hours after interviewing children: the alleged offender; other staff members who may have knowledge of the maltreatment; supervisors of the alleged offender; and the director of the facility.

Staff interviews may be postponed beyond 24 hours to prevent interference with an investigation by law enforcement authorities.

**Subp. 8. Interviewing persons outside the facility.** The local agency shall interview the parents, guardians, or legal custodians of children within the facility and

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children no longer within the facility if there is reason to believe they may have knowledge of maltreatment.

**Subp. 9. Risk assessment.** The local agency shall evaluate the information obtained during the investigation according to items A and B:

A. assess the risk to children using a risk assessment tool under part 9560.0220, subpart 6, item B; and

B. consult with the state agencies that issued the facility license to assess factors within the facility that contribute to risk of maltreatment.

**Subp. 10. Local agency determination.** The local agency shall determine that maltreatment has occurred within the facility on the basis of the criteria in items A and B:

A. there is credible evidence of physical, mental, or emotional harm to a child; and

B. the harm is caused by the action or failure to act of facility staff or a volunteer.

**Subp. 11. Protective intervention.** If there is a determination that maltreatment has occurred, the local agency shall intervene to provide for the safety of the children within the facility.

A. The local agency shall provide a written report to the parents, guardians, or legal custodians, including agencies responsible for placement, of every child within the facility. The report shall not disclose the names of the children who were maltreated, the reporter, the offender, or the persons interviewed during the investigation. The report shall include:

- (1) the name of the facility;
- (2) the nature of the maltreatment;
- (3) the names of the investigators and agencies represented;
- (4) a summary of the results of the investigation;
- (5) the local agency's determination; and
- (6) remedial measures being provided.

B. The local agency shall inform parents, guardians, and legal custodians of alternative facilities.

C. The local agency shall provide the responsible state licensing agencies with an oral report immediately after the investigation is completed. A written report must be provided within one week after the investigation is completed to the responsible state licensing agencies and to the ombudsman notified under subpart 4.

**Subp. 12. Determination that maltreatment has not occurred.** If there is no determination that maltreatment occurred, the local agency:

A. shall provide the notice in subpart 11 to parents, guardians, or legal custodians notified under subpart 5; and

B. shall provide the notice in subpart 11 to the responsible state licensing agencies and the ombudsman notified under subpart 4.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### **9560.0224 REPORTS NOT REQUIRING ASSESSMENT OR INVESTIGATION BY LOCAL AGENCY.**

When the local agency receives a report of maltreatment that does not involve an alleged offender from within the family unit or from within a facility, the local agency shall notify the law enforcement agency orally as soon as the report is received. Written notice must be sent within 24 hours.

The local agency shall make appropriate social services available to the child and family.

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**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### 9560.0226 INFORMATION PROVIDED REPORTERS.

**Subpart 1. Voluntary reporters.** The local agency shall provide a voluntary reporter, upon request, a concise summary after the assessment or investigation of a report of maltreatment has been completed. A concise summary is limited to:

A. the local agency's classification of the report under part 9560.0230; and

B. a statement whether child protective services are being provided.

**Subp. 2. Mandated reporters.** The local agency shall provide a mandated reporter, upon request, a summary consisting of:

A. a concise summary under subpart 1;

B. the name of the child protection worker conducting the assessment or investigation;

C. the nature of the maltreatment, if the local agency determined maltreatment occurred; and

D. a description of services being provided.

**Subp. 3. Refusal to disclose information.** The local agency shall refuse to provide a concise summary to voluntary reporters and a summary to mandated reporters if the local agency determines disclosure would be detrimental to the best interests of the child.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### 9560.0228 PROTECTIVE SERVICES.

**Subpart 1. General requirement.** The local agency shall ensure that protective services are provided according to a written plan to every child and family who are residents of the county when:

A. a determination of infant medical neglect is made under part 9560.0218, subpart 7, item B; or

B. protective intervention is required or protective services are accepted or authorized under part 9560.0220, subpart 7.

**Subp. 2. Written plan.** The plan of protective services must meet the criteria in items A and B:

A. A child protection worker shall work with the family to formulate the plan and shall provide the family a copy of the plan.

B. The plan must identify:

(1) family needs and family strengths;

(2) the reasons why protective services are being provided;

(3) the specific services expected to ameliorate the conditions that present harm to children; examples include individual or family counseling, home management services, family based or in home services, parent support organizations, and parenting courses;

(4) the service provider or providers;

(5) the amount, frequency, and duration of services;

(6) goals for reducing risk of harm to children that are achievable by the family, or alternative permanency planning goals for children and the basis for determining that the family lacks capacity to reduce the risk of harm to children;

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- (7) specific behaviors that evidence achievement of goals;
- (8) specific tasks to be performed by each family member, the child protection worker, and other service providers;
- (9) the purpose and frequency of scheduled contacts between the family, the child protection worker, and other service providers;
- (10) estimated time required to achieve goals;
- (11) consequences of failure to comply with the plan; and
- (12) a timetable for the quarterly reassessment under subpart 5.

The local agency may use a substitute care plan under Minnesota Statutes, section 257.071, or a court ordered plan that meets the criteria in items A and B.

**Subp. 3. Service delivery.** Protective services shall be provided directly or arranged by the local agency. The local agency shall retain case management responsibility including responsibility for planning, coordinating, authorizing, monitoring, and evaluating services.

**Subp. 4. Monitoring services.** The local agency shall monitor the provision of services to assure compliance with the plan.

A. When the child remains in the home while protective services are being provided, the child protection worker shall:

- (1) meet with the family at least monthly; or
- (2) ensure that a service provider meets with the family at least monthly; and
- (3) contact the family at least monthly.

B. The child protection worker shall consult with other service providers at least quarterly.

C. The child protection worker's supervisor shall conduct a review at least semiannually. This review shall consist of:

- (1) a review of the plan of protective services or other records relating to the family;
- (2) a supervisory conference with the child protection worker;
- (3) attendance at the administrative or court review required for a child in substitute care; or
- (4) any equivalent method of determining whether appropriate services are being provided.

**Subp. 5. Quarterly reassessment.** The child protection worker and the family shall jointly assess the plan of protective services at least quarterly to:

- A. assess family progress in achieving goals and objectives;
  - B. delete goals that have been achieved or found to be inappropriate;
- and
- C. add behaviors or tasks necessary to achieve goals.

**Subp. 6. Termination of protective services.** Protective services to a family must be terminated when the local agency determines:

- A. the goals in the plan of protective services have been accomplished and the family no longer needs protective services; or
- B. the family fails to achieve goals and there are insufficient legal grounds to proceed with court action that would authorize the local agency to provide involuntary protective services.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** 13 SR 303



**9560.0230 OFFICIAL RECORDS.**

Subpart 1. **Report records.** The local agency shall maintain a record of every report of maltreatment under parts 9560.0218 to 9560.0222.

Subp. 2. **Classification of reports.** The local agency shall make the determination required under parts 9560.0218, subpart 7; 9560.0220, subpart 6; and 9560.0222, subparts 10 and 12 within 90 days of receiving the report.

Subp. 3. **Disclosure of report records.** The local agency may disclose report records to members of the case consultation committee of a multidisciplinary child protection team established under Minnesota Statutes, section 626.558.

Subp. 4. **Nondisclosure of reporter's identity.** The local agency shall not disclose the identity of the person making the report of maltreatment while the assessment or investigation is being conducted. After the assessment or investigation is completed, the local agency shall not disclose the identity of the person reporting the maltreatment without:

A. the reporter's consent, in writing, to disclosure; or

B. a written court finding that the report is false and that there is evidence the report was made in bad faith.

Subp. 5. **Notice of determinations.** Within ten working days after the assessment or investigation is completed, the local agency shall notify the parent or guardian of the child reported to be maltreated and the alleged offender in writing of the following:

A. the agency's determinations; and

B. the period of time report records will be maintained before being destroyed under subpart 6 including any right of the alleged offender to have the records destroyed.

Subp. 6. **Retention of report records.** The local agency's records relating to reports of maltreatment must be retained or destroyed according to items A to C.

A. If the local agency has made determinations that maltreatment has not occurred and that child protective services are not needed, the local agency may retain the records of the report up to four years. If the alleged offender requests the destruction of the records, the local agency must destroy the records within 30 days of the request.

B. If the local agency has made a determination either that maltreatment has occurred or that child protective services are needed, the local agency shall destroy the records of the report seven years after the date of the final entry in the case record.

C. The local agency shall notify a school that received a notice of intent to interview under part 9560.0220, subpart 3, to destroy all records relating to the report when records are destroyed under item A or B.

Subp. 7. **Data collection by the department.** Within ten days after completing the assessment or investigation, the local agency shall send the department data on every report of maltreatment. Data must be submitted in a manner approved by the department.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

**9560.0232 ADMINISTRATIVE REQUIREMENTS.**

Subpart 1. **Service availability.** The local agency shall ensure that child protective services are available on a 24 hour basis to respond to reports alleging imminent danger.

Subp. 2. **Emergency facility.** The local agency shall ensure that a shelter care facility is available on a 24 hour basis for children needing emergency placement.

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**Subp. 3. Staffing.** The local agency shall have sufficient staff to perform its duties under parts 9560.0216 to 9560.0234 and shall assign individual responsibility for:

- A. notifying law enforcement under part 9560.0216; and
- B. emergency placement of children.

**Subp. 4. Child protection team.** Where the county has established a multidisciplinary child protection team, the local agency:

- A. shall participate on the team;
- B. may provide records collected and maintained under part 9560.0230 to the case consultation committee; and
- C. may accept recommendations of the case consultation committee about protective services to be provided under part 9560.0228.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

### 9560.0234 TRAINING REQUIREMENTS.

**Subpart 1. Agency training plan.** The local agency shall have an annual training plan for child protection workers. The plan must include:

- A. the subject areas to be covered;
- B. the methods of providing training, such as in service programs, workshops, or college courses; and
- C. the number of hours of training to be provided.

**Subp. 2. Department approval.** The local agency shall submit the annual training plan to the department for approval by November 1 of the previous calendar year. A plan meeting the criteria in items A and B will be approved.

A. Training subjects must be relevant to the provision of child protective services. Relevant subject areas include:

- (1) the training areas listed in Minnesota Statutes, section 626.559, subdivision 2;
- (2) permanency planning for children; and
- (3) other subject areas relevant to protecting children from maltreatment and providing child protective services.

B. The plan includes a summary of individual training plans, approved by the local agency, for each child protection worker.

**Subp. 3. Individual training plan.** The local agency shall develop and approve an individual training plan for each child protection worker that meets the criteria in items A to C:

- A. the training is relevant to providing child protective services;
- B. the plan is developed in consultation with the individual child protection worker and based on identified areas of knowledge and skills to be developed; and
- C. the plan provides for at least 15 credit hours of training per year.

**Subp. 4. Credit hours.** A credit hour of training is based on a clock hour of instruction. Up to one-half of required training hours may be earned by teaching a course approved by the department. One hour of teaching earns two credit hours.

**Subp. 5. Training record.** The local agency shall maintain a record of training completed by each child protection worker, including:

- A. the course titles;
- B. the instructors' names;
- C. the dates and times of the training;

D. the number of credit hours earned; and

E. local agency documentation of successful completion of the training.

**Statutory Authority:** *MS s 256.01 subd 2 cl (2); 256E.05; 257.175; 393.07; 626.556*

**History:** *13 SR 303*

**9560.0250** [Repealed, 13 SR 303]

**9560.0260** [Repealed, 13 SR 303]

**9560.0270** [Repealed, 13 SR 303]

**9560.0280** [Repealed, 13 SR 303]

**9560.0290** [Repealed, 13 SR 303]

**9560.0300** [Repealed, 13 SR 303]

### INTERSTATE PLACEMENT OF CHILDREN FOR FOSTER CARE

#### **9560.0350 SCOPE.**

Parts 9560.0350 to 9560.0370 govern the placement of children into or out of the state of Minnesota for the purpose of foster care.

**Statutory Authority:** *MS s 257.40; 257.175*

#### **9560.0360 DEFINITIONS.**

Subpart 1. **Child.** "Child" means a person who is under the age of 18.

Subp. 2. **Commissioner.** "Commissioner" means Minnesota commissioner of the Department of Human Services.

Subp. 3. **Placing children in foster care or placement.** "Placing children in foster care or placement" means placing children in any of the following residential facilities: foster family home, work home, free home, group home, residential treatment center.

**Statutory Authority:** *MS s 257.40; 257.175*

**History:** *L 1984 c 654 art 5 s 58*

#### **9560.0370 PLACEMENT PROVISIONS.**

Subpart 1. **Interstate compact.** Placement of children to and from states which are parties of the Interstate Compact on the Placement of Children shall be made in accordance with the current terms of the compact.

Subp. 2. **Placements to and from noncompact states.** When a child enters or leaves the state of Minnesota for placement in foster care, the following policies are to be used when the move involves noncompact states:

A. The commissioner's consent must be obtained for children entering or leaving the state for the purpose of placement in foster care, except for placements made by certain relatives and guardians under conditions prescribed in statute.

B. Those seeking to place a child must demonstrate:

(1) that they have legal authority to do so;

(2) that the move is in the best interest of the child; and

(3) that the move is necessary to provide the optimum placement opportunity for the child.

C. Those seeking to place a child shall furnish the commissioner such supporting or additional information, consents, or guarantees as the commissioner may deem necessary to protect the child.

Subp. 3. **Agreements submitted to commissioner.** Prior to the commissioner's consent for a child to leave the state for the purpose of foster care, the following information and agreements must be furnished the commissioner:

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- A. identifying information on the child and parents;
  - B. the name, address, and relationship of the individual in the receiving state responsible for the child's care;
  - C. the authority of the agency or individual to make such placements;
- and
- D. written authorization for the out-of-state placement by the court of jurisdiction, or written authorization from the child's parent or guardian.

**Statutory Authority:** *MS s 257.40; 257.175*

### DEPENDENT AND NEGLECTED CHILDREN UNDER STATE GUARDIANSHIP

#### 9560.0410 SCOPE.

Parts 9560.0410 to 9560.0470 identify and govern the administration of local social service agency responsibilities for children under state guardianship as dependent or neglected pursuant to Minnesota Statutes, sections 260.111 et seq., and the delegation to local social service agencies of the authority to grant consents.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 393.07*

#### 9560.0420 PURPOSE.

The purpose of state guardianship is to carry out the responsibility to act and care for a child committed to the guardianship of the commissioner of human services as dependent or neglected.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 393.07*

**History:** *L 1984 c 654 art 5 s 58*

#### 9560.0430 LOCAL SOCIAL SERVICE AGENCY; DEFINITION.

"Local social service agency" means the local agency under the authority of the county welfare board or human service board responsible for social services.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 393.07*

#### 9560.0440 GENERAL RESPONSIBILITIES.

**Subpart 1. Financial assistance and social services.** The local social service agency having financial responsibility shall provide financial assistance and assure provision of social services, including protection, planning, and decision making, either directly or indirectly through other agencies.

**Subp. 2. Notice from agency to commissioner.** The local social service agency having financial responsibility shall notify the commissioner of human services within 30 days after commitment of a child to state guardianship.

**Subp. 3. Plan of care and supervision.** The local social service agency having financial responsibility shall prepare and carry out a plan for the care and supervision of the child through its own agency or an agency that agrees to supervise the child.

A. The client social service plan (parts 9550.0100 to 9550.2900) shall be developed with the child and reviewed with the child at least annually.

B. The plan shall meet the emotional, health, educational, vocational, and spiritual needs of the child, and preserve, where feasible, the racial and familial identity of the child.

C. The plan shall establish a permanent family relationship for the child through the selection of a family committed to providing a home until the child reaches majority.

D. Any plan which permits a child to assume responsibility to meet his own needs without agency guidance shall not preclude agency responsibility to be aware of the child's needs and provide for them if necessary.

E. The goals, plans, and objectives for children under the supervision of private agencies shall be made only with the agreement of the local social service agency having financial responsibility.

**Subp. 4. Movement of child from county of financial responsibility.** When a child moves from the county of the local social service agency having financial responsibility, the local social service agency of the county where the child will reside shall be notified in writing with a request to supervise the child. The supervising local social service agency shall provide services, and issue consents on behalf of the child and provide reports requested by the local social service agency having financial responsibility.

The local social service agency having financial responsibility shall notify in writing, with a request to supervise, each succeeding local social service agency when the child moves from one geographical area of supervision to another.

**Subp. 5. Appointment of guardian ad litem.** The local social service agency having financial responsibility shall assure the appointment of a guardian ad litem in the appropriate court to represent the child under state guardianship:

- A. when the child has a legal claim against another party;
- B. when the child has an interest in an existing legal action;
- C. when an action has been instituted against the child by another; and
- D. in all other instances when the best interest of the child requires legal counsel.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 393.07*

**History:** *L 1984 c 654 art 5 s 58*

#### 9560.0450 CONSENTS.

**Subpart 1. Delegated consents.** The following consents are delegated to local social service agencies:

- A. Autopsy.
- B. Baptism.
- C. Petition for change of name.
- D. Publicity about the child.
- E. Application for driver's license.
- F. Enlistment in the armed services, peace corps, or job corps.
- G. Giving the body or parts of the body to science after death.
- H. Admission to a state hospital or other psychiatric treatment facility to the extent permitted under law.
- I. Application for marriage license.
- J. Medical treatment.
- K. Psychiatric treatment.
- L. Surgical treatment.
- M. Abortion. To extent required by law, the local social service agency may not withhold consent.
- N. Request for tuition waiver.
- O. Permanent placement agreement.
- P. Petition to transfer guardianship.

**Subp. 2. Nondelegated consents.** All consents not specifically delegated to local social service agencies may be issued only by the commissioner of human services. The consents not specifically delegated include:

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- A. adoption;
- B. exportation (out-of-state) for foster care or adoption;
- C. leaving the state or country for more than 90 days;
- D. giving a part of the body for therapeutic purposes for another person while the child is living;
- E. transfer from one state hospital to another state hospital;
- F. sterilization; and
- G. separation of siblings after date of appointment of commissioner of human services as guardian.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 393.07*

**History:** *L 1984 c 654 art 5 s 58*

### 9560.0460 DISPOSITION OF THE SOCIAL WELFARE FUND.

The local social service agency having financial responsibility may apply for and receive survivor benefits for an eligible child under state guardianship. The benefits may be applied to the maintenance and support of the child, and any excess amounts held in a social welfare fund, or the total benefits may be accumulated in the social welfare fund.

Upon reaching age 18, the accumulated balance in the social welfare fund is to be paid directly, at that time, to the person for whom the survivor benefits were received.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 393.07*

### 9560.0470 STATE GUARDIANSHIP BENEFITS UP TO AGE 21.

An individual who is under state guardianship at age 18 continues to be eligible for guardianship benefits up to age 21 at the request of the individual.

**Statutory Authority:** *MS s 256.01 subd 2; 256.91; 256E.05 subd 1; 257.175; 259.24; 260.111; 260.241; 260.242; 260.40; 393.07*

## FOSTER CARE FOR CHILDREN

### 9560.0500 SCOPE.

Parts 9560.0500 to 9560.0670 govern the administration and provision of foster care services to children and their families by the local social service agency when the agency has placement and supervisory responsibilities.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0510 PURPOSE OF FOSTER CARE SERVICES.

The purpose of foster care services to children is to provide substitute family or group care for a child while an intensive effort is made to correct or improve the condition necessitating placement in order to reunite the family or, in the failure of this, to provide some other permanent plan.

Foster care services shall be provided only after services aimed at preventing the need for placement of a child in foster care have been considered, provided, or refused by the child's family.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0520 DEFINITIONS.

**Subpart 1. Custodian.** "Custodian" means any person who is under a legal obligation to provide care and support for a child.

**Subp. 2. Foster care service.** "Foster care service" means the service which

provides substitute 24-hour-a-day family or group home care for a planned period of time, provides experience and conditions which promote normal growth, and provides to the child, the child's family, and the foster parents case-work services and other treatment or community services.

**Subp. 3. Foster family home.** "Foster family home" means a family licensed under parts 9545.0010 to 9545.0260 to provide 24-hour-a-day care in their home to children who are unrelated to the family.

**Subp. 4. Group home.** "Group home" means a facility licensed by the Minnesota Department of Human Services as a group family foster home under parts 9545.0010 to 9545.0260 or as a group home under parts 9545.1400 to 9545.1500 or certified by the Department of Corrections as a group foster home or licensed or approved by an Indian tribe with the authority to do so.

**Subp. 5. Legal custody.** "Legal custody" is defined by law as the right to care, custody, and control of a child and requires the removal of the child from his or her parent(s) or legal guardian for the child's welfare and/or safety. Legal custody is for a specified length of time, but not to exceed one year.

**Subp. 6. Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board or board of county commissioners which is responsible for social services.

**Subp. 7. Relative.** "Relative" means any of the following persons related to the child by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, niece, nephew, uncle, or aunt.

**Subp. 8. State agency.** "State agency" means the Minnesota Department of Human Services.

**Subp. 9. Voluntary placement.** "Voluntary placement" means a placement in which the local social service agency assumes responsibility for the placement of a child after the agency has determined, in conjunction with the child's parent(s) or legal guardian and the child, if possible, that such placement is in the best interest of the child and his family.

**Subp. 10. Administrative review.** "Administrative review" is a review open to the participation of the parents of the child and conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management of or the delivery of services to either the child or the parents.

**Subp. 11. Difficulty of care payment.** "Difficulty of care payment" means a supplemental maintenance payment determined by the local social services agency and based upon an assessment of the child's special needs due to existing physical, mental, or emotional handicaps. A difficulty of care payment does not include payment for services rendered by a licensed foster parent.

**Subp. 12. Dispositional hearing.** A "dispositional hearing" is a hearing held by a family or juvenile court, or another court, including a tribal court, of competent jurisdiction, or by an administrative body appointed or approved by the court, to determine the future status of the child, including whether the child should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis.

**Subp. 13. Foster care maintenance payments.** "Foster care maintenance payments" means payments to cover the cost of and the cost of providing a child's food, clothing, shelter, daily supervision, school supplies, and personal incidentals, and reasonable travel to the child's home for visitation. In the case of institutional care, the term includes the reasonable costs of administration and operation of the institutions which are necessary to provide the things listed in the preceding sentence.

**Subp. 14. Residential facility.** "Residential facility" means any 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,

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county, or other political subdivision, or any agency thereof, to provide those services.

**Subp. 15. Voluntary placement.** "Voluntary placement" is an out-of-home placement of a minor by or with participation of the social service agency, after the parents or guardian of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

**Subp. 16. Voluntary placement agreement.** "Voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the social service agency and the parents or guardians of a minor child, which specifies the legal status of the child and the rights and obligations of the parents, the child, and the agency.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07 subds 1,2,3*

**History:** *8 SR 1537; L 1984 c 654 art 5 s 58*

### 9560.0530 PLACEMENT IN LICENSED FACILITY.

With the exception of placement in a relatives' home, the local social service agency shall place a child in a licensed foster family or group home except in emergencies when an unlicensed foster home may be selected. In these emergency cases, the agency shall assure that application for licensure is made within 30 days of the child's placement if the child is expected to remain in the home for 30 days or longer.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0540 LEGAL BASIS FOR PLACEMENT.

**Subpart 1. Authority for placement.** The local social service agency shall obtain the proper authority to place a child in foster care, either through written consent of the child's parent(s) or legal guardian (voluntary placement) or with an order of the court (legal custody).

**Subp. 2. Duties of local agency as custodian.** When legal custody is given to a local social service agency, that agency shall:

A. Avoid precipitous movement of the child without orderly preplacement planning and preparation. When removal of the child is not emergent, the agency shall request permission of the court for time to place the child in an orderly fashion and, upon being granted this request, shall proceed to effect the placement according to the requirements of rule and statute.

B. Provide information, evaluations, and recommendations to assist the court in arriving at appropriate decisions and actions with regard to the child and the child's family.

C. Provide the court written reports and recommendations prior to the expiration of any order giving the agency responsibility for the child.

D. Inform the foster parents of court hearings which pertain to any foster child in their care.

E. Report to the court the placement of a child out of the jurisdiction of the court. Copies of such notification shall be forwarded to the child's parent(s) or legal guardian.

F. Request the court to order any special treatment and care needed by the child if the child's parent or legal guardian fails to provide it.

G. Obtain for its record a copy of the court's findings, decisions, disposition of the case, and any other information which may aid the county in providing services to the child.

H. Obtain the permission of the court before terminating foster care and returning the child to his or her parent(s).



I. Obtain the written consent of the parent(s) or legal guardian and the court if a child under legal custody is to be placed in a facility outside of the state. If the parent(s) or legal guardian refuse or fail to give consent, the court's written consent is sufficient.

Subp. 3. **Agency duties under voluntary foster care agreement.** When a child is placed in foster care by voluntary agreement between the local social service agency and the parent(s) or legal guardian, the agency shall:

A. Obtain the parent(s)' or legal guardian's written consent prior to the placement; and

B. Require the parent(s) or legal guardian to agree to provide reasonable notice before seeking return of the child from placement so that the agency may prepare for the orderly return of the child in no more than 30 days.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0550 MAJOR DECISIONS AFFECTING CHILD.

The local social service agency shall obtain the written consent of the child's parent(s) or legal guardian for major decisions affecting the child. If the parent(s) or legal guardian fail to give consent, and it is essential to the child's health or well-being, a court order shall be obtained which will provide the authority to secure whatever is needed for the child. Whenever there is a question as to what shall be regarded as a decision requiring parental or judicial consent, the agency shall consult the court.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0560 RELATIONSHIP TO OTHER AGENCIES AND INSTITUTIONS.

Subpart 1. **Formal agreements.** The local social service agency shall establish formalized agreements with those agencies and institutions which, in conjunction with the local social service agency, are serving a particular child. The purpose of such agreements is to ensure optimum cooperative planning and provision of services.

Subp. 2. **Schools.** Prior to foster care placement, the local social service agency shall involve in the placement planning the child's present school and the one which he may attend in order to assure that the child's social, educational, and extracurricular needs will be met. The agency shall initiate contact with the schools. If a child is to remain in the same school, the local social service agency shall notify the school at such time as the child is to be placed in foster care or when the child is to be moved to another facility.

Subp. 3. **Other social service agencies.** The local social service agency shall not place a child in another county without the approval of the other county local social service agency. When a local social service agency requests services of another agency in effecting a placement, or receives such a request for service from another agency, there shall be a written agreement defining the responsibilities for services to be delivered, methods for evaluation and procedures for handling foster care payments.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0570 GROUP HOMES.

The local social service agency shall provide for the utilization of group homes for children requiring such services. The choice of facility and length of stay shall be determined by the needs of the child for the specific services offered by the facility. The child's service plan shall state the rationale for placement of the child in a group facility. The local social service agency shall provide or arrange for services not available in the group facility.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

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### 9560.0580 SERVICE REQUIREMENTS.

All local social service agencies, in delivering foster care services, shall:

A. Provide at least one preplacement visit for the child to the foster or group home. This requirement is waived for newborn infants being placed from a hospital into a foster home.

B. Provide help to the child in his initial adjustment to the foster home through the placement worker's visit to the home within four days of the placement.

C. Plan with the parent(s) for a parent visit with the child within a week of the placement.

D. Provide casework to the child on a planned regular basis, at least twice a month for the first three months and as frequently as necessary thereafter.

E. Provide or arrange for casework and other indicated services to the child's family on a planned regular basis, and at least twice a month, to help them:

(1) fulfill their roles and responsibilities as parents to the placed child;

(2) remedy the conditions which necessitated placement;

(3) prepare for the child's return home or, if this return home is not possible, involve them in making an alternative plan; and

(4) develop and maintain a constructive relationship with their child through a carefully planned and executed program of communication and visitation.

F. Provide assistance to the foster parents or group home operators with their responsibilities of incorporating the child into their family or facility. The foster parents and group home operators shall be provided a telephone number and an additional backup number to call during the hours the agency is closed.

G. Provide follow-up services to the family and child when the child returns home to assist with the adjustment and to prevent recurrence of the circumstances which led to placement.

H. Evaluate, in conjunction with the foster parents or group home operators, the placement experience when a child leaves the facility to ascertain the facility's potential for future placements.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0590 WAIVER.

Those requirements listed under part 9560.0580 which may not be applicable for children under state guardianship as dependent/neglected or for placements of children in emergency facilities in crisis situations may be waived. The agency may also waive those requirements under part 9560.0580 which may be contrary to the child's best interests but must document the rationale behind such waivers.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### 9560.0600 PROVISION FOR MEETING HEALTH NEEDS.

The local social service agency shall meet the health and dental needs of every child by:

A. assuring that each child has a health examination prior to placement or, in emergency situations, within two weeks thereafter;

B. assuring that a child's ongoing health and dental needs are met;

C. assuring that the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services are offered and/or provided pursuant to parts 9505.1500 to 9505.1690 to all children eligible for the medical assistance program;

D. providing the foster or group home with information about the child's immunizations and other pertinent health data with instructions for the record to be kept up to date; and

E. providing to the foster or group home a written authorization for obtaining routine health care for the child with clear instructions as to who is to provide the care and how the billing is to be handled.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

#### **9560.0610 CASE PLACEMENT PLAN AND REVIEW.**

**Subpart 1. Agency compliance requirements.** For those children who are placed in foster family homes, group homes, or relatives' homes unless placement with the relative is planned to be permanent, and for whom the local social service agency has placement or supervisory responsibility, the agency shall comply with the requirements in subparts 2 to 5.

**Subp. 2. Case placement plan.** The agency shall prepare a written plan for each child who is placed in a foster home or residential facility. The plan must be prepared before the child is placed unless the child's situation requires immediate placement. If an emergency placement is necessary, the case plan must be prepared within 30 days after the initial placement.

The case placement plan must include the following components:

A. The agency's assessment of the family, including:

(1) a list of the presenting problems which brought the family to the agency, or a statement of why the agency intervened in the family situation;

(2) a discussion of services that were provided to prevent the need for the removal of the child from the home, and why the services were not successful, or why the parents requested placement of their child;

(3) a discussion of alternative plans that were considered and why foster care was chosen; and

(4) a discussion of why the particular foster home or facility was selected, including a description of the facility that was selected and the reason it was chosen, the reason a foster home was not used if the child was placed in an institution, and the reason why the child was not placed in the local county if the child was placed in another county or state.

B. A signed agreement among the agency, the parents, and, if able to understand the meaning of this agreement, the child which includes:

(1) an assessment of the specific reasons for the placement of the child in a foster home or institution, including a description of the problems or conditions in the home which necessitated removal of the child from the home;

(2) the specific actions to be taken by the parents to eliminate or correct the problems or conditions which necessitated placement, and the time period during which the actions are to be taken;

(3) the financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;

(4) the date on which the child is expected to be returned to the home of his parents;

(5) the specific action to be taken by the child, if appropriate, to change behavior which contributed to the need for placement;

(6) the social and other supportive services to be provided by the agency to assist the parents and the child during the period the child is in the foster home;

(7) the frequency of contacts of the agency with the parents and the child; and

(8) the visitation rights and obligations of the parents during the period the child is in the foster home.

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C. An agreement signed by the agency, the parents, the foster parents, and if able to understand the meaning of this agreement, the child which includes:

(1) the authority and responsibility of the foster parents to arrange for medical and dental care for the child;

(2) the authority and responsibility of the foster parents to arrange for education for the child and to meet with teachers regarding the child's progress;

(3) the specific action and behavior of the child that the foster parents are to work with;

(4) the authority and responsibility of the foster parents for supervision of the child;

(5) the plan for the parents to visit the child, which includes the specific days for visits, the specific hours for the beginning and end of each visit, and any special conditions affecting visitation; and

(6) the social service to be provided by the agency to assist the foster parents, including the frequency of contacts and the person assigned to them.

D. The agency shall advise the parents of their right to receive assistance from any person or social service agency and their right to legal counsel in the preparation of the placement plan.

E. The agency shall explain to the parents that if the parents are unable to correct the conditions necessary for their child's return home, they could lose their parental rights.

F. If the agency cannot comply with any placement plan requirement, the agency shall document the reason in the record.

**Subp. 3. Administrative review.** All cases must be reviewed by an administrative panel periodically, but at least once every six months. The review must be open to the parents, the child, and the foster parents. The review must determine:

A. whether the placement remains necessary and appropriate;

B. the extent of compliance with the case plan;

C. the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and

D. the likely date by which the child may be returned to the home or placed for legal adoption or guardianship.

**Subp. 4. Petition for court review.** As an alternative to the administrative review for children placed in foster care by voluntary agreement, the local social service agency may petition the court pursuant to Minnesota Statutes, section 260.131, subdivision 1a, for review of the foster care to determine if placement is in the best interests of the child.

**Subp. 5. Dispositional hearing.** For each child in foster care under court order pursuant to Minnesota Statutes, section 260.191, subdivision 1, the local social services agency shall petition the court for a dispositional hearing pursuant to Minnesota Statutes, section 260.191, subdivision 2, no later than 12 months after the initial dispositional hearing and annually thereafter during the continuation of foster care. For each child in foster care whose parental rights have been terminated and the child made a ward of the commissioner of human services, the local social services agency shall petition the court pursuant to Minnesota Statutes, section 260.242, subdivision 2, paragraph (d) for a dispositional hearing. The dispositional hearing must be held in a juvenile court or a tribal court of competent jurisdiction, or by an administrative body appointed or approved by the court.

When the dates of the dispositional hearing and the periodic review coincide, the dispositional hearing may replace the periodic review. A periodic review cannot substitute for a dispositional hearing.

Children in permanent foster care, whose placement was approved by the

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court pursuant to Minnesota Statutes, section 260.242, subdivision 2, paragraph (d) are excluded from this requirement.

**Subp. 6. Eighteen-month review of voluntary placements.** If the child is not returned to his home within 18 months after his initial placement in a residential facility, the local social service agency shall either return the child to the home of his parents or file an appropriate petition with the court to review the foster care status of the child and make a decision as to the child's continued placement.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07 subs 1,2,3*

**History:** 8 SR 1537; L 1984 c 654 art 5 s 58

## 9560.0620 CHILD'S OR FOSTER PARENTS' ABSENCE FROM FOSTER HOME.

The local social service agency's permission must be obtained any time the foster family and/or child are to be away from the licensed foster care facility within the state for a period exceeding three nights or, if the child leaves the state, for any period of time. However, the agency may provide specifically defined blanket permission for departures from the state where a family regularly departs the state for an identified routine purpose.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

## 9560.0630 PROTECTING THE CHILD'S HERITAGE.

The local social service agency shall provide for the preservation of the child's religious, racial, cultural, and ethnic heritage through:

- A. placement if possible and indicated in a foster home of similar background;
- B. education of the foster parents as to the importance of the heritage to the child;
- C. education of the foster parents as to the customs and values of the particular group; and
- D. assistance to the foster parents or group home operators, so that they will be better able to provide a home which is accepting and supportive of the child's cultural, religious, racial, or ethnic identity.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

## 9560.0640 FINANCIAL ARRANGEMENTS AND FUNDING CONSIDERATIONS.

The local social service agency and the parent(s) shall evaluate the various resources available to meet the costs of care.

Parent(s) shall pay for the cost of care in a manner consistent with their ability to do so and with any applicable state laws or rules.

If the local social service agency establishes that the parent(s) are able to meet some or all of the costs of care, but are unwilling to do so, the following courses of action are indicated:

A. For a child under legal custody, the local social service agency shall make a written report to the court for determination by the judge of the parents' responsibility to reimburse the agency.

B. For a child placed by voluntary agreement, the local social service agency shall file a dependency or neglect petition with the court and ask the court to establish the parents' responsibility to reimburse the agency.

The local social service agency shall make the payments directly to foster parents and other providers of care.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

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### 9560.0650 MAINTENANCE STANDARDS.

Subpart 1. **Payments.** The local social services agency shall make payments based on the following maintenance standards:

Age	Monthly Maintenance Standard	Initial Clothing
0-11	\$212 (\$244 effective January 1984)	up to \$146 (up to \$168 effective January 1984)
12-14	\$293	up to \$288
15-18	\$320	up to \$348

The initial clothing allowance shall be available based on the child's needs during the first 60 days of the initial placement. The state agency shall annually review and revise the maintenance standard based on "USDA Estimates of the Cost of Raising a Child," issued by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411 (October, 1982).

Subp. 2. [Repealed, 13 SR 1448]

Subp. 3. **Agency contract care.** When foster care is provided for a child by a provider licensed under parts 9545.0010 to 9545.0260 through contract with a public or private agency, foster care maintenance payments and difficulty of care payments shall be determined according to the rate schedules in subpart 1 and parts 9560.0653 to 9560.0655. If the local social services agency is contracting for administrative or social services costs, the payments to the contracting agency shall be in addition to the rates established in subpart 1 and parts 9560.0653 to 9560.0655.

Subp. 4. **Fee conditions.** The local social service agency may pay a fee for services to foster parents based on the foster parents' skills, experience, or training. This fee is not a maintenance expense.

Subp. 5. **Local fund.** The local social service agency may, through action by the county welfare board, human service board, or board of county commissioners, establish a local fund of county money through which the agency may reimburse foster parents for the cost of repairing damage done to the foster home and contents by the foster child, and the additional car insurance premium cost of a foster child who possesses a permit or license to drive a car.

Subp. 6. **Reassessment.** The agency shall reassess a child:

- A. at the end of 12 months;
- B. at the request of a foster parent;
- C. when a child is placed in a different facility; or
- D. if a child's level of need changes.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3,4; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07 subs 1,2,3*

**History:** *8 SR 1537; 13 SR 1448*

### 9560.0651 DIFFICULTY OF CARE ASSESSMENTS AND PAYMENTS.

Parts 9560.0652 to 9560.0656 provide criteria for assessing the difficulty of care and the payment rate for a child in foster care.

**Statutory Authority:** *MS s 256.82 subs 3,4*

**History:** *13 SR 1448*

### 9560.0652 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9560.0653 to 9560.0656 have the meanings given them in this part.

Subp. 2. **Activities of daily living.** "Activities of daily living" means activities of basic self-care, including eating, dressing, grooming, hygiene, and toileting.

Subp. 3. **Mental retardation.** "Mental retardation" means the condition of a person with mental retardation as defined in part 9525.0015, subpart 20.

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Subp. 4. **Mental illness.** "Mental illness" has the meaning given in Minnesota Statutes, section 245.462, subdivision 20.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448*

## 9560.0653 DIFFICULTY OF CARE PAYMENTS.

The local social services agency shall make payments in addition to the basic maintenance standards of part 9560.0650, subpart 1, for children with mental, physical, or emotional handicaps who require additional supervision or assistance in behavior management, activities of daily living, management of medical problems, or interaction with the natural parents and the community. The local social services agency shall assess each child under this part and the difficulty of care levels in part 9560.0654.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448*

## 9560.0654 DIFFICULTY OF CARE ASSESSMENTS.

Subpart 1. **General.** Within the highest appropriate level and the respective point range of subparts 2 to 7, a single point value shall be assigned based on the age of the child, the number of conditions requiring special care, and the degree of difficulty of caring for each condition.

Subp. 2. **Level A.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level A if the child requires a moderate amount of additional supervision or assistance, including that required by:

(1) dependency, passivity, or lack of responsiveness and ability to relate to others;

(2) abnormal seeking of affection or attention;

(3) problems with separation from the natural parents or attachment to the foster parents;

(4) psychosomatic complaints;

(5) night terrors;

(6) stress reactions, such as minor destructiveness;

(7) chemical abuse;

(8) immaturity or poor social skills;

(9) problems with authority figures;

(10) chronic disorders with some physical incapacity;

(11) a physical handicap, although the child is self sufficient;

(12) presence of long-term infections;

(13) delayed development;

(14) need for help with hygiene, eating, toileting, and dressing beyond that normally required at the child's age level;

(15) need for a special diet prescribed by a physician;

(16) need for weekly therapy for medical, physical, or emotional problems, truancy or behavior problems, in which the foster parent participates with the child;

(17) need for home tutoring provided by the foster parent if the child is learning disabled or requires remedial education;

(18) need for supervision of family visits;

(19) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) to (18); and

B. within level A, shall be assigned no fewer than one and no more than 35 difficulty of care points.

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**Subp. 3. Level B.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level B if the child requires a significant amount of additional supervision or assistance, including that required by:

- (1) need for a structured behavioral program;
- (2) difficulty with peers;
- (3) lack of verbal responsiveness;
- (4) fear of or hostility to adults or authority figures;
- (5) infrequent running away overnight;
- (6) lying or stealing;
- (7) chemical abuse;
- (8) expression of suicidal thoughts or gestures;
- (9) chronic medical disorders or developmental delay, including mental retardation, with significant incapacity and need for motivation or skill development;
- (10) a program of physical therapy prescribed by a professional for up to one hour per day to be provided by a foster parent;
- (11) speech and hearing problems, such as those that require a communication board or sign language;
- (12) presence of infections, which present a risk to the family;
- (13) need for help with eating, toileting, hygiene, and dressing significantly beyond that normally required of the child's age level;
- (14) need for help with braces, prosthetics, or casts;
- (15) truancy, school performance, or behavior problems requiring increased contact by the foster parents with the school, court, or other agencies;
- (16) sexual acting out;
- (17) need to assist the child in relating to the natural parents;
- (18) need to supervise family visits in the foster home;
- (19) attention deficit disorder;
- (20) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) to (19); and

B. within level B, shall be assigned no fewer than 36 and no more than 70 difficulty of care points.

**Subp. 4. Level C.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level C if the child requires an extensive amount of additional supervision or assistance, including that required by:

- (1) unsocialized or withdrawn behavior;
- (2) self-destructive or self-defeating behavior with suicidal expressions and gestures;
- (3) attention deficit disorder;
- (4) frequent running away;
- (5) sexual or physical abuse inflicted upon the child;
- (6) destructive acting-out, either physically or sexually;
- (7) repeated violations of law concerning persons or property;
- (8) chemical abuse;
- (9) problems with authority figures;
- (10) chronic medical disorders or severe developmental delay including mental retardation, with incapacity which may require frequent hospitalizations;



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(11) a severe physical handicap, and the child is not ambulatory or is oppositional;

(12) feeding problems, including swallowing or vomiting after meals;

(13) a program of physical therapy prescribed by a professional for between one and two hours per day to be provided by a foster parent;

(14) need for help in hygiene, eating, toileting, dressing, and diapering, beyond that normally required for the child's age;

(15) need for therapy for medical, physical, or emotional problems, which the foster parent attends with the child at least twice weekly;

(16) truancy, behavior, or school performance problems requiring extensive contact by the foster parents with the school, court, or other agencies;

(17) need for parenting education for the natural parents by the foster parents during visitations;

(18) need to protect child from threatening natural parents;

(19) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) to (18); and

B. within level C, shall be assigned no fewer than 71 and no more than 105 difficulty of care points.

Subp. 5. Level D. A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level D if the child requires an exceptional amount of additional supervision or assistance, including that required by:

(1) phobic or compulsive behaviors;

(2) inappropriate sexual aggressiveness, self-mutilation, or extreme vulnerability;

(3) self-destructive or self-defeating behavior with suicidal expressions and gestures;

(4) assaultive behavior;

(5) antisocial personality disorder;

(6) chemical abuse;

(7) a recent suicidal attempt;

(8) a severe disability with multiple handicaps;

(9) developmental delay including mental retardation;

(10) attention deficit disorder with hyperactivity;

(11) need for frequent supervision of an appliance, such as a shunt or ilial conduit;

(12) lack of bowel or bladder control, if child is over 12 years of age;

(13) a program of physical therapy prescribed by a professional for between two and three hours per day to be provided by a foster parent;

(14) uncontrollable seizures;

(15) a tracheotomy with need for suctioning;

(16) a gastrostomy;

(17) heavy weight, needing lifting;

(18) disabilities requiring feeding and diapering or dressing and hygiene performed by a foster parent;

(19) need for therapeutic visits for physical, mental, or emotional problems, attended by a foster parent more often than twice weekly;

(20) need for relief of the foster parent by another adult;

(21) other conditions or behaviors that are equivalent to the requirement for additional supervision appropriate to subitems (1) and (20); and

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B. within level D, shall be assigned no fewer than 106 and no more than 140 difficulty of care points.

Subp. 6. **Level E.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level E if the child requires an extraordinary amount of supervision or assistance, including that required by:

- (1) frequent and recent suicide attempts;
- (2) frequent and recent arsonist behavior;
- (3) high risk of danger to the child or others by the child;
- (4) life threatening illness with a guarded prognosis or expectation of death, which may require frequent hospitalization;
- (5) need for a heart monitor;
- (6) need for tracheotomy suctioning;
- (7) need for gavage feeding;
- (8) need for intravenous feeding or intestinal massage;
- (9) need for extensive burn care;
- (10) a program of physical therapy prescribed by a professional for between three and four hours per day to be provided by a foster parent; or
- (11) other conditions or behaviors that are consistent with the requirement for additional supervision appropriate to subitems (1) to (10); and

B. within level E, shall be assigned no fewer than 141 and no more than 175 difficulty of care points.

Subp. 7. **Level F.** A child eligible for difficulty of care payments under part 9560.0653:

A. shall be assessed at level F if the child requires supervision or assistance in excess of that of Level E under subpart 6; and

B. within level F, shall be assigned no fewer than 176 and no more than 225 difficulty of care points.

**Statutory Authority:** *MS s 256.82 subs 3,4*

**History:** *13 SR 1448*

### 9560.0655 DIFFICULTY OF CARE PAYMENT RATE.

Subpart 1. **Payment rate.** Except as provided by subpart 2, the local social services agency shall make payments to the foster care provider at the rate of \$3.70 per month for each point assessed under part 9560.0654.

Subp. 2. **Existing placements.** In a placement for which a difficulty of care payment was established and was being made prior to January 1, 1989, and the payment is greater than the payment which would be made under subpart 1, the local social services agency shall continue to pay the greater amount until the child's difficulty of care changes or the placement terminates.

Subp. 3. **Annual revision of payment rate.** By November 1 of each year following January 1, 1989, the commissioner shall review and revise the difficulty of care payment rate in subpart 1 based on USDA Estimates of the Cost of Raising a Child, published by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411. The revision shall be the average percentage by which costs increase for the age ranges represented in the USDA Estimates of the Cost of Raising a Child. The USDA Estimates of the Cost of Raising a Child is subject to annual revision.

**Statutory Authority:** *MS s 256.82 subs 3,4*

**History:** *13 SR 1448*

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**9560.0656 DOCUMENTATION.**

Subpart 1. **Assessment instrument.** The local social services agency shall document the assessment of the difficulty of care under parts 9560.0653 and 9560.0654 using a written assessment instrument consistent with parts 9560.0653 and 9560.0654. The case record shall include a description of each condition on which the assessment is based.

Subp. 2. **Approval of assessment instrument.** The assessment instrument required by subpart 1 must be approved by the commissioner.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448*

**9560.0657 EFFECTIVE DATE.**

Parts 9560.0651 to 9560.0656 and the amendments to part 9560.0650, as adopted at 13 State Register, page 1448, on December 19, 1988, are effective January 1, 1989.

**Statutory Authority:** *MS s 256.82 subds 3,4*

**History:** *13 SR 1448*

**9560.0660 FOSTER CARE BENEFITS UP TO AGE 21.**

Within the six months prior to a child's 18th birthday, the local social service agency shall advise the child, the child's parents or legal guardian, and the foster parents of the availability of benefits up to age 21 of the foster care program.

Upon the request of a person between the ages of 18 and 21 who is not under state guardianship as dependent/neglected and who had been receiving foster care benefits immediately prior to his or her 18th birthday and who is in foster care at the time of the request, or upon the request at any time between the ages of 18 and 21 of a person who had been under state guardianship as dependent/neglected, the local social service agency shall develop, in conjunction with the foster child and other appropriate parties, a specific plan related to that person's vocational, educational, social, or maturational needs and shall assure that any maintenance or counseling benefits are tied to that plan.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

**9560.0670 FOSTER HOME RECRUITMENT AND DEVELOPMENT.**

Subpart 1. **Recruitment.** The local social service agency shall attempt to recruit and license a sufficient number and variety of foster homes in order to be able to meet the particular needs of each child needing placement.

Subp. 2. **Development of foster parents.** The local social service agency shall provide for the development of foster parents by:

- A. provision of training on an ongoing basis;
- B. provision of opportunities to attend educational workshops and conferences; and
- C. provision of opportunities for recognition.

Subp. 3. **Foster parents as advisers.** The local social service agency shall involve the foster parents on an advisory basis in the development of policies and procedures pertaining to foster care.

Subp. 4. **Relicensure.** Before recommendation for relicensure, the local social service agency shall evaluate with the foster parents factors in the home pertinent to continued utilization of the home as a foster care resource. These factors shall include the services provided by both the foster family and the agency and an evaluation of the year's placement experiences. A copy of the evaluation shall be given to the foster family.

Subp. 5. **Racism.** The local social service agency shall assess the foster care

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applicant's or foster care provider's capacity for accepting children of another race, religion, color, or national origin. If the family's reason for refusing to accept such children is based upon racism or bigotry, that is, negative attitudes toward people of a particular race, religion, color, or national origin, the agency shall, in the case of a new applicant, refuse to recommend the home for licensure. If the agency ascertains the existence of racism or bigotry in a licensed foster family home, the agency shall, at time of relicensure, establish a plan for phasing the home out of the foster care program and no additional children shall be placed in the home.

**Statutory Authority:** *MS s 256.01 subd 2; 256.82 subd 3; 256E.05 subd 1; 257.071; 257.175; 260.40; 393.07*

### DAY CARE FOR CHILDREN

#### 9560.0750 SCOPE.

Parts 9560.0750 to 9560.0820 govern the administration and provision of day care services by local social service agencies for children and their families when the local social service agency elects to provide day care service.

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

#### 9560.0760 STATUTORY AUTHORITY.

The authority for parts 9560.0750 to 9560.0820 and for the administration of day care services for children is found in Minnesota Statutes, sections 256E.02, 256E.03, and 256E.05.

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

#### 9560.0770 DEFINITIONS.

Subpart 1. **Child.** "Child" means a person 14 years of age or younger.

Subp. 2. **Child development training.** "Child development training" means training by an accredited institution or courses approved by the local social service agency designed to maintain or improve the quality of care for children.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of human services.

Subp. 4. **Day care resource.** "Day care resource" means any person or entity providing direct or indirect day care services.

Subp. 5. **Day care service.** "Day care service" means the less than 24-hour-a-day service which provides care for children as a substitute for or supplement to parental care for a planned period of time.

Subp. 6. **Direct day care service provider.** "Direct day care service provider" means a person or entity who provides care for one or more children for pay in a home or center as a substitute for the parent(s) of the children.

Subp. 7. **Indirect day care service provider.** "Indirect day care service provider" means a person or entity which provides support services to direct day care service providers, including training, planning and coordination, toy lending libraries, and health services which are intended to improve the quality of care for children.

Subp. 8. **Local social service agency.** "Local social service agency" means the County Board of Commissioners or other agency designated by the county board as responsible for social services.

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

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

**History:** *L 1984 c 654 art 5 s 58*

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### 9560.0780 RESOURCE DEVELOPMENT.

Subpart 1. **Recruitment.** The local social service agency shall recruit day care resources to meet the community's day care needs.

Subp. 2. **Diversity.** There shall be diversity in kinds of day care resources developed.

There shall be diversity in direct day care service providers. There shall be diversity in the type of direct day care service resource (in-home, family day care, group family day care, center); ages of children served (infants, toddlers, pre-school, school-age); number of children to be served; and program that meets individual children's needs (e.g., enrichment, children with special needs). There shall be diversity in location of direct day care service provider resources including all major geographic areas where the service is needed so that the services are accessible to all parents and children who need it. There shall be diversity in programs to include day care provider resources that meet developmental, ethnic, cultural, and bilingual language needs.

There shall be diversity in indirect day care resources to support and improve the quality of day care services. There shall be resources that directly support the day care service delivery such as: toy lending libraries; health and social services, program facilitators, substitute providers and periodic training programs. There shall be ongoing support service resources that provide professional expertise and training to all direct and indirect service providers.

Subp. 3. **Planning and coordination.** Each social service agency shall provide or purchase planning and coordination services to ensure a system of information and referral of direct day care service providers to parents, as well as other community services; consultation and technical assistance to providers seeking funding from existing resources; coordination between direct day care service providers, day care resources and community and governmental agencies, needs assessments, and planning for training activities.

Subp. 4. **Funds for development.** Potential day care providers shall be informed about funds available to them for meeting start-up costs or licensure requirements.

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

### 9560.0790 AGENCY SERVICES TO DAY CARE PROVIDERS.

The local social service agency shall provide the following services to individuals and groups that plan to be licensed as day care providers.

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

### 9560.0800 LICENSING.

Subpart 1. **Group day care centers.** The local social service agency shall refer any inquiry on establishing a new group day care center to the Licensing Division of the Department of Human Services for licensure as defined in parts 9545.0510 to 9545.0670. The local social service agency shall refer all operating unlicensed day care centers to the Licensing Division of the Department of Human Services.

Subp. 2. **Family day care homes.** The local social service agency shall inform all inquirers regarding family day care licensure of the standards as defined in parts 9545.0310 to 9545.0450 and provide the necessary consultation and inspections pursuant to the requirements in the licensure standards. If the applicant meets the family day care licensing requirements, the local social service agency shall recommend the home to the state agency for state licensure.

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

**History:** *L 1984 c 654 art 5 s 58*

### 9560.0810 SERVICE DELIVERY.

Subpart 1. **Standards.** The local social service agency must meet the follow-

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ing standards in providing services to all social service clients where day care is a needed service.

**Subp. 2. Staff.** The local social service agency shall maintain a staff to fulfill the responsibilities described in parts 9560.0750 to 9560.0820.

**Subp. 3. Supportive services.** The local social service agency shall make available supportive services for children in direct day care resources to assure quality of care for children in the facility or home.

**Subp. 4. Resource file.** The local social service agency shall maintain an accurate resource file on all day care and child development services and resources in the geographic area to be served.

**Subp. 5. Assistance to parents.** The local social service agency shall make available services to assist parents in planning for the day care placement of their children to assure services that meet the children's individual needs.

The local social service agency shall inform the parent or parents about the eligibility requirements for financial assistance with the payment of day care services as described in the agency's social service plan.

The local social service agency shall plan with the parent or parents to develop the child's service plan as a basis for selecting a licensed day care center or provider that has a program and environment that meets the child's individual developmental needs.

The following procedures shall be used to select the day care providers for children needing day care services:

A. The local social service agency shall recommend where possible two licensed resources or providers that meet the child's programmatic needs and the parents' transportation needs.

B. The parent or parents shall be given the opportunity for a preplacement visit with each day care provider recommended by the agency.

C. The parent or parents shall be given an opportunity to recommend to the local social service agency which day care he or she wishes to use for the care of the child or may recommend an alternative that meets licensing standards and more nearly fits the family and child's needs.

D. The local social service agency shall make available day care services in the day care resource (center, family day care home or in-home provider) selected and agreed upon by the agency, the parent(s) and provider, based on the assessed needs of the child as documented in the service plan for the child.

The local social service agency placement worker shall visit the child(ren) at least once annually to assure that the child is making progress toward the goals in his/her service plan.

The local social service agency shall assume responsibility for health and dental assessments for each child placed in day care as part of a casework plan, determine parental or agency responsibility for payment of the service, and assist parents of these children in making arrangements for treatment as recommended by the person(s) making the assessment(s).

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

### 9560.0820 TRAINING.

**Subpart 1. Provider training.** The local social service agency shall assume responsibility for the maintenance and improvement of the quality of day care services provided by all family day care and in-home day care providers. The local social service agency shall make available a minimum of 24 hours of child development training annually. The training provided shall include courses such as: family life, human growth and development, child rearing, child nutrition, first aid, and child care program skills.

**Subp. 2. Social service agency staff training.** The local social service agency

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shall make available child development training for staff responsible for day care services. All new day care licensing staff shall complete six hours of training in the licensing process within six months of their employment on this assignment. Placement workers who work with families in planning day care services shall be given the opportunity to participate in the child development training.

Each day care licensor who wishes to improve his or her skills in assessing the competency of a family day care provider shall be given the opportunity to participate in a competency-based training program.

**Statutory Authority:** *MS s 256.01 subd 4; 256E.05*

## 9560.0850 STATE GOAL FOR NUMBER OF CHILDREN IN FOSTER CARE.

The Department of Human Services establishes the following goal: of the children who are receiving assistance under Title IV-E of the Social Security Act and for whom no judicial determination has been made that permanent foster care is the best plan, no more than 40 percent shall have begun their 25th month in placement during a given fiscal year. This goal applies to federal fiscal years beginning after September 30, 1983.

**Statutory Authority:** *MS s 256.01 subd 2; 256E.05 subd 1; 257.071 subd 5; 257.175; 393.07; L 1982 c 553*

**History:** *L 1984 c 654 art 5 s 58*