CHAPTER 256B

MEDICAL ASSISTANCE FOR NEEDY PERSONS

256B.01 POLICY. Medical assistance for needy persons whose resources are not adequate to meet the cost of such care is hereby declared to be a matter of state concern. To provide such care, a statewide program of medical assistance, with free choice of vendor, is hereby established.

[*Ex1967 c 16 s 1*]

256B.02 DEFINITIONS. Subdivision 1. "Reside" means to have an established place of abode in one state or county and not to have an established place of abode in another state or county.

Subd. 2. "Excluded time" means any period of time an applicant spends in a hospital, sanatorium, rest home, nursing home, boarding home, or similar institution, as defined in Minnesota Statutes 1965, Section 144.50.

Subd. 3. "County of financial responsibility" means:

(a) For an applicant who resides in this state, the county in which he last resided for one year of unexcluded time. If he does not have one year of unexcluded time, the county in which he resided for the longest period of unexcluded time.

(b) For an applicant who has not resided in this state for a full year, the county in which he has resided the longest period of unexcluded time.

(c) For an applicant who has not resided in this state for any period of unexcluded time, the county in which he resides at the time of making application.

(d) The above provisions notwithstanding, the county of financial responsibility for medical assistance shall always be the same county as that from which a recipient is receiving a maintenance grant or money payment under the aid to families with dependent children program.

Subd. 4. "Medical institution" means any licensed medical facility that receives a license from the Minnesota health department or department of public welfare or appropriate licensing authority of this state, any other state, or a Canadian province.

Subd. 5. "State agency" means the commissioner of public welfare.

Subd. 6. "County agency" means a county welfare board operating under and pursuant to the provisions of chapter 393.

Subd. 7. "Vendor of medical care" means any person or persons furnishing, within the scope of his respective license, any or all of the following goods or services: medical, surgical, hospital, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and therapeutic services; nursing home and convalescent care; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies.

Subd. 8. "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of such cost:

(1) Inpatient hospital services.

(2) Skilled nursing home services.
(3) Physicians' services.
(4) Outpatient hospital or clinic services.
(5) Home health care services.
(6) Private duty nursing services.
(7) Physical therapy and related services.
(8) Dental services.
(9) Laboratory and x-ray services.
(10) The following if prescribed by a licensed practitioner: drugs, eyeglasses, dentures, and prosthetic devices.
(11) Diagnostic, screening, and preventive services.
(12) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act.
(13) Transportation costs incurred solely for obtaining medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services.
(14) Any other medical or remedial care licensed and recognized under state law.

[*Ex1967 c 16 s 2; 1969 c 395 s 1; 1973 c 717 s 17*]

256B.03 PAYMENTS TO VENDORS. All payments for medical assistance hereunder must be made to the vendor.

[*Ex1967 c 16 s 3*]

256B.04 DUTIES OF STATE AGENCY. Subdivision 1. The state agency shall: Supervise the administration of medical assistance for eligible recipients by the county agencies hereunder.

Subd. 2. Make uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions hereof in an efficient, economical, and impartial manner, and to the end that the medical assistance system may be administered uniformly throughout the state, having regard for varying costs of medical care in different parts of the state and the conditions in each case, and in all things to carry out the spirit and purpose of this program, which rules and regulations shall be made with the approval of the attorney general on form and legality, shall be furnished immediately to all county agencies, and shall be binding on such county agencies.

Subd. 3. Prescribe the form of, print, and supply to the county agencies, blanks for applications, reports, affidavits, and such other forms as it may deem necessary or advisable.

Subd. 4. Cooperate with the federal department of health, education, and welfare in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program, including the making of such reports in such form and containing such information as the department of health, education, and welfare may, from time to time, require, and comply with such provisions as such department may, from time to time, find necessary to assure the correctness and verifications of such reports.

Subd. 5. Within 60 days after the close of each fiscal year, prepare and print for the fiscal year a report that shall include a full account of the operations and the expenditure of all funds hereunder, adequate and complete statistics divided by counties about all medical assistance hereunder within the state, and such other information as it may deem advisable.

Subd. 6. Prepare and release a summary statement monthly showing by counties the amount paid hereunder and the total number of persons assisted.

Subd. 7. Establish and enforce safeguards to prevent unauthorized disclosure or improper use of the information contained in applications, reports of investigations and medical examinations, and correspondence in the individual case records of recipients of medical assistance.

Subd. 8. Furnish information to acquaint needy persons and the public generally with the plan for medical assistance of this state.

Subd. 9. Cooperate with agencies in other states in establishing reciprocal agreements to provide for payment of medical assistance to recipients who have moved to another state, consistent with the provisions hereof and of Title XIX of the Social Security Act of the United States of America.

[*Ex1967 c 16 s 4*]

256B.041 CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS. Subdivision 1. The state agency shall establish on a statewide basis a system for the centralized disbursement of medical assistance payments to vendors.

Subd. 2. An account is established in the state treasury from which medical assistance payments to vendors shall be made. Into such account there shall be deposited federal funds, state funds, and other moneys which are available and which may be paid to the state agency for medical assistance payments and reimbursements from counties or others for their share of such payments.

Subd. 3. The state agency shall prescribe and furnish vendors suitable forms for submitting claims under the medical assistance program.

Subd. 4. The state agency in establishing a statewide system of centralized disbursement of medical assistance payments shall comply with federal requirements in order to receive the maximum amount of federal funds which are available for the purpose, together with such additional federal funds which may be made available for the operation of a centralized system of disbursement of medical assistance payments to vendors.

Subd. 5. If required by federal law or rules promulgated thereunder, or by authorized regulation of the state agency, each county shall pay to the state treasurer the portion of medical assistance paid by the state for which it is responsible. The county's share of cost shall be 50 percent of that portion not met by federal funds.

Subd. 6. The commissioners of public welfare and administration may contract with any agency of government or any corporation for providing all or a portion of the services for carrying out the provisions of this section.

Subd. 7. Federal funds available for administrative purposes shall be distributed between the state and the county on the same basis that reimbursements are earned.

[*1973 c 717 s 2*]

256B.05 ADMINISTRATION BY COUNTY AGENCIES. Subdivision 1. The county agencies shall administer medical assistance in their respective counties under the supervision of the state agency and shall make such reports, prepare such statistics, and keep such records and accounts in relation to medical assistance as the state agency may require.

Subd. 2. In administering the medical assistance program, no county welfare department shall pay a fee or charge for medical, dental, surgical, hospital, nursing, licensed nursing home care, medicine, or medical supplies in excess of the schedules of maximum fees and charges as established by the state agency. The maximum fee schedule for physicians shall be the usual and customary fee.

Subd. 3. Notwithstanding the provisions of subdivision 2, the commissioner of public welfare shall establish a schedule of maximum allowances to be paid by the state on behalf of recipients of medical assistance toward fees charged for services rendered such medical assistance recipients.

[*Ex1967 c 16 s 5; 1971 c 961 s 28*]

256B.06 ELIGIBILITY REQUIREMENTS. Subdivision 1. Medical assistance may be paid for any person:

(1) Who is eligible for or receiving public assistance under the aid to families with dependent children program; or

(2) Who is eligible for or receiving supplemental security income for the aged, blind and disabled; or

(3) Who except for the amount of income or resources would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children and is in need of medical assistance; or

(4) Who is under 21 years of age and in need of medical care that neither he nor his relatives responsible under sections 256B.01 to 256B.26 are financially able to provide; or

(5) Who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and without means sufficient to pay the per capita hospital charge; and

(6) Who resides in Minnesota, or, if absent from the state, is deemed to be a resident of Minnesota in accordance with the regulations of the state agency; and

(7) Who alone, or together with his spouse, does not have equity in real property in excess of $15,000; and

(8) Who, if single, does not have more than $750 in cash or liquid assets or, if married, whose cash or liquid assets do not exceed $1,000 plus $150 for each additional legal dependent; and

(9) Who has or anticipates receiving an annual income not in excess of $2,600 for a single person, or $3,250 for two family members (man and wife, parent and child, or two siblings), plus $625 for each additional legal dependent, or who has income in excess of these maxima and in the month of application (or during the three months prior to the month of application) incurs expenses for medical care that total more than one-half of the annual excess income in accordance with the regulations of the state agency. In such excess income cases, eligibility shall be limited to a period of six months beginning with the first of the month in which these medical obligations are first incurred.

Who has continuing monthly expenses for medical care that are more than the amount of his excess income, computed on a monthly basis, in which case-eligibility may be established before the total income obligation referred to in the preceding paragraph is incurred, and medical assistance payments may be made to cover the monthly unmet medical need. In licensed nursing home and state hospital cases, both excess income and income over and above that required for justified needs are to be applied to the cost of institutional care; and

(10) Who has applied or agrees to apply all proceeds received or receivable by him or his spouse from health and accident insurance policies on the costs of medical care for himself, his spouse, and children.

Subd. 2. [Repealed, 1974 c 525 s 3]

Subd. 3. Notwithstanding any law to the contrary, a migrant agricultural worker who meets all of the eligibility requirements of this section other than that he has a permanent place of abode in another state, shall be eligible for medical assistance and shall have his medical needs met by the county in which he resides at the time of making application.

[*Ex1967 c 16 s 6; 1969 c 841 s 1; 1973 c 717 s 18; 1974 c 525 s 1, 2*]

256B.061 ELIGIBILITY. If any individual has been determined to be eligible for medical assistance, it will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application for such assistance, if such individual was, or upon application would have been, eligible for medical assistance at the time the care and services were furnished.

[*1973 c 717 s 3*]

256B.062 CONTINUED ELIGIBILITY. Any family which was eligible for medical assistance in at least three of the six months immediately preceding the month in which such family became ineligible for medical assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible due to the income and resources limitations of chapter 256B.

[*1973 c 717 s 4*]

256B.063 COST SHARING. Notwithstanding the provisions of section 256B.05, subdivision 2, the commissioner is authorized to promulgate rules pursuant to the administrative procedures act, and to require a nominal enrollment fee, premium, or similar charge for recipients of medical assistance, if and to the extent required by applicable federal regulation.

[*1973 c 717 s 5*]

256B.064 INELIGIBLE PROVIDER. The commissioner is authorized to terminate payments under chapter 256B to any person or facility providing medical assistance which, under applicable federal law or regulation, has been finally determined to be ineligible for payments under Title XIX of the Social Security Act.

[*1973 c 717 s 6*]

256B.065 SOCIAL SECURITY AMENDMENTS. The commissioner shall comply with requirements of the social security amendments of 1972 (P.L. 92-603) necessary in order to avoid loss of federal funds, and shall implement by rule,

pursuant to the administrative procedures act, those provisions required of state agencies supervising Title XIX of the Social Security Act.

[*1973 c 717 s 7*]

256B.07 EXCEPTIONS IN DETERMINING RESOURCES. A county agency may waive the requirement of liquidation of excess assets when the liquidation would cause undue hardship. Household goods and furniture in use in the home, wearing apparel, insurance policies with cash surrender value not in excess of $1,000 per insured person, personal property used as a regular abode by the applicant or recipient, and a lot in a burial plot shall not be considered as resources available to meet medical needs.

[*Ex1967 c 16 s 7; Ex1971 c 16 s 3; 1973 c 141 s 2*]

256B.08 APPLICATION. An applicant for medical assistance hereunder, or a person acting in his behalf, shall file his application with a county agency in such manner and form as shall be prescribed by the state agency.

[*Ex1967 c 16 s 8*]

256B.09 INVESTIGATIONS. When an application for medical assistance hereunder is filed with a county agency, such county agency shall promptly make or cause to be made such investigation as it may deem necessary. The object of such investigation shall be to ascertain the facts supporting the application made hereunder and such other information as may be required by the rules of the state agency. Upon the completion of such investigation the county agency shall promptly determine eligibility. No approval by the county agency shall be required prior to payment for medical care provided to recipients determined to be eligible pursuant to this section.

[*Ex1967 c 16 s 9; 1973 c 717 s 19*]

256B.10 APPEAL PROCEDURE. Any applicant or recipient aggrieved by any order or determination by any county agency may appeal from such order or determination to the state agency. An appeal may also be taken by any applicant if his application is not acted upon within 30 days by the county agency with which his application has been filed. Upon receipt of such an appeal, the state agency shall notify the county agency and review the case, giving the applicant or recipient an opportunity for a fair hearing before the state agency. The state agency may upon its own motion review any decision made by any county agency. The state agency may make such additional investigation as it may deem necessary and shall make such decision about the granting of medical assistance and the amount and nature of medical assistance to be granted the applicant or recipient as in its opinion is justified and in conformity with the provisions hereof. All decisions of the state agency shall be binding upon the county involved and upon the applicant or recipient and shall be complied with by the county agency unless modified or reversed on appeal as hereinafter provided.

[*Ex1967 c 16 s 10*]

256B.11 APPEAL TO DISTRICT COURT. If a decision or determination by the state agency is not in conformity herewith, in the opinion of the county agency or the applicant or recipient, either may within 30 days after such decision appeal from the decision or determination of the state agency to the district court of the county in which the application was filed by serving a copy of a written notice of such appeal upon the state agency and the adverse party and filing the original of such written notice, together with proof of service, with the clerk of the district court of such county.

Such appeal may be brought on for hearing by either party by mailing 10 days' written notice to the other parties, stating the time and place of such hearing. Upon serving of such notice the state agency shall, if demanded, furnish the county agency and the applicant or recipient a summary of the issues involved, a copy of all supporting papers, a transcript of any testimony, and a copy of its decision. The court shall summarily, upon 10 days' written notice, try to determine the appeal upon the record of the state agency as certified to it, and its determination shall be limited to the issue as to whether the order of the state agency was based upon an erroneous theory of law or was arbitrary, capricious, or unreasonable. No new or additional evidence shall be taken on such appeal or introduced by any party to such hearing on appeal in the district court unless such new or additional evidence, in the opinion of the court, is necessary to a more equitable disposition of the appeal. If new or additional evidence is taken on such appeal, the case shall be

remanded to the state agency for reconsideration in the light of such new or additional evidence and thereafter for proceedings in accordance with the provisions of this section. If the court shall find the order of the state agency was based upon an erroneous theory of law or was arbitrary, capricious, or unreasonable, the court shall make an order declaring the order of the state agency null and void, giving its reasons therefor, and shall order the state agency to take further action in the matter not inconsistent with the determination of the court.

[*Ex1967 c 16 s 11*]

256B.12 LEGAL REPRESENTATION. The attorney general shall be the attorney for the state agency, and the county attorney of each county shall be the attorney for the county agency of such county in all matters pertaining hereto.

[*Ex1967 c 16 s 12*]

256B.13 SUBPOENAS. Each county agency and the state agency shall have the power to issue subpoenas for witnesses and compel their attendance and the production of papers and writing; and officers and employees designated by any county agency or the state agency may administer oaths and examine witnesses under oath in connection with any application or proceedings hereunder.

[*Ex1967 c 16 s 13*]

256B.14 RELATIVE'S RESPONSIBILITY. The financial responsibility of a relative for an applicant or recipient of medical assistance shall not extend beyond the relationship of a spouse, or a parent of an applicant who is under 18 years of age.

[*Ex1967 c 16 s 14; 1973 c 725 s 46*]

256B.15 CLAIMS AGAINST ESTATES. If a person receives any medical assistance hereunder, on his death, if he is single, or on the death of such person and his surviving spouse, if he is married, and only at a time when he has no surviving child who is under 21 or is blind or totally disabled, the total amount paid for medical assistance rendered for such person, after age 65, without interest, shall be filed as a claim against the estate of such person in the court having jurisdiction to probate the estate. Such claim shall be considered an expense of last illness for the purpose of Minnesota Statutes 1965, Section 525.44. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder.

[*Ex1967 c 16 s 15*]

256B.16 [Repealed, 1971 c 550 s 2]

256B.17 TRANSFERS OF PROPERTY. Any person who has transferred any real or personal property within three years immediately preceding the date of application for medical assistance hereunder or who transfers any such property while receiving medical assistance hereunder without receiving a reasonable consideration therefor shall be presumed to have done so in order to become or remain eligible for medical assistance hereunder or to have deprived himself or his spouse of a resource that might otherwise have been used to meet his or their current needs. Such person shall have the burden of overcoming such presumption to the satisfaction of the county agency.

[*Ex1967 c 16 s 17*]

256B.18 METHODS OF ADMINISTRATION. The state agency shall prescribe such methods of administration as are necessary for compliance with requirements of the social security act, as amended, and for the proper and efficient operation of the program of assistance hereunder. The state agency shall establish and maintain a system of personnel standards on a merit basis for all such employees of the county agencies and the examination thereof, and the administration thereof shall be directed and controlled exclusively by the state agency except in those counties in which such employees are covered by a merit system that meets the requirements of the state agency and the social security act, as amended.

[*Ex1967 c 16 s 18*]

256B.19 DIVISION OF COST. Subdivision 1. The cost of medical assistance paid by each county of financial responsibility shall be borne as follows: Payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the

amount required for the succeeding month. The expense of assistance not paid by federal funds available for that purpose shall be shared equally by state and county; except that where the recipient is a child who has been surrendered for adoption pursuant to section 259.25, or has been committed to the guardianship of a licensed child placing agency pursuant to section 260.241, and a bona fide dispute regarding the county of residence of the child exists, the commissioner of public welfare, pursuant to rules and regulations adopted by him, may pay the entire expense of assistance not paid by federal funds from state funds. The director of the child placing agency or his appointed agent shall be designated as the applicant for medical assistance benefits on behalf of the child.

Subd. 2. Federal funds available for administrative purposes shall be distributed between the state and the county in the same proportion that expenditures were made.

[*Ex1967 c 16 s 19; 1971 c 547 s 1*]

256B.20 COUNTY APPROPRIATIONS. The providing of funds necessary to carry out the provisions hereof on the part of the counties and the manner of administering the funds of the counties and the state shall be as follows:

(1) The board of county commissioners of each county shall annually set up in its budget an item designated as the county medical assistance fund and levy taxes and fix a rate therefor sufficient to produce the full amount of such item, in addition to all other tax levies and tax rate, however fixed or determined, sufficient to carry out the provisions hereof and sufficient to pay in full the county share of assistance and administrative expense for the ensuing year; and annually on or before October 10 shall certify the same to the county auditor to be entered by him on the tax rolls. Such tax levy and tax rate shall make proper allowance and provision for shortage in tax collections.

(2) Any county may transfer surplus funds from any county fund, except the sinking or ditch fund, to the general fund or to the county medical assistance fund in order to provide moneys necessary to pay medical assistance awarded hereunder. The money so transferred shall be used for no other purpose, but any portion thereof no longer needed for such purpose shall be transferred back to the fund from which taken.

(3) Upon the order of the county agency the county auditor shall draw his warrant on the proper fund in accordance with the order, and the county treasurer shall pay out the amounts ordered to be paid out as medical assistance hereunder. When necessary by reason of failure to levy sufficient taxes for the payment of the medical assistance in the county, the county auditor shall carry any such payments as an overdraft on the medical assistance funds of the county until sufficient tax funds shall be provided for such assistance payments. The board of county commissioners shall include in the tax levy and tax rate in the year following the year in which such overdraft occurred, an amount sufficient to liquidate such overdraft in full.

(4) Claims for reimbursement shall be presented to the state agency by the respective counties in such manner as the state agency shall prescribe, not later than 10 days after the close of the month in which the expenditures were made. The state agency shall audit such claims and certify to the commissioner of finance the amounts due the respective counties without delay. The amounts so certified shall be paid within 10 days after such certification, from the state treasury upon warrant of the commissioner of finance from any moneys available therefor. The moneys available to the state agency to carry out the provisions hereof, including all federal funds available to the state, shall be kept and deposited by the state treasurer in the revenue fund and disbursed upon warrants in the same manner as other state funds.

[*Ex1967 c 16 s 20; 1973 c 492 s 14*]

256B.21 CHANGE OF RESIDENCE. When a recipient changes his place of residence, he shall notify the county agency by which his medical assistance hereunder is paid. If he removes to another county, he shall declare whether such absence is temporary or for the purpose of residing therein.

[*Ex1967 c 16 s 21*]

256B.22 COMPLIANCE WITH SOCIAL SECURITY ACT. The various terms and provisions hereof, including the amount of medical assistance paid hereunder, are intended to comply with and give effect to the program set out in Title XIX of

the federal Social Security Act. During any period when federal funds shall not be available or shall be inadequate to pay in full the federal share of medical assistance as defined in Title XIX of the federal Social Security Act, as amended by Public Law 92-603, the state may reduce by an amount equal to such deficiency the payments it would otherwise be obligated to make pursuant to section 256B.041.

[*Ex1967 c 16 s 22; 1973 c 717 s 20*]

256B.23 USE OF FEDERAL FUNDS. All federal funds made available for the purposes hereof are hereby appropriated to the state agency to be disbursed and paid out in accordance with the provisions hereof.

[*Ex1967 c 16 s 23*]

256B.24 PROHIBITIONS. No enrollment fee, premium, or similar charge shall be required as a condition of eligibility for medical assistance hereunder.

[*Ex1967 c 16 s 24*]

256B.25 PAYMENTS TO LICENSED FACILITIES. Payments may not be made hereunder for care in any private or public institution, including but not limited to hospitals and nursing homes, unless licensed by an appropriate licensing authority of this state, any other state, or a Canadian province.

[*Ex1967 c 16 s 25; 1969 c 395 s 2*]

256B.26 AGREEMENTS WITH OTHER STATE DEPARTMENTS. The commissioner of the department of public welfare is authorized to enter into cooperative agreements with other state departments or divisions of this state or of other states responsible for administering or supervising the administration of health services and vocational rehabilitation services in the state for maximum utilization of such service in the provision of medical assistance under sections 256B.01 to 256B.26.

[*Ex1967 c 16 s 26*]

256B.27 MEDICAL ASSISTANCE; COST REPORTS. In the interests of efficient administration of the medical assistance to the needy program and incident to the approval of rates and charges therefor, the commissioner of public welfare may require such reports, information, and audits of medical vendors as he deems necessary.

[*1971 c 961 s 24*]

256B.30 HEALTH CARE FACILITY REPORT. Every facility required to be licensed under the provisions of sections 144.50 to 144.58 shall provide annually to the commissioner of public welfare such reports as may be required under law and under regulations adopted by the commissioner of public welfare under the administrative procedures act. Such regulations shall provide for the submission of a full and complete financial report of a facility's operations including:

(1) An annual statement of income and expenditures;

(2) A complete statement of fees and charges;

(3) The names of all persons other than mortgage companies owning any interest in the facility including stockholders with an ownership interest of ten percent or more of the facility.

The financial reports and supporting data of the facility shall be available for inspection and audit by the commissioner of public welfare.

[*1973 c 688 s 8*]

256B.35 PERSONAL ALLOWANCE, PERSONS IN SKILLED NURSING HOMES OR INTERMEDIATE CARE FACILITIES. Subdivision 1. Notwithstanding any law to the contrary, welfare allowances for clothing and personal needs for individuals receiving medical assistance while confined in any skilled nursing home or intermediate care facility in this state shall not be less than $25 per month.

Subd. 2. Neither the skilled nursing home, the intermediate care facility nor the department of public welfare shall withhold or deduct any amount of this allowance for any purpose contrary to this section.

[*1974 c 575 s 15*]

256B.36 PERSONAL ALLOWANCE, HANDICAPPED OR MENTALLY RETARDED RECIPIENTS OF MEDICAL ASSISTANCE. In addition to the personal allowance established in section 256B.35, any handicapped or mentally retarded

recipient of medical assistance confined in a skilled nursing home or intermediate care facility shall also be permitted a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation. This special personal allowance shall not exceed (1) the limits set therefor by the commissioner, or (2) the amount of disregarded income the individual would have retained had he or she been a recipient of aid to the disabled benefits in December, 1973, whichever amount is lower.

[*1974 c 575 s 16*]