

3300.2015 EXTENDED EMPLOYMENT PROGRAM ELIGIBILITY.

Subpart 1. **Scope.** This part governs the eligibility of workers in the extended employment program. Each worker reported to the extended employment program must conform to the criteria in this part. A person with a most severe disability is presumed capable of working in the extended employment program when provided with ongoing employment support services under an extended employment support plan.

Subp. 2. **Extended employment program eligibility.** To be eligible for the extended employment program, an individual must be an extended employment program worker as defined in part 3300.2005, subpart 18.

Subp. 3. **Social security (FICA).** Workers and their payroll agents shall contribute, via payroll taxes, to the federal Social Security program. Workers in supported employment who are self-employed must pay the FICA self-employment tax for Social Security benefits.

Subp. 4. **Fundamental personnel benefits.** Workers in center-based, community, and supported employment when the provider is the payroll agent, shall receive the following fundamental personnel benefits:

A. vacation, sick leave, and holidays, provided on a proportional basis as provided to the nonexempt, full-time staff of the provider agency; at a minimum, workers will be entitled five days of paid vacation, five days of paid sick leave, and five paid holidays per calendar year; or

B. flexible paid leave, provided in lieu of vacation and sick leaves, that is provided on a proportional basis as provided to the nonexempt, full-time staff of the provider agency; at a minimum, workers will be entitled ten days of paid leave and five paid holidays per calendar year; and

C. other mandated state and federal benefits including, but not limited to:

(1) United States Code, title 29, sections 2601 to 2635, the Family and Medical Leave Act of 1993, and Minnesota Statutes, sections 181.940 to 181.943, as amended;

(2) time off work to vote according to Minnesota Statutes, section 204C.04, as amended;

(3) leave for jury duty as provided by United States Code, title 28, section 1875, and Minnesota Statutes, section 593.50, as amended; and

(4) military leave and reinstatement in employment as provided by United States Code, title 28, chapter 43, sections 2021 and 2024, and Minnesota Statutes, section 192.261, subdivision 6, as amended.

Workers who are self-employed are exempt from this subpart.

Subp. 5. **Comparable benefits.** At the time of placement in community employment or supported employment, the provider shall determine and document in accordance with part 3300.2025, subpart 9, item E, subitem (3), that the benefits for workers for whom the provider is not the payroll agent are comparable to the benefits provided by the employer to its workers without disabilities.

Subp. 6. **Fair and equitable pay requirements.** Workers in supported employment shall be paid at a rate equal to or greater than the state or federal minimum wage, whichever is applicable. Workers in center-based and community employment may be paid at a rate equal to or greater than the state or federal minimum wage, whichever is appropriate, or at a lesser rate of pay according to a certificate issued under Code of Federal Regulations, title 29, sections 525.1 to 525.24, or other federal regulations providing for exemption from federal minimum wage requirements. A worker in extended employment who is self-employed must realize net income that is the equivalent or in excess of the hourly rate of pay required under the Minnesota Fair Labor Standards Act, Minnesota Statutes, chapter 177, as amended, and the Federal Fair Labor Standards Act, United States Code, title 29, as amended, when the number of hours worked is compared with the income realized.

Subp. 7. **Participants in day training and habilitation programs.** Participants in day training and habilitation programs funded under full-day per diem rates by the Department of Human Services are not eligible for extended employment program funding. Participants funded under part-day rates for day training and habilitation services may be reported in the community and supported employment subprograms of extended employment if the following criteria are met:

A. services provided during the hours reported to extended employment comply with the definition and requirements of parts 3300.2005 to 3300.2055;

B. ongoing employment support services provided during the hours reported to the extended employment program are provided under an extended employment support plan, as described in part 3300.2025, subpart 4 or 6, and delivered by employees of a certified provider or by agents of the worker's employer in accordance with part 3300.2025, subpart 6, not the employees of a day activity center licensed by the Department of Human Services; and

C. the participant's status as a DTH participant is reported to the extended employment program.

Subp. 8. **Other exclusions from eligibility for extended employment program funding.** Participants in employment-related programs funded through state, federal, or

other sources are also excluded from eligibility for extended employment program funding when:

A. the funding source is obligated to pay for total program costs for participants;
or

B. the funding source prohibits concurrent funding of program participants receiving extended employment program services.

Statutory Authority: *MS s 268.021; 268.0122; 268A.03; 268A.15*

History: *22 SR 2294*

Published Electronically: *October 8, 2007*