

## CHAPTER 256

### HUMAN SERVICES

256.01	Commissioner of human services; powers, duties.	256.871	Emergency assistance to needy families with children under age 21.
256.023	One hundred percent county assistance.	256.935	Funeral expenses, payment by county agency.
256.025	Payment procedures.	256.936	Children's health plan.
256.031	Minnesota family investment plan.	256.9365	Purchase of continuation coverage for AIDS patients.
256.032	Definitions.	256.9657	Provider surcharges.
256.033	Eligibility for the Minnesota family investment plan.	256.9685	Establishment of inpatient hospital payment system.
256.034	Program simplification.	256.9686	Definitions.
256.035	Income support and transition.	256.969	Payment rates.
256.036	Protections.	256.9695	Appeals of rates; prohibited practices for hospitals; transition rates.
256.0361	Field trial operation.	256.9751	Congregate housing services projects.
256.045	Administrative and judicial review of human service matters.	256.98	Wrongfully obtaining assistance; theft.
256.482	Council on disability.	256.983	Fraud prevention investigations.
256.9656	Deposits into the general fund.	256.984	Declaration and penalty.
256.736	Employment and training programs.		
256.82	Payments by state.		

#### 256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.

*[For text of subd 1, see M.S.1990]*

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring

and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan, including estimated project costs and the proposed order establishing the waiver, shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements, establish procedures to be followed

by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

*[For text of subs 3 to 10, see M.S.1990]*

**Subd. 11. Centralized disbursement system.** The state agency may establish a system for the centralized disbursement of food coupons, assistance payments, and related documents. Benefits shall be issued by the state or county and funded under this section according to section 256.025, subdivision 3, and subject to section 256.017.

**Subd. 11a. Contracting with financial institutions.** The state agency may contract with banks or other financial institutions to provide services associated with the processing of public assistance checks and may pay a service fee for these services, provided the fee charged does not exceed the fee charged to other customers of the institution for similar services.

*[For text of subd 12, see M.S.1990]*

**History:** 1991 c 292 art 3 s 6; art 5 s 6,7

### **256.023 ONE HUNDRED PERCENT COUNTY ASSISTANCE.**

The commissioner of human services may maintain client records and issue public assistance benefits that are over state and federal standards or that are not required by state or federal law, providing the cost of benefits is paid by the counties to the department of human services. Payment methods for this section shall be according to section 256.025, subdivision 3.

**History:** 1991 c 292 art 5 s 8

**256.025 PAYMENT PROCEDURES.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Base amount" means the calendar year 1990 county share of county agency expenditures for all of the programs specified in subdivision 2.

(c) "County agency expenditure" means the total expenditure or cost incurred by the county of financial responsibility for the benefits and services for each of the programs specified in subdivision 2. The term includes the federal, state, and county share of costs for programs in which there is federal financial participation. For programs in which there is no federal financial participation, the term includes the state and county share of costs. The term excludes county administrative costs, unless otherwise specified.

(d) "Nonfederal share" means the sum of state and county shares of costs of the programs specified in subdivision 2.

(e) The "county share of county agency expenditures growth amount" is the amount by which the county share of county agency expenditures in calendar years 1991 to 2000 has increased over the base amount.

Subd. 2. **Covered programs and services.** The procedures in this section govern payment of county agency expenditures for benefits and services distributed under the following programs:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6;

(4) general assistance under section 256D.03, subdivision 2;

(5) work readiness under section 256D.03, subdivision 2;

(6) emergency assistance under section 256.871, subdivision 6;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1;

(8) preadmission screening and alternative care grants;

(9) work readiness services under section 256D.051;

(10) case management services under section 256.736, subdivision 13;

(11) general assistance claims processing, medical transportation and related costs; and

(12) medical assistance, medical transportation and related costs.

Subd. 3. **Payment methods.** (a) Beginning July 1, 1991, the state will reimburse counties for the county share of county agency expenditures for benefits and services distributed under subdivision 2 and funded by the human services account established under section 273.1392, except as follows:

(1) beginning July 1, 1992, the county shall pay 25 percent of the costs of the growth in emergency general assistance payments which exceed expenditures during the base year of calendar year 1990;

(2) beginning July 1, 1992, the county shall pay 25 percent of the costs of the growth in eligible general assistance negotiated rate payments which exceed expenditures during the base year of calendar year 1990;

(3) beginning July 1, 1992, the county shall pay 15 percent of the costs of the growth in Minnesota supplemental aid negotiated rate payments made which exceed expenditures during the base year of calendar year 1990;

(4) beginning July 1, 1992, the county shall pay 50 percent of the nonfederal portion of the growth in emergency assistance payments made which exceed expenditures during the base year of calendar year 1990.

(b) Payments under subdivision 4 are only for client benefits and services distributed under subdivision 2 and do not include reimbursement for county administrative expenses.

(c) The state and the county agencies shall pay for assistance programs as follows:

(1) Where the state issues payments for the programs, the county shall monthly advance to the state, as required by the department of human services, the portion of program costs not met by federal and state funds. The advance shall be an estimate that is based on actual expenditures from the prior period and that is sufficient to compensate for the county share of disbursements as well as state and federal shares of recoveries;

(2) Where the county agencies issue payments for the programs, the state shall monthly advance to counties all federal funds available for those programs together with an amount of state funds equal to the state share of expenditures; and

(3) Payments made under this paragraph are subject to section 256.017. Adjustment of any overestimate or underestimate in advances shall be made by the state agency in any succeeding month.

**Subd. 4. Payment schedule.** Except as provided for in subdivision 3, beginning July 1, 1991, the state will reimburse counties, according to the following payment schedule, for the county share of county agency expenditures for the programs specified in subdivision 2.

(a) Beginning July 1, 1991, the state will reimburse or pay the county share of county agency expenditures according to the reporting cycle as established by the commissioner, for the programs identified in subdivision 2. Payments for the period of January 1 through July 31, for calendar years 1991, 1992, and 1993 shall be made on or before July 10 in each of those years. Payments for the period August through December for calendar years 1991, 1992, and 1993 shall be made on or before the third of each month thereafter through December 31 in each of those years.

(b) Payment for 1/24 of the base amount and the January 1994 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before January 3, 1994. For the period of February 1, 1994, through July 31, 1994, payment of the base amount shall be made on or before July 10, 1994, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1994 through December 1994 shall be made on or before the third of each month thereafter through December 31, 1994.

(c) Payment for the county share of county agency expenditures during January 1995 shall be made on or before January 3, 1995. Payment for 1/24 of the base amount and the February 1995 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before February 3, 1995. For the period of March 1, 1995, through July 31, 1995, payment of the base amount shall be made on or before July 10, 1995, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1995 through December 1995 shall be made on or before the third of each month thereafter through December 31, 1995.

(d) Monthly payments for the county share of county agency expenditures from January 1996 through February 1996 shall be made on or before the third of each month through February 1996. Payment for 1/24 of the base amount and the March 1996 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before March 1996. For the period of April 1, 1996, through July 31, 1996, payment of the base amount shall be made on or before July 10, 1996, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1996 through December 1996 shall be made on or before the third of each month thereafter through December 31, 1996.

(e) Monthly payments for the county share of county agency expenditures from January 1997 through March 1997 shall be made on or before the third of each month through March 1997. Payment for 1/24 of the base amount and the April 1997 county share of county agency expenditures growth amount for the programs identified in sub-

division 2 shall be made on or before April 3, 1997. For the period of May 1, 1997, through July 31, 1997, payment of the base amount shall be made on or before July 10, 1997, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1997 through December 1997 shall be made on or before the third of each month thereafter through December 31, 1997.

(f) Monthly payments for the county share of county agency expenditures from January 1998 through April 1998 shall be made on or before the third of each month through April 1998. Payment for 1/24 of the base amount and the May 1998 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before May 3, 1998. For the period of June 1, 1998, through July 31, 1998, payment of the base amount shall be made on or before July 10, 1998, and payment of the growth amount over the base amount shall be made on or before the third of each month. Payments for the period August 1998 through December 1998 shall be made on or before the third of each month thereafter through December 31, 1998.

(g) Monthly payments for the county share of county agency expenditures from January 1999 through May 1999 shall be made on or before the third of each month through May 1999. Payment for 1/24 of the base amount and the June 1999 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before June 3, 1999. For the period of June 1, 1999, through July 31, 1999, payment shall be made on or before July 10, 1999. Payments for the period August 1999 through December 1999 shall be made on or before the third of each month thereafter through December 31, 1999.

(h) Effective January 1, 2000, monthly payments for the county share of county agency expenditures shall be made subsequent to the first of each month.

Payments under this subdivision are subject to the provisions of section 256.017.

*[For text of subd 5, see M.S.1990]*

**History:** 1991 c 292 art 5 s 9-11; art 7 s 4

## **256.031 MINNESOTA FAMILY INVESTMENT PLAN.**

Subdivision 1. **Citation.** Sections 256.031 to 256.0361 may be cited as the Minnesota family investment plan.

Subd. 2. **Legislative findings.** The legislature recognizes the need to fundamentally change the way government supports families. The legislature finds that many features of the current system of public assistance do not help families carry out their two basic functions: the economic support of the family unit and the care and nurturing of children. The legislature recognizes that the Minnesota family investment plan is an investment strategy that will support and strengthen the family's social and financial functions. This investment in families will provide long-term benefits through stronger and more independent families.

Subd. 3. **Authorization for the demonstration.** (a) The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the director of the higher education coordinating board, is authorized to proceed with the planning and designing of the Minnesota family investment plan and to implement the plan to test policies, methods, and cost impact on an experimental basis by using field trials. The commissioner, under the authority in section 256.01, subdivision 2, shall implement the plan according to sections 256.031 to 256.0361 and Public Law Numbers 101-202 and 101-239, section 8015, as amended. If major and unpredicted costs to the program occur, the commissioner may take corrective action consistent with Public Law Numbers 101-202 and 101-239, which may include termination of the program. Before taking such corrective action, the commissioner shall consult with the chairs of the senate health and human services committee, the house health and human services committee, the health and human services division of the senate finance committee and the human resources division of the house

appropriations committee, or, if the legislature is not in session, consult with the legislative advisory commission.

(b) The field trials shall be conducted as permitted under federal law, for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.

(c) The commissioner shall select the counties which shall serve as field trial or control sites based on criteria which ensure reliable evaluation of the program.

(d) The commissioner is authorized to determine the number of families and characteristics of subgroups to be included in the evaluation.

(i) A family that applies for or is currently receiving financial assistance from aid to families with dependent children; family general assistance or work readiness; or food stamps may be assigned by the commissioner to an experimental or a control group for the purposes of evaluating the family investment plan. Families assigned to an experimental group receive benefits and services through the family investment plan. Families assigned to a control group receive benefits and services through existing programs. A family may not select the group to which it is assigned. Once assigned to a group, a family must remain in that group for the duration of the project.

(ii) To evaluate the effectiveness of the family investment plan, the commissioner may designate a subgroup of families from the experimental group who shall be exempt from section 256.035, subdivision 1, and shall not receive case management services under section 256.035, subdivision 6a. Families are eligible for services under section 256.736 to the same extent as families receiving AFDC.

**Subd. 4. Goals of the Minnesota family investment plan.** The commissioner shall design the program to meet the following goals:

(1) to support families' transition to financial independence by emphasizing options, removing barriers to work and education, providing necessary support services, and building a supportive network of education, employment and training, health, social, counseling, and family-based services;

(2) to allow resources to be more effectively and efficiently focused on investing in families by removing the complexity of current rules and procedures and consolidating public assistance programs;

(3) to prevent long-term dependence on public assistance through paternity establishment, child support enforcement, emphasis on education and training, and early intervention with minor parents; and

(4) to provide families with an opportunity to increase their living standard by rewarding efforts aimed at transition to employment and by allowing families to keep a greater portion of earnings when they become employed.

**Subd. 5. Federal waivers.** In accordance with sections 256.031 to 256.0361 and federal laws authorizing the program, the commissioner shall seek waivers of federal requirements of: United States Code, title 42, section 601 et seq., and United States Code, title 7, section 2011 et seq., needed to implement the Minnesota family investment plan in a manner consistent with the goals and objectives of the program. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon 180 days' notice or immediately upon mutual agreement. If the agreement is canceled, families which cease receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, general assistance, medical assistance, general assistance medical care, or the food stamp program must be placed with their consent on the programs for which they are eligible.

**History:** 1991 c 292 art 5 s 12

**NOTE:** This section, as amended by Laws 1991, chapter 292, article 5, section 12, is effective July 1, 1991, only for



purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

## 256.032 DEFINITIONS.

**Subdivision 1. Scope of definitions.** The terms used in sections 256.031 to 256.0361 have the meanings given them unless otherwise provided or indicated by the context.

**Subd. 1a. Assistance unit.** (a) "Assistance unit" means the following individuals when they are living together: a minor child; the minor child's blood-related siblings; and the minor child's natural and adoptive parents. The income and assets of members of the assistance unit must be considered in determining eligibility for the family investment plan.

(b) A nonparental caregiver, as defined in subdivision 2, may elect to be included in the assistance unit. A nonparental caregiver who does not elect to be included under this paragraph must apply for assistance with the minor child.

(c) A stepparent of the minor child may elect to be included in the assistance unit. If the stepparent does not choose to be included, the county agency shall not count the stepparent's resources or income, if the stepparent's income is less than 275 percent of the federal poverty guidelines for a family of one. If the stepparent's income is more than 275 percent of the federal poverty guidelines for a family of one and the stepparent does not choose to be included, the county agency shall not count the stepparent's resources, but shall count the stepparent's income in accordance with section 256.033, subdivision 2, clause (5).

(d) A stepsibling of the minor child may elect to be included in the assistance unit.

(e) A parent of a minor caregiver may elect to be included in the minor caregiver's assistance unit. If the parent of the minor caregiver does not choose to be included, the county agency shall not count the resources of the parent of the minor caregiver, but shall count the income of the parent of the minor caregiver, in accordance with section 256.033, subdivision 2, clause (5).

**Subd. 2. Caregiver.** "Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, "caregiver" also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of "great" or "great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

**Subd. 3. Case management.** "Case management" means the assessment of family needs, the development of the employability plan and family support agreement, and the coordination of services necessary to support the family in its social and economic roles, according to section 256.035, subdivision 6a.

**Subd. 4. Commissioner.** "Commissioner" means the commissioner of human services or a designee.

**Subd. 5.** [Repealed, 1991 c 292 art 5 s 82]

**Subd. 5a. County agency.** "County agency" means the agency designated by the county board to implement financial assistance for current programs and for the Minnesota family investment plan and the agency responsible for enforcement of child support collection.

**Subd. 5b. County board.** "County board" means the county board of commissioners; a county welfare board as defined in chapter 393; a board established under the joint powers act, section 471.59; or a human services board under chapter 402.

**Subd. 6. Department.** "Department" means the department of human services.

**Subd. 6a. Employability plan.** "Employability plan" means the plan developed by the case manager and the caregiver according to section 256.035, subdivision 6b, which meets the requirements for an employability development plan under section 256.736, subdivision 10, paragraph (a), clause (15).

Subd. 7. **Family.** "Family" includes the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver as defined in subdivision 2. "Family" also includes a pregnant woman in the third trimester of pregnancy with no children.

Subd. 7a. **Family support agreement.** "Family support agreement" means the agreement developed by the case manager and the caregiver under section 256.035, subdivision 6c.

Subd. 8. **Family wage level.** "Family wage level" means 120 percent of the transitional standard, as defined in subdivision 13.

Subd. 8a. **Minor child.** "Minor child" means a child who is living in the same home of a parent or other caregiver, who is in financial need, and who is either less than 18 years of age or is under the age of 19 years and is regularly attending as a full-time student and is expected to complete a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19.

Subd. 9. [Repealed, 1991 c 292 art 5 s 82]

Subd. 10. **Program.** "Program" means the Minnesota family investment plan.

Subd. 11. **Significant change.** "Significant change" means a change in income available to the family so that the sum of the income and the grant for the current month would be less than the transitional standard as defined in subdivision 13.

Subd. 11a. **Suitable employment.** "Suitable employment" has the meaning given in section 256.736, subdivision 1a, paragraph (h).

Subd. 12. **Transitional status.** "Transitional status" means the status of caregivers who are independently pursuing self-sufficiency or caregivers who are complying with the terms of a family support agreement with a county.

Subd. 13. **Transitional standard.** "Transitional standard" means the sum of the AFDC standard of assistance and the full cash value of food stamps for a family of the same size and composition in effect for the remainder of the state during implementation of the Minnesota family investment plan field trials. This standard applies only to families in which the parental caregiver is in transitional status and to families in which the caregiver is exempt from developing or has good cause for not complying with the terms of the family support agreement. Full cash value of food stamps is the amount of the cash value of food stamps to which a family of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. The assistance standard for a family consisting of a pregnant woman in the third trimester of pregnancy with no children must equal the assistance standard for one adult and one child.

**History:** 1991 c 292 art 5 s 13

**NOTE:** This section, as amended by Laws 1991, chapter 292, article 5, section 13, is effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

## **256.033 ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.**

Subdivision 1. **Eligibility conditions.** (a) A family is entitled to assistance under the Minnesota family investment plan if:

- (1) the family meets the definition of assistance unit under section 256.032, subdivision 1a;
- (2) the family's resources not excluded under subdivision 3 do not exceed \$2,000;
- (3) the family can verify citizenship or lawful resident alien status;
- (4) the family provides or applies for a social security number for each member of the family receiving assistance under the family investment plan; and

(5) the family assigns child support collection to the county agency.

(b) A family is eligible for the family investment plan if the net income is less than the transitional standard as defined in section 256.032, subdivision 13, for that size and composition of family. In determining available net income, the provisions in subdivision 2 shall apply.

(c) Upon application, a family is initially eligible for the family investment plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes;

(2) actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii); and

(3) \$50 of child support collected in that month.

(d) A family can remain eligible for the program if:

(1) it meets the conditions in section 256.035, subdivision 4; and

(2) its income is below the transitional standard in section 256.032, subdivision 13, allowing for income exclusions in subdivision 2 and after applying the family investment plan treatment of earnings under section 256.035, subdivision 4.

**Subd. 2. Determination of family income.** The aid to families with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:

(1) all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;

(2) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with United States Code, title 42, section 602(a)(8)(A)(viii);

(3) educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded;

(4) all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded; and

(5) when determining income available from members of the family who do not elect to be included in the assistance unit under section 256.032, subdivision 1a, paragraphs (c) and (e), the county agency shall count the remaining income after disregarding:

(i) the first 18 percent of the excluded family member's gross earned income;

(ii) an amount for the support of the stepparent and any other individuals whom the stepparent claims as dependents for determining federal personal income tax liability and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.031 to 256.033. The amount equals the transitional standard in section 256.032, subdivision 13, for a family of the same size and composition;

(iii) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for determining federal personal income tax liability; and

(iv) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

**Subd. 3. Determination of family resources.** When determining a family's resources, the following are excluded:

(1) the family's home, together with surrounding property that does not exceed ten acres and that is not separated from the home by intervening property owned by others;

(2) one burial plot for each family member;

(3) one prepaid burial contract with an equity value of no more than \$1,500 for each member of the family;

- (4) licensed automobiles, trucks, or vans up to a total equity value of \$4,500;
- (5) personal property needed to produce earned income, including tools, implements, farm animals, and inventory;
- (6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and
- (7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

**Subd. 4. Treatment of SSI and MSA.** The monthly benefits and any other income received through the supplemental security income or Minnesota supplemental aid program and any real or personal property of an assistance unit member who receives supplemental security income or Minnesota supplemental aid must be excluded in determining the family's eligibility for the Minnesota family investment plan and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving supplemental security income or Minnesota supplemental aid must not be taken into account.

**Subd. 5. Ability to apply for food stamps.** A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources may apply for, and if eligible receive, benefits under the food stamp program.

**History:** 1991 c 292 art 5 s 14

**NOTE:** This section, as amended by Laws 1991, chapter 292, article 5, section 14, is effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

#### **256.034 PROGRAM SIMPLIFICATION.**

**Subdivision 1. Consolidation of types of assistance.** Under the Minnesota family investment plan, assistance previously provided to families through the AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program. As authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B. Federal, state, and local funds that would otherwise be allocated for assistance to families under the AFDC, food stamp, and general assistance programs must be transferred to the Minnesota family investment plan. The provisions of the Minnesota family investment plan prevail over any provisions of sections 256.72 to 256.87 or 256D.01 to 256D.21 and any rules implementing those sections with which they are irreconcilable. The food stamp, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan.

**Subd. 2. Coupon option.** Families have the option to receive a standardized amount of assistance as described in Public Law Number 101-202, section 22(a)(3)(D), designated by the commissioner, in the form of food coupons or vendor payments.

**Subd. 3. Modification of eligibility tests.** (a) A needy family is eligible and entitled to receive assistance under the program even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a caregiver who is in the assistance unit who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom appli-

cation is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.

(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless and to the extent compliance is specifically required in a family support agreement with the county agency or its designee.

**Subd. 4. Simplification of budgeting procedures.** The monthly amount of assistance provided by the Minnesota family investment plan must be calculated by taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the county agency's best estimate of the family's income and circumstances for that month. Families may be required to report their income monthly, but income may be averaged over a period of more than one month.

**Subd. 5. Simplification of verification procedures.** Verification procedures must be reduced to the minimum that is workable and consistent with the goals and requirements of the Minnesota family investment plan as determined by the commissioner.

**History:** 1991 c 292 art 5 s 15

**NOTE:** This section, as amended by Laws 1991, chapter 292, article 5, section 15, is effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

**256.035 INCOME SUPPORT AND TRANSITION.**

**Subdivision 1. Expectations.** All families eligible for assistance under the family investment plan are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:

(a) For a family headed by a single adult parental caregiver, the expectation is that the parental caregiver will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or complying with the terms of the family support agreement.

(b) For a family with a minor parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent, the expectation is that, concurrent with the receipt of assistance, the parental caregiver must be developing or complying with a family support agreement. The terms of the family support agreement must include compliance with section 256.736, subdivision 3b. However, if the assistance unit does not comply with section 256.736, subdivision 3b, the sanctions in subdivision 3 apply.

(c) For a family with two adult parental caregivers, the expectation is that at least one parent will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or complying with the terms of the family support agreement.

**Subd. 2. Exemptions.** (a) A caregiver is exempt from the requirement of develop-

ing and complying with the terms of the family support agreement, or engaging in transitional activities, if:

(1) the caregiver is not the natural or adoptive parent of a minor child; or  
 (2) the caregiver is exempt under United States Code, title 7, section 2031(c)(1)(A)(B)(C)(D)(E) or (F).

(b) A parental caregiver exempt under paragraph (a), clause (2), may meet with a case manager and develop an employability plan if the parental caregiver fits one of the categories of expectations in subdivision 1, and may receive support services including child care if needed to participate in activities identified in the employability plan.

**Subd. 2a. Good cause.** The county agency shall not impose the sanction in subdivision 3 if it determines that the parental caregiver has good cause for not meeting the expectations of developing and complying with the terms of a family support agreement developed with the county agency. Good cause exists when:

- (1) needed child care is not available;
- (2) the job does not meet the definition of suitable employment in section 256.032, subdivision 11a;
- (3) the parental caregiver is ill or injured;
- (4) a family member is ill and needs care by the parental caregiver that prevents the parental caregiver from complying with the family support agreement;
- (5) the parental caregiver is unable to secure the necessary transportation;
- (6) the parental caregiver is in an emergency situation which prevents compliance with the family support agreement;
- (7) the schedule of compliance with the family support agreement conflicts with judicial proceedings;
- (8) the parental caregiver is already participating in acceptable activities;
- (9) the family support agreement requires an educational program for a parent under age 20, but the educational program is not offered in the school district;
- (10) activities identified in the family support agreement are not available;
- (11) the parental caregiver is willing to accept suitable employment as defined in section 256.032, subdivision 11a, but employment is not available; or
- (12) the parental caregiver documents other verifiable impediments to compliance with the family support agreement beyond the parental caregiver's control.

**Subd. 3. Sanctions.** A family whose parental caregiver is not exempt from the expectations in subdivision 1 and who is not complying with those expectations by developing or complying with the family support agreement must have assistance reduced by a value equal to ten percent of the transitional standard as defined in section 256.032, subdivision 13. This reduction is effective with the month following the finding of noncompliance and continues until the beginning of the month after failure to comply ceases. The county must provide written notice to the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the sanction is implemented. Implementation of the sanction shall be postponed pending resolution of the conciliation conference under section 256.036, subdivision 5, or hearing under section 256.045.

**Subd. 4. Treatment of income for the purposes of continued eligibility.** To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:

(a) The \$30 and one-third and \$90 disregards allowed under section 256.74, subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivi-

sion 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money appropriated for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

(d) The first \$50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from developing or complying with the terms of a family support agreement, or has had a sanction imposed under subdivision 3.

**Subd. 5. Orientation.** The county agency must provide orientation which supplies information to caregivers about the Minnesota family investment plan, and must encourage parental caregivers to engage in activities to stabilize the family and lead to employment and self-support.

**Subd. 6.** [Repealed, 1991 c 292 art 5 s 82]

**Subd. 6a. Case management services.** (a) The county agency will provide case management services to caregivers required to develop and comply with a family support agreement as provided in subdivision 1. For minor parents, the responsibility of the case manager shall be as defined in section 256.736, subdivision 3b. Sanctions for failing to develop or comply with the terms of a family support agreement shall be imposed according to subdivision 3. When a minor parent reaches age 17, or earlier if determined necessary by the social service agency, the minor parent shall be referred for case management services.

(b) Case managers shall provide the following services:

(1) the case manager shall provide or arrange for an assessment of the family and caregiver's needs, interests, and abilities according to section 256.736, subdivision 11, paragraph (a), clause (1);

(2) the case manager shall coordinate services according to section 256.736, subdivision 11, paragraph (a), clause (3);

(3) the case manager shall develop an employability plan according to subdivision 6b;

(4) the case manager shall develop a family support agreement according to subdivision 6c; and

(5) the case manager shall monitor the caregiver's compliance with the employability plan and the family support agreement as required by the commissioner.

(c) Case management may continue for up to six months following the caregiver's achievement of employment goals.

**Subd. 6b. Employability plan.** (a) The case manager shall develop an employability plan with the caregiver according to this subdivision and section 256.736, subdivision 11, paragraph (a), clause (2), which will be based on the assessment in subdivision 6a of the caregiver's needs, interests, and abilities.

(b) An employability plan must identify the caregiver's employment goal or goals and explain what steps the family must take to pursue self-sufficiency.

(c) Activities in the employability plan may include preemployment activities such as: programs, activities, and services related to job training and job placement. These preemployment activities may include, based on availability and resources, participation in dislocated worker services, chemical dependency treatment, mental health

services, self-esteem enhancement activities, peer group networks, displaced homemaker programs, education programs leading toward the employment goal, parenting education, and other programs to help the families reach their employment goals and enhance their ability to care for their children.

**Subd. 6c. Family support agreement.** (a) The family support agreement is the enforceable component of the employability plan as described in subdivision 6b and section 256.736, subdivision 10, paragraph (a), clause (15). A parental caregiver's failure to comply with any part of the family support agreement without good cause as provided in subdivision 2a is subject to sanction as provided in subdivision 3.

(b) A family support agreement must identify the parental caregiver's employment goal or goals and outline the steps which the parental caregiver and case manager mutually determined are necessary to achieve each goal. Activities are limited to:

- (1) employment;
- (2) employment and training activities; or
- (3) education up to a baccalaureate degree.

(c) A family support agreement shall include only those activities described in paragraph (b). Social services or activities, such as mental health or chemical dependency services, parenting education, or budget management, can be included in the employability plan and not in the family support agreement and are not subject to a sanction under subdivision 3.

(d) For a parental caregiver whose employability plan is composed entirely of services described in paragraph (c), the family support agreement shall designate a date for reassessment of the activities needed to reach the parental caregiver's employment goal and this date shall be considered as the content of the family support agreement. The parental caregiver and case manager shall meet at least semiannually to review and revise the family support agreement.

(e) The family support agreement must identify the services that the county agency will provide to the family to enable the parental caregiver to comply with the family support agreement, including support services such as transportation and child care.

(f) The family support agreement must state the parental caregiver's obligations and the conditions under which the county agency will recommend a sanction be applied to the grant and withdraw the services.

(g) The family support agreement will specify a date for completion of activities leading to the employment goal.

(h) The family support agreement must be signed and dated by the case manager and parental caregiver. In all cases, the case manager must assist the parental caregiver in reviewing and understanding the family support agreement and must assist the caregiver in setting realistic goals in the agreement which are consistent with the ultimate goal of financial support for the caregiver's family. The case manager must inform the caregiver of the right to seek conciliation as provided in subdivision 6e.

(i) The caregiver may revise the family support agreement with the case manager when good cause indicates revision is warranted. Revisions for reasons other than good cause to employment goals or steps toward self-support may be made in the first six months after the signing of the family support agreement with the approval of the case manager. After that, the revision must be approved by the case management supervisor or other persons responsible for review of case management decisions.

**Subd. 6d. Length of job search.** When the family support agreement specifies a date when job search should begin, the parental caregiver must participate in employment search activities. If, after three months of search, the parental caregiver does not find a job that is consistent with the parental caregiver's employment goal, the parent must accept any suitable employment. The search may be extended for up to three months if the parental caregiver seeks and needs additional job search assistance.

**Subd. 6e. Conciliation.** A conciliation procedure shall be available as provided in section 256.736, subdivision 11, paragraph (c). The conciliation conference will be



available to parental caregivers who cannot reach agreement with the case manager about the contents or interpretation of the family support agreement, or who have received a notice of intent to implement a sanction as required under subdivision 3. Implementation of the sanction will be postponed pending the outcome of conciliation. The conciliation conference will be facilitated by a neutral mediator, and the goal will be to achieve mutual agreement between the parental caregiver and case manager. The conciliation conference is an optional procedure preceding the hearing process under section 256.045.

Subd. 7. [Repealed, 1991 c 292 art 5 s 82]

Subd. 8. **Child care.** The commissioner shall ensure that each Minnesota family investment plan caregiver who is employed or is developing or is engaged in activities identified in an employability plan under subdivision 6b and who needs assistance with child care costs to be employed or to develop or comply with the terms of an employability plan receives a child care subsidy through child care money appropriated for the Minnesota family investment plan. The subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under section 256H.15. A caregiver who is in the assistance unit who leaves the program as a result of increased earnings from employment and who needs child care assistance to remain employed is entitled to extended child care assistance as provided under United States Code, title 42, section 602(g)(1)(A)(ii) on a copayment basis.

Subd. 9. **Health care.** A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended and Public Law Number 101-239, section 8015(b)(7).

**History:** 1991 c 199 art 2 s 17; 1991 c 292 art 5 s 16

**NOTE:** This section, as amended by Laws 1991, chapter 292, article 5, section 16, is effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

## 256.036 PROTECTIONS.

Subdivision 1. **Support services.** If assistance with child care or transportation is necessary to enable a parental caregiver to work, obtain training or education, attend orientation, or comply with the terms of a family support agreement with the county agency, and the county agency determines that child care or transportation is not available, the family's applicable standard of assistance continues to be the transitional standard.

Subd. 2. **Volunteers.** For caregivers receiving assistance under the Minnesota family investment plan who are not currently employed but who are independently pursuing self-sufficiency, case management, support services, and child care are available to the extent that resources permit. A caregiver who volunteers is not subject to a sanction under section 256.035, subdivision 3.

*[For text of subd 3, see M.S.1990]*

Subd. 4. **Timely assistance.** Applications must be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Financial assistance must be provided at least monthly to eligible families.

Subd. 5. **Due process.** Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, as provided under section 256.035, subdivision 6e, when the caregiver disputes the terms of a family support agreement developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to comply with the terms of a

family support agreement. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045.

*[For text of subs 6 to 9, see M.S.1990]*

Subd. 10. [Repealed, 1991 c 292 art 5 s 82]

**History:** 1991 c 292 art 5 s 17-20

**NOTE:** Subdivisions 1, 2, 4, and 5, as amended by Laws 1991, chapter 292, article 5, sections 17 to 20, are effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

**NOTE:** Subdivision 10, as repealed by Laws 1991, chapter 292, article 5, section 82, is effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

### 256.0361 FIELD TRIAL OPERATION.

Subdivision 1. **Local plan.** A county that is selected to serve as a field trial or control site shall carry out the activities necessary to perform the evaluation for the duration of the field trials.

Subd. 2. **Financial reimbursement.** (a) Up to the limit of the state appropriation, a county selected by the commissioner to serve as a field trial or a control site for the Minnesota family investment plan shall be reimbursed by the state for the nonfederal share of administrative costs that were incurred during the development, implementation, and operation of the program and that exceed the administrative costs that would have been incurred in the absence of the program.

(b) Minnesota family investment plan assistance is included as covered programs and services under section 256.025, subdivision 2.

**History:** 1991 c 292 art 5 s 21

**NOTE:** This section, as added by Laws 1991, chapter 292, article 5, section 21, is effective July 1, 1991, only for purposes of planning and securing federal waivers. Actual implementation of the program is delayed until specifically authorized during the biennium beginning July 1, 1993. See Laws 1991, chapter 292, article 5, section 85, subdivision 1.

### 256.045 ADMINISTRATIVE AND JUDICIAL REVIEW OF HUMAN SERVICE MATTERS.

*[For text of subd 1, see M.S.1990]*

Subd. 3. **State agency hearings.** Any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section.

An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

*[For text of subs 3a to 9, see M.S.1990]*

**Subd. 10. Payments pending appeal.** If the commissioner of human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. The human services referee may order the local human services agency to reduce or terminate medical assistance or general assistance medical care to a recipient before a final order is issued under this section if: (1) the human services referee determines at the hearing that the sole issue on appeal is one of a change in state or federal law; and (2) the commissioner or the local agency notifies the recipient before the action. The state or county agency has a claim for food stamps, cash payments, medical assistance, and general assistance medical care made to or on behalf of a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps, cash payments, medical assistance, or general assistance medical care as a result of the appeal, except for medical assistance and general assistance medical care made on behalf of a recipient pursuant to a court order.

**History:** 1991 c 94 s 11; 1991 c 292 art 4 s 16

#### **256.482 COUNCIL ON DISABILITY.**

**Subdivision 1. Establishment; members.** There is hereby established the council on disability which shall consist of 21 members appointed by the governor. Members shall be appointed from the general public and from organizations which provide services for persons who have a disability. A majority of council members shall be persons with a disability or parents or guardians of persons with a disability. There shall be at least one member of the council appointed from each of the state development regions. The commissioners of the departments of education, human services, health, jobs and training, and human rights and the directors of the division of rehabilitation services and state services for the blind or their designees shall serve as ex officio members of the council without vote. In addition, the council may appoint ex officio members from other bureaus, divisions, or sections of state departments which are directly concerned with the provision of services to persons with a disability.

Notwithstanding the provisions of section 15.059, each member of the council appointed by the governor shall serve a three-year term and until a successor is appointed and qualified. The compensation and removal of all members shall be as provided in section 15.059. The governor shall appoint a chair of the council from among the members appointed from the general public or who are persons with a disability or their parents or guardians. Vacancies shall be filled by the authority for the remainder of the unexpired term.

*[For text of subs 2 to 7, see M.S.1990]*

**History:** 1991 c 292 art 3 s 7

#### **256.736 EMPLOYMENT AND TRAINING PROGRAMS.**

*[For text of subs 1a and 3, see M.S.1990]*

**Subd. 3a. Participation.** (a) Except as provided under paragraphs (b) and (c), participation in employment and training services under this section is limited to the following recipients:

- (1) caretakers who are required to participate in a job search under subdivision 14;
- (2) custodial parents who are subject to the school attendance or case management participation requirements under subdivision 3b;
- (3) caretakers whose participation in employment and training services began prior to May 1, 1990, if the caretaker's AFDC eligibility has not been interrupted for

30 days or more and the caretaker's employability development plan has not been completed;

(4) recipients who are members of a family in which the youngest child is within two years of being ineligible for AFDC due to age;

(5) custodial parents under the age of 24 who: (i) have not completed a high school education and who, at the time of application for AFDC, were not enrolled in high school or in a high school equivalency program; or (ii) have had little or no work experience in the preceding year;

(6) recipients who have received AFDC for 36 or more months out of the last 60 months;

(7) recipients who are participants in the self-employment investment demonstration project under section 268.95; and

(8) recipients who participate in the new chance research and demonstration project under contract with the department of human services.

(b) If the commissioner determines that participation of persons listed in paragraph (a) in employment and training services is insufficient either to meet federal performance targets or to fully utilize funds appropriated under this section, the commissioner may, after notifying the chairs of the senate and house health and human services committees, the health and human services division of the senate finance committee, and the health and human services division of the house appropriations committee, permit additional groups of recipients to participate until the next meeting of the legislative advisory commission, after which the additional groups may continue to enroll for participation unless the legislative advisory commission disapproves the continued enrollment. The commissioner shall allow participation of additional groups in the following order only as needed to meet performance targets or fully utilize funding for employment and training services under this section:

(1) recipients who have received 24 or more months of AFDC out of the previous 48 months; and

(2) recipients who have not completed a high school education or a high school equivalency program.

(c) To the extent of money appropriated specifically for this paragraph, the commissioner may permit AFDC caretakers who are not eligible for participation in employment and training services under the provisions of paragraph (a) or (b) to participate. Money must be allocated to county agencies based on the county's percentage of participants statewide in services under this section in the prior calendar year. Caretakers must be selected on a first-come, first-served basis from a waiting list of caretakers who volunteer to participate. The commissioner may, on a quarterly basis, reallocate unused allocations to county agencies that have sufficient volunteers. If funding under this paragraph is discontinued in future fiscal years, caretakers who began participating under this paragraph must be deemed eligible under paragraph (a), clause (3).

*[For text of subds 3b to 18, see M.S.1990]*

**History:** 1991 c 292 art 5 s 22

## **256.82 PAYMENTS BY STATE.**

**Subdivision 1. Division of costs and payments.** Based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency, payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month. The state share of the nonfederal portion of county agency expenditures shall be 85 percent and the county share shall be 15 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017. Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in

section 256.025 for the county share of county agency expenditures under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

*[For text of subs 2 to 4, see M.S.1990]*

**History:** 1991 c 292 art 5 s 23

### **256.871 EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN UNDER AGE 21.**

*[For text of subs 1 to 5, see M.S.1990]*

**Subd. 6. Reports of estimated expenditures; payments.** The county agency shall submit to the state agency reports required under section 256.01, subdivision 2, paragraph (17). Fiscal reports shall estimate expenditures for each succeeding month in such form as required by the state agency. The state share of the nonfederal portion of eligible expenditures shall be ten percent and the county share shall be 90 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017. Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment under this subdivision is subject to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

*[For text of subd 7, see M.S.1990]*

**History:** 1991 c 292 art 5 s 24

### **256.935 FUNERAL EXPENSES, PAYMENT BY COUNTY AGENCY.**

**Subdivision 1.** On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding \$370 and actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the children, or spouse, who were legally responsible for the support of the deceased while living, are able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share of county agency expenditures shall be 50 percent and the county share shall be 50 percent. Benefits shall be issued to recipients by the state or county and funded according to section 256.025, subdivision 3, subject to provisions of section 256.017.

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule set forth in section 256.025 for the county share of county agency expenditures made under this subdivision from January 1, 1991, on. Payment under this subdivision is subject to the provisions of section 256.017.

**History:** 1991 c 292 art 5 s 25

**256.936 CHILDREN'S HEALTH PLAN.**

*[For text of subs 1 to 4, see M.S.1990]*

Subd. 5. **Appeals.** If the commissioner suspends, reduces, or terminates eligibility for the children's health plan, or services provided under the children's health plan, the commissioner must provide notification according to the laws and rules governing the medical assistance program. A children's health plan applicant or enrollee aggrieved by a determination of the commissioner has the right to appeal the determination according to section 256.045.

**History:** 1991 c 292 art 4 s 17

**256.9365 PURCHASE OF CONTINUATION COVERAGE FOR AIDS PATIENTS.**

Subdivision 1. **Program established.** The commissioner of human services shall establish a program to pay private health plan premiums for persons who have contracted human immunodeficiency virus (HIV) to enable them to continue coverage under a group or individual health plan. If a person is determined to be eligible under subdivision 2, the commissioner shall: (1) pay the eligible person's group plan premium for the period of continuation coverage provided in the Consolidated Omnibus Budget Reconciliation Act of 1985; or (2) pay the eligible person's individual plan premium for 24 months.

*[For text of subd 2, see M.S.1990]*

Subd. 3. **Rules.** The commissioner shall establish rules as necessary to implement the program. Special requirements for the payment of individual plan premiums under subdivision 2, clause (5), must be designed to ensure that the state cost of paying an individual plan premium over a two-year period does not exceed the estimated state cost that would otherwise be incurred in the medical assistance or general assistance medical care program.

**History:** 1991 c 292 art 4 s 18,19

**256.9656 DEPOSITS INTO THE GENERAL FUND.**

All money collected under section 256.9657 shall be deposited in the general fund and is appropriated to the commissioner of human services for the purposes of section 256B.74. Deposits do not cancel and are available until expended.

**History:** 1991 c 292 art 4 s 20

**256.9657 PROVIDER SURCHARGES.**

Subdivision 1. **Nursing facility license surcharge.** Effective July 1, 1991, each nursing facility subject to the reimbursement principles in Minnesota Rules, parts 9549.0010 to 9549.0080, shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as \$500 per bed licensed on the previous April 1.

Subd. 2. **Hospital surcharge.** (a) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to ten percent of medical assistance payments issued to that provider for inpatient services according to the schedule in subdivision 4. Medicare crossovers and indigent care payments paid under section 256B.74 are excluded from the amount of medical assistance payments issued.

(b) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to five percent of medical assistance

payments issued to that provider for outpatient services according to the schedule in subdivision 4. Medicare crossovers are excluded from the amount of medical assistance payments issued.

**Subd. 3. Health plan surcharge.** Effective July 1, 1991, each health plan under contract with the commissioner shall pay to the commissioner a surcharge equal to the equivalent value of the surcharges described in subdivision 2 for each medical assistance rate cell payment according to the schedule in subdivision 4. The surcharge for each quarter or month of a fiscal year shall be calculated based on the payments due in September of the same fiscal year under subdivision 2.

**Subd. 4. Payments into the account.** Payments to the commissioner under subdivision 1 must be paid in monthly installments due on the 15th of the month beginning August 15, 1991. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 must be paid as follows: the first payment is a quarterly payment due September 15, 1991, with subsequent payments due monthly on the fifteenth of each month. The September 15, 1991, payment under subdivisions 2 and 3 shall be determined by taking the amount of medical assistance payments issued to each provider in the calendar quarter beginning six months prior to the quarter in which the payment is due multiplied by the percentage surcharge for each provider. The subsequent monthly payments shall be determined by taking the amount of medical assistance payments issued to each provider in the month beginning six months prior to the month in which the payment is due multiplied by the percentage surcharge for each provider.

**Subd. 5. Not allowable cost.** Provider payments to the commissioner under this section are not an allowable cost for purposes of the medical assistance program.

**Subd. 6. Notice; appeals.** At least 30 days prior to the date the payment is due, the commissioner shall give each provider a written notice of each payment due. A provider may request a contested case hearing under chapter 14 within 30 days of receipt of the notice. The decision of the commissioner regarding the amount due stands until the appeal is decided. The provider shall pay the contested payment at the time of appeal with settle-up at the time of appeal resolution.

**Subd. 7. Enforcement.** The commissioner shall bring action in district court to collect provider payments due under subdivisions 1 to 3 that are more than 30 days in arrears.

**History:** 1991 c 292 art 4 s 21

## **256.9685 ESTABLISHMENT OF INPATIENT HOSPITAL PAYMENT SYSTEM.**

**Subdivision 1. Authority.** The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The medical assistance payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.

*[For text of subd 2, see M.S.1990]*

**History:** 1991 c 292 art 4 s 22

## **256.9686 DEFINITIONS.**

**Subdivision 1. Scope.** For purposes of this section and sections 256.969 and 256.9695, the following terms and phrases have the meanings given.

*[For text of subds 2 to 5, see M.S.1990]*

Subd. 6. **Hospital.** "Hospital" means a facility licensed under sections 144.50 to 144.58, an out-of-state facility licensed to provide acute care under the requirements of that state in which it is located, or an Indian health service facility designated to provide acute care by the federal government.

*[For text of subs 7 to 9, see M.S.1990]*

**History:** 1991 c 292 art 4 s 23,24

### 256.969 PAYMENT RATES.

Subdivision 1. **Hospital cost index.** The hospital cost index shall be obtained from an independent source and shall represent a weighted average of historical, as limited to statutory maximums, and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, utilities, insurance including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust the base year operating payment rate through the rate year on an annually compounded basis. Notwithstanding section 256.9695, subdivision 3, paragraph (c), the hospital cost index shall not be effective under the general assistance medical care program for admissions occurring during the biennium ending June 30, 1993.

Subd. 2. **Diagnostic categories.** The commissioner shall use to the extent possible existing diagnostic classification systems, including the system used by the Medicare program to determine the relative values of inpatient services and case mix indices. The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative value determinations shall not include property cost data, Medicare crossover data, and data on admissions that are paid a per day transfer rate under subdivision 13. The computation of the base year cost per admission must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs recognized in outlier payments beyond that point. The commissioner may recategorize the diagnostic classifications and recalculate relative values and case mix indices to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period.

*[For text of subd 2b, see M.S.1990]*

Subd. 2c. **Property payment rates.** For each hospital's first two consecutive fiscal years beginning on or after July 1, 1988, the commissioner shall limit the annual increase in property payment rates for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index derived from the methodology in effect on the day before July 1, 1989. When computing budgeted and settlement property payment rates, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal year end. For admissions occurring on or after the rate year beginning January 1, 1991, the commissioner shall obtain property data from an updated base year and establish property payment rates per admission for each hospital. Property payment rates shall be derived from data from the same base year that is used to establish operating payment rates. The property information shall include cost categories not subject to the hospital cost index and shall reflect the cost-finding methods and allowable costs of the Medicare program. The base year property payment rates shall be



adjusted for increases in the property cost by increasing the base year property payment rate 85 percent of the percentage change from the base year through the year for which a Medicare cost report has been submitted to the Medicare program and filed with the department by the October 1 before the rate year. The property rates shall only reflect inpatient services covered by medical assistance. The commissioner shall adjust rates for the rate year beginning January 1, 1991, to ensure that all hospitals are subject to the hospital cost index limitation for two complete years.

**Subd. 3a. Payments.** Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. To establish interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 6a, paragraph (a), clause (5) or (6), must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

*[For text of subsd 4a and 5a, see M.S.1990]*

**Subd. 6a. Special considerations.** In determining the payment rates, the commissioner shall consider whether the circumstances in subdivisions 7 to 14 exist.

**Subd. 7. Minimal medical assistance use.** Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th per-

centile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph, the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year.

**Subd. 8. Unusual cost or length of stay experience.** The commissioner shall establish day and cost outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b, and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative to the 70 percent outlier payment that is at a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.

**Subd. 9. Disproportionate numbers of low-income patients served.** For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program.

**Subd. 10. Separate billing by certified registered nurse anesthetists.** Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.

For admissions occurring on or after July 1, 1991, and until the expiration date of section 256.9695, subdivision 3, services of certified registered nurse anesthetists provided on an inpatient basis may be paid as allowed by section 256B.0625, subdivision 11, when the hospital's base year did not include the cost of these services. To be eligible, a hospital must notify the commissioner in writing by July 1, 1991, of the request and must comply with all other requirements of this subdivision.

**Subd. 11. Special rates.** The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital and recipient specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the requirements of subdivision 13, except that rates shall not be standardized by the case mix index or adjusted by relative values and hospice rates

shall not exceed the amount allowed under federal law. Rates and payments established under this subdivision must meet the requirements of section 256.9685, subdivisions 1 and 2. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this subdivision shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3a, 4a, 5a, and 7 to 14.

**Subd. 12. Rehabilitation distinct parts.** Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment, if allowed by federal law, established separately from other inpatient hospital services. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.

**Subd. 13. Neonatal transfers.** For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to subdivision 14. The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. For admissions occurring after the transition period specified in section 256.9695, subdivision 3, the operating payment rate portion of the rate shall be standardized by the case mix index and adjusted by relative values. The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this subdivision shall not be used to establish rates under subdivisions 2, 2b, 2c, 3a, 4a, 5a, and 7 to 14.

**Subd. 14. Transfers.** Except as provided in subdivisions 11 and 13, operating and property payment rates for admissions that result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined under this subdivision and subdivisions 2, 2b, 2c, 3a, 4a, 5a, and 7 to 12, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under this subdivision and subdivisions 2, 2b, 2c, 3a, 4a, 5a, and 7 to 13.

**Subd. 15. Routine service cost limitation; applicability.** The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

**Subd. 16. Indian health service facilities.** Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at charges as limited to the amount allowed under federal law. This exemption is not effective for payments under general assistance medical care.

**Subd. 17. Out-of-state hospitals in local trade areas.** Out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. For this subdivision and subdivision 18, local trade area means a county contiguous to Minnesota. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this subdivi-

vision until required by rule. Hospitals affected by this subdivision shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This subdivision is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this subdivision at least 90 days before the start of the hospital's fiscal year.

**Subd. 18. Out-of-state hospitals outside local trade areas.** Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this subdivision. Payments, including third party and recipient liability, established under this subdivision may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.

**Subd. 19. Metabolic disorder testing of medical assistance recipients.** Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.

**Subd. 20. Increases in medical assistance inpatient payments; conditions.** (a) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(b) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

**Subd. 21. Mental health or chemical dependency admissions; rates.** Admissions occurring on or after July 1, 1990, that are classified to a diagnostic category of mental health or chemical dependency shall have rates established according to the methods of subdivision 14, except the per day rate shall be multiplied by a factor of 2, provided that the total of the per day rates shall not exceed the per admission rate. This methodology shall also apply when a hold or commitment is ordered by the court for the days that inpatient hospital services are medically necessary. Stays which are medically necessary for inpatient hospital services and covered by medical assistance shall not be billable to any other governmental entity. Medical necessity shall be determined under criteria established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b).

**History:** 1991 c 292 art 4 s 25-29

## **256.9695 APPEALS OF RATES; PROHIBITED PRACTICES FOR HOSPITALS; TRANSITION RATES.**

**Subdivision 1. Appeals.** A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or 256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be imple-

mented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections 14.57 to 14.62, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.

(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. After December 31, 1990, payment rates shall not be adjusted for appeals of base year information that affect years prior to the rate year beginning January 1, 1991. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60-day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.

(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 120 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed.

*[For text of subsds 2 to 5, see M.S.1990]*

**History:** 1991 c 292 art 4 s 30

## **256.9751 CONGREGATE HOUSING SERVICES PROJECTS.**

**Subdivision 1. Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) **Congregate housing.** "Congregate housing" means federally or locally subsidized housing, designed for the elderly, consisting of private apartments and common areas which can be used for activities and for serving meals.

(b) **Congregate housing services projects.** "Congregate housing services project" means a project in which services are or could be made available to older persons who live in subsidized housing and which helps delay or prevent nursing home placement. To be considered a congregate housing services project, a project must have: (1) an on-site coordinator, and (2) a plan for providing a minimum of one meal per day, for each elderly participant, seven days a week.

(c) **On-site coordinator.** "On-site coordinator" means a person who works on-site in a building or buildings and who serves as a contact for older persons who need services, support, and assistance in order to delay or prevent nursing home placement.

(d) **Congregate housing services project participants or project participants.** "Congregate housing services project participants" or "project participants" means elderly persons 60 years old or older, who are currently residents of, or who are applying for residence in housing sites, and who need support services to remain independent.

**Subd. 2. Advisory committee.** An advisory committee shall be appointed to advise the Minnesota board on aging on the development and implementation of the congregate housing services projects. The advisory committee shall review procedures and provide advice and technical assistance to the Minnesota board on aging regarding the grant program established under this section. The advisory committee shall consist of not more than 15 people appointed by the Minnesota board on aging, and shall be com-

prised of representatives from public and nonprofit service and housing providers and consumers from all areas of the state. Members of the advisory committee shall not be compensated for service.

**Subd. 3. Grant program.** The Minnesota board on aging shall establish a congregate housing services grant program which will enable communities to provide on-site coordinators to serve as a contact for older persons who need services and support, and assistance to access services in order to delay or prevent nursing home placement.

**Subd. 4. Use of grant funds.** Grant funds shall be used to develop and fund on-site coordinator positions. Grant funds shall not be used to duplicate existing funds, to modify buildings, or to purchase equipment.

**Subd. 5. Grant eligibility.** A public or nonprofit agency or housing unit may apply for funds to provide a coordinator for congregate housing services to an identified population of frail elderly persons in a subsidized multiunit apartment building or buildings in a community. The board shall give preference to applicants that meet the requirements of this section, and that have a common dining site. Local match may be required. State money received may also be used to match federal money allocated for congregate housing services. Grants shall be awarded to urban and rural sites.

**Subd. 6. Criteria for selection.** The Minnesota board on aging shall select projects under this section according to the following criteria:

(1) the extent to which the proposed project assists older persons to age-in-place to prevent or delay nursing home placement;

(2) the extent to which the proposed project identifies the needs of project participants;

(3) the extent to which the proposed project identifies how the on-site coordinator will help meet the needs of project participants;

(4) the extent to which the proposed project assures the availability of one meal a day, seven days a week, for participants in need;

(5) the extent to which the proposed project demonstrates involvement of participants and family members in the project; and

(6) the extent to which the proposed project demonstrates involvement of housing providers and public and private service agencies, including area agencies on aging.

**Subd. 7. Grant applications.** The Minnesota board on aging shall request proposals for grants and award grants using the criteria in subdivision 6. Grant applications shall include:

(1) documentation of the need for congregate services so the residents can remain independent;

(2) a description of the resources, such as social services and health services, that will be available in the community to provide the necessary support services;

(3) a description of the target population, as defined in subdivision 1, paragraph (d);

(4) a performance plan that includes written performance objectives, outcomes, timelines, and the procedure the grantee will use to document and measure success in meeting the objectives; and

(5) letters of support from appropriate public and private agencies and organizations, such as area agencies on aging and county human service departments that demonstrate an intent to work with and coordinate with the agency requesting a grant.

**Subd. 8. Report.** By January 1, 1993, the Minnesota board on aging shall submit a report to the legislature evaluating the programs. The report must document the project costs and outcomes that helped delay or prevent nursing home placement. The report must describe steps taken for quality assurance and must also include recommendations based on the project findings.

**History:** 1991 c 292 art 7 s 7

**256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.**

*[For text of subs 1 to 7, see M.S.1990]*

**Subd. 8. Disqualification from program.** Any person found to be guilty of wrongfully obtaining assistance by a federal or state court, in either the aid to families with dependent children program or the food stamp program, shall be disqualified from that program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

- (1) for six months after the first conviction;
- (2) for 12 months after the second conviction; and
- (3) permanently after the third or subsequent conviction.

Any period for which sanctions are imposed is effective, without possibility of administrative stay, until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. When the disqualified individual is a caretaker relative, the remainder of the aid to families with dependent children grant payable to the other eligible assistance unit members must be provided in the form of protective payments. These payments may be made to the disqualified individual only if, after reasonable efforts, the county agency documents that it cannot locate an appropriate protective payee. Protective payments must continue until the disqualification period ends.

**History:** 1991 c 292 art 5 s 26

**256.983 FRAUD PREVENTION INVESTIGATIONS.**

**Subdivision 1. Programs established.** Within the limits of available appropriations, and to the extent required or authorized by applicable federal regulations, the commissioner of human services shall require the establishment of fraud prevention investigation programs in the seven counties participating in the fraud prevention investigation pilot project established under section 256.983, and in 11 additional Minnesota counties with the largest aid to families with dependent children program caseloads as of July 1, 1991. If funds are sufficient, the commissioner may also extend fraud prevention investigation programs to other counties that have welfare fraud control programs already in place based on enhanced funding contracts covering the fraud investigation function.

**Subd. 2. County proposals.** Each participating county agency shall develop and submit an annual staffing and funding proposal to the commissioner no later than April 30 of each year. Each proposal shall include, but not be limited to, the staffing and funding of the fraud prevention investigation program, a job description for investigators involved in the fraud prevention investigation program, and the organizational structure of the county agency unit, training programs for case workers, and the operational requirements which may be directed by the commissioner. The proposal shall be approved, to include any changes directed or negotiated by the commissioner, no later than June 30 of each year.

**Subd. 3. Department responsibilities.** The commissioner shall establish training programs which shall be attended by all investigative and supervisory staff of the involved county agencies. The commissioner shall also develop the necessary operational guidelines, forms, and reporting mechanisms, which shall be used by the involved county agencies.

**Subd. 4. Funding.** Every involved county agency shall either have in place or obtain an approved contract which meets all federal requirements necessary to obtain enhanced federal funding for its welfare fraud control and fraud prevention investigation programs. County agency reimbursement shall be made through the settlement provisions applicable to the aid to families with dependent children and food stamp programs.

**History:** 1991 c 292 art 5 s 27

**256.984 DECLARATION AND PENALTY.**

**Subdivision 1. Declaration.** Every application for food stamps under chapter 393 shall be in writing or reduced to writing as prescribed by the state agency and shall contain the following declaration which shall be signed by the applicant:

“I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than \$10,000, or both.”

**Subd. 2. Penalty.** Any person who willfully and falsely makes the declaration in subdivision 1 is guilty of perjury and shall be subject to the penalties prescribed in section 609.48.

**History:** 1991 c 292 art 5 s 28