

## CHAPTER 256

### HUMAN SERVICES

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

*[For text of subs 1 to 4, see M.S.1994]*

Subd. 4a. **Technical assistance for immunization reminders.** The state agency shall provide appropriate technical assistance to county agencies to develop methods to have county financial workers remind and encourage recipients of aid to families with dependent children, the Minnesota family investment plan, medical assistance, family general assistance, or food stamps whose assistance unit includes at least one child under the age of five to have each young child immunized against childhood diseases. The state agency must examine the feasibility of utilizing the capacity of a statewide computer system to assist county agency financial workers in performing this function at appropriate intervals.

*[For text of subs 5 to 11a, see M.S.1994]*

**Subd. 12. Child mortality review panel.** (a) The commissioner shall establish a child mortality review panel for reviewing deaths of children in Minnesota, including deaths attributed to maltreatment or in which maltreatment may be a contributing cause. The commissioners of health, children, families, and learning, and public safety and the attorney general shall each designate a representative to the child mortality review panel. Other panel members shall be appointed by the commissioner, including a board-certified pathologist and a physician who is a coroner or a medical examiner. The purpose of the panel shall be to make recommendations to the state and to county agencies for improving the child protection system, including modifications in statute, rule, policy, and procedure.

(b) The commissioner may require a county agency to establish a local child mortality review panel. The commissioner may establish procedures for conducting local reviews and may require that all professionals with knowledge of a child mortality case participate in the local review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the child protective service system. "Professional" includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.

(c) If the commissioner of human services has reason to believe that a child's death was caused by maltreatment or that maltreatment was a contributing cause, the commissioner has access to not public data under chapter 13 maintained by state agencies, statewide systems, or political subdivisions that are related to the child's death or circumstances surrounding the care of the child. The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; and records created by social service agencies that provided services to the child or family within three years preceding the child's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local child mortality review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any other agency, data acquired by a local or state child mortality review panel in the exercise of its duties is protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but shall not disclose data that was classified as confidential or private data on decedents, under section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency.

(e) A person attending a child mortality review panel meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a county agency, arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review meetings.

**Subd. 13. Pilot project; protocols for persons lacking proficiency in English.** The commissioner of human services shall establish pilot projects in Hennepin and Ramsey counties to provide language assistance to clients applying for or receiving aid through the county social service agency. The projects shall be designed to provide translation, in the five foreign languages that are most common to applicants and recipients in the pilot counties, to individuals lacking proficiency in English, who are applying for or receiving assistance under any program supervised by the commissioner of human services. As part of the project, the commissioner shall ensure that the Combined Application Form (CAF) is available in

these five languages. The projects shall also provide language assistance to individuals applying for or receiving aid under programs which the department of human services operates jointly with other executive branch agencies, including all work and training programs operated under this chapter and chapter 256D. The purpose of the pilot projects is to ensure that information regarding a program is presented in translation to applicants for and recipients of assistance who lack proficiency in English. In preparing the protocols to be used in the pilot programs, the commissioner shall seek input from the following groups: advocacy organizations that represent non-English-speaking clients, county social service agencies, legal advocacy groups, employment and training providers, and other affected groups. The commissioner shall develop the protocols by October 1, 1995, and shall implement them as soon as feasible in the pilot counties. The commissioner shall report to the legislature by February 1, 1996, on the protocols developed, on the status of their implementation in the pilot counties, and shall include recommendations for statewide implementation.

**History:** 1995 c 178 art 2 s 1,2; 1Sp1995 c 3 art 16 s 13

#### **256.014 STATE AND COUNTY SYSTEMS.**

**Subdivision 1. Establishment of systems.** The commissioner of human services shall establish and enhance computer systems necessary for the efficient operation of the programs the commissioner supervises, including:

- (1) management and administration of the food stamp and income maintenance programs, including the electronic distribution of benefits;
- (2) management and administration of the child support enforcement program; and
- (3) administration of medical assistance and general assistance medical care.

The commissioner shall distribute the nonfederal share of the costs of operating and maintaining the systems to the commissioner and to the counties participating in the system in a manner that reflects actual system usage, except that the nonfederal share of the costs of the MAXIS computer system and child support enforcement systems shall be borne entirely by the commissioner. Development costs must not be assessed against county agencies.

*[For text of subs 2 and 3, see M.S.1994]*

**History:** 1995 c 207 art 2 s 21

#### **256.015 PUBLIC ASSISTANCE LIEN ON RECIPIENT'S CAUSE OF ACTION.**

**Subdivision 1. State agency has lien.** When the state agency provides, pays for, or becomes liable for medical care or furnishes subsistence or other payments to a person, the agency has a lien for the cost of the care and payments on all causes of action that accrue to the person to whom the care or payments were furnished, or to the person's legal representatives, as a result of the occurrence that necessitated the medical care, subsistence, or other payments. For purposes of this section, "state agency" includes authorized agents of the state agency.

**Subd. 2. Perfection; enforcement.** The state agency may perfect and enforce its lien under sections 514.69, 514.70, and 514.71, and must file the verified lien statement with the appropriate court administrator in the county of financial responsibility. The verified lien statement must contain the following: the name and address of the person to whom medical care, subsistence, or other payment was furnished; the date of injury; the name and address of vendors furnishing medical care; the dates of the service or payment; the amount claimed to be due for the care or payment; and to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries.

This section does not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is first received by it under subdivision 4, paragraph (c), even if the notice is untimely, or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received, or (2) the date the person's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

[For text of subs 3 to 6, see M.S.1994]

**Subd. 7. Cooperation required.** Upon the request of the department of human services, any state agency or third party payer shall cooperate with the department in furnishing information to help establish a third party liability. Upon the request of the department of human services or county child support or human service agencies, any employer or third party payer shall cooperate in furnishing information about group health insurance plans or medical benefit plans available to its employees. The department of human services and county agencies shall limit its use of information gained from agencies, third party payers, and employers to purposes directly connected with the administration of its public assistance and child support programs. The provision of information by agencies, third party payers, and employers to the department under this subdivision is not a violation of any right of confidentiality or data privacy.

**History:** 1995 c 207 art 6 s 9-11

## 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, except for the programs in subdivision 2, clauses (4), (7), and (13). The 1990 base amount for subdivision 2, clause (4), shall be reduced by one-seventh for each county, and the 1990 base amount for subdivision 2, clause (7), shall be reduced by seven-tenths for each county, and those amounts in total shall be the 1990 base amount for group residential housing in subdivision 2, clause (13).

(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, excluding county optional costs which are not reimbursable with state funds. 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 2002 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, for assistance costs incurred prior to July 1, 1995;

(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 for employment and training services costs incurred prior to July 1, 1995;

(10) case management services under section 256.736, subdivision 13, for case management service costs incurred prior to July 1, 1995;

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

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

(13) group residential housing under section 256I.05, subdivision 8, transferred from programs in clauses (4) and (7).

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. Reimbursement may take the form of offsets to billings of a county, if the county agrees to the offset process.

(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 or quarterly pay to the state, as required by the department of human services, the portion of program costs not met by federal and state funds. The payment 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 or quarterly pay 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 payments shall be made by the state agency in any succeeding month.

*[For text of subs 4 and 5, see M.S.1994]*

**History:** 1995 c 207 art 2 s 22-24

#### **256.026 ANNUAL APPROPRIATION.**

(a) There shall be appropriated from the general fund to the commissioner of human services in fiscal year 1996 the amount of \$136,154,768 and in fiscal year 1997 and each fiscal year thereafter the amount of \$133,781,768.

(b) In addition to the amount in paragraph (a), there shall also be annually appropriated from the general fund to the commissioner of human services in fiscal years 1996, 1997, 1998, 1999, 2000, and 2001 the amount of \$5,574,241.

(c) The amounts appropriated under paragraphs (a) and (b) shall be used with other appropriations to make payments required under section 256.025 for fiscal year 1996 and thereafter.

**History:** 1995 c 207 art 2 s 25.

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

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. **Authorization for the demonstration.** (a) The commissioner of human services, in consultation with the commissioners of children, families, and learning, finance, economic security, health, and planning, and the director of the higher education services office, 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 family services committee, the house health and human services committee, the health care and family services division of the senate family services and health care committees and the human services division of the house health and human services 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 comparison 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 tested for eligibility for aid to families with dependent children or family general assistance and may be assigned by the commissioner to a test or a comparison group for the purposes of evaluating the family investment plan. A family found not eligible for aid to families with dependent children or family general assistance will be tested for eligibility for the food stamp program. If found eligible for the food stamp program, the commissioner may randomly assign the family to a test group, comparison group, or neither group. Families assigned to a test group receive benefits and services through the family investment plan. Families assigned to a comparison 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, an eligible 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 test 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.

*[For text of subs 4 and 5, see M.S.1994]*

**History:** 1995 c 212 art 3 s 59; 1Sp1995 c 3 art 16 s 13

#### **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 245.771, 256.72 to 256.87, 256D.01 to 256D.21, or 393.07, subdivisions 10 and 10a, 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. Unless stated otherwise in statutes or rules governing the Minnesota family investment plan, participants in the Minnesota family investment plan shall be considered to be recipients of aid under aid to families with dependent children, family general assistance, and food stamps for the purposes of statutes and rules affecting such recipients or allocations of funding based on the assistance status of the recipients, and to specifically be subject to the provisions of section 256.98.

*[For text of subs 2 to 5, see M.S.1994]*

**History:** 1995 c 207 art 2 s 26

#### **256.035 INCOME SUPPORT AND TRANSITION.**

*[For text of subs 1 to 6c, see M.S.1994]*

**Subd. 6d. Obligation to seek and obtain full-time employment.** (a) 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.

(b) When the family support agreement specifies job search consistent with the overall employment goal, the caregiver is expected to seek and accept full-time employment. For this purpose, full-time employment means 30 or more hours a week. Caregivers who are single parents with a child under six satisfy this requirement by working 20 or more hours a week.

(c) A caregiver who voluntarily quits suitable employment without good cause or without agreement of the case manager, or who is terminated for nonperformance, must contact the case manager within ten calendar days of the date employment ended to schedule a meeting to revise the family support agreement. A caregiver who fails to contact the case manager within the required time or fails to attend a scheduled meeting to revise the family support agreement is subject to sanction. If the revised family support agreement specifies job search, the caregiver must take any suitable employment. A caregiver who fails to comply is subject to sanction. A caregiver who voluntarily quits suitable employment with good cause or who is laid off must contact the case manager within ten calendar days of the date employment ended to schedule a meeting to revise the family support agreement. A caregiver who fails to contact the case manager within the required time or fails to attend a scheduled meeting to revise the family support agreement is subject to sanction. If the family support agreement specifies job search, the search is limited to three months to find a job related to the caregiver's overall employment goal. After three months, the caregiver must take any suitable employment. A caregiver who fails to comply is subject to sanction.

*[For text of subds 6e to 9, see M.S.1994]*

**History:** 1995 c 178 art 4 s 1

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

**Subdivision 1. Powers of the state agency.** The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, 3a, 3b, 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

**Subd. 3. State agency hearings.** (a) State agency hearings are available for the following: (1) 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; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; or (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition 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, decision, or final disposition, 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.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(b) 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, except if assisting a recipient as provided in subdivision 4.

(c) 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 subd 3a, see M.S.1994]*

**Subd. 3b. Standard of evidence for maltreatment hearings.** The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under section 626.557.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's findings as to whether maltreatment occurred is conclusive.

**Subd. 4. Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In cases alleging discharge for maltreatment, either party may subpoena the private data relating to the investigation memorandum prepared by the lead agency under section 626.557, provided the name of the reporter may not be disclosed.

(b) The private data must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than \$700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal, except in appeals brought under subdivision 3b. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the recipient has the opportunity to respond.

**Subd. 4a. Case management appeals.** Any recipient of case management services pursuant to section 256B.092, who contests the county agency's action or failure to act in the



provision of those services, other than a failure to act with reasonable promptness or a suspension, reduction, denial, or termination of services, must submit a written request for a conciliation conference to the county agency. The county agency shall inform the commissioner of the receipt of a request when it is submitted and shall schedule a conciliation conference. The county agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the conciliation conference. The commissioner may assist the county by providing mediation services or by identifying other resources that may assist in the mediation between the parties. Within 30 days, the county agency shall conduct the conciliation conference and inform the recipient in writing of the action the county agency is going to take and when that action will be taken and notify the recipient of the right to a hearing under this subdivision. The conciliation conference shall be conducted in a manner consistent with the commissioner's instructions. If the county fails to conduct the conciliation conference and issue its report within 30 days, or, at any time up to 90 days after the conciliation conference is held, a recipient may submit to the commissioner a written request for a hearing before a state human services referee to determine whether case management services have been provided in accordance with applicable laws and rules or whether the county agency has assured that the services identified in the recipient's individual service plan have been delivered in accordance with the laws and rules governing the provision of those services. The state human services referee shall recommend an order to the commissioner, who shall, in accordance with the procedure in subdivision 5, issue a final order within 60 days of the receipt of the request for a hearing, unless the commissioner refuses to accept the recommended order, in which event a final order shall issue within 90 days of the receipt of that request. The order may direct the county agency to take those actions necessary to comply with applicable laws or rules. The commissioner may issue a temporary order prohibiting the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A, while a county agency review process or an appeal brought by a recipient under this subdivision is pending, or for the period of time necessary for the county agency to implement the commissioner's order. The commissioner shall not issue a final order staying the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A.

**Subd. 5. Orders of the commissioner of human services.** This subdivision does not apply to appeals under subdivision 3b. A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the county agency and the applicant, recipient, former recipient, or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the county agency and the applicant, recipient, former recipient, or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency or a county agency until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

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 or seek judicial review of an order issued under this section, unless assisting a recipient as provided in subdivision 4.

**Subd. 6. Additional powers of the commissioner; subpoenas.** (a) The commissioner of human services, or the commissioner of health for matters within the commissioner's jurisdiction under subdivision 3b, may initiate a review of any action or decision of a county agency and direct that the matter be presented to a state human services referee for a hearing held under subdivision 3, 3a, 3b, or 4a. In all matters dealing with human services committed by law to the discretion of the county agency, the commissioner's judgment may be substituted for that of the county agency. The commissioner may order an independent examination when appropriate.

(b) Any party to a hearing held pursuant to subdivision 3, 3a, 3b, or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing. The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.

(c) The commissioner may issue a temporary order staying a proposed demission by a residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending or for the period of time necessary for the county agency to implement the commissioner's order.

**Subd. 7. Judicial review.** Any party who is aggrieved by an order of the commissioner of human services, or the commissioner of health in appeals within the commissioner's jurisdiction under subdivision 3b, may appeal the order to the district court of the county responsible for furnishing assistance, or, in appeals under subdivision 3b, the county where the maltreatment occurred, by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision, with the exception of appeals taken under subdivision 3b. The commissioner may elect to become a party to the proceedings in the district court. Except for appeals under subdivision 3b, any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

**Subd. 8. Hearing.** Any party may obtain a hearing at a special term of the district court by serving a written notice of the time and place of the hearing at least ten days prior to the date of the hearing. Except for appeals under subdivision 3b, the court may consider the matter in or out of chambers, and shall take no new or additional evidence unless it determines that such evidence is necessary for a more equitable disposition of the appeal.

**Subd. 9. Appeal.** Any party aggrieved by the order of the district court may appeal the order as in other civil cases. Except for appeals under subdivision 3b, no costs or disbursements shall be taxed against any party nor shall any filing fee or bond be required of any party.

*[For text of subd 10, see M.S.1994]*

**History:** 1995 c 207 art 2 s 27-29; art 11 s 5; 1995 c 229 art 3 s 6-14

## **256.047 EXPANSION OF MFIP TO RAMSEY COUNTY (MFIP-R).**

**Subdivision 1. Mission statement.** The goal of MFIP-R employment and pre-employment services is to help caregivers increase their family income in a timely manner through paid employment.

**Subd. 2. Service providing agencies.** Employment and pre-employment services must be offered by providers certified by the commissioner of economic security who meet the standards in section 268.871, subdivision 1. County agencies must ensure that all services, including contracted services, meet the requirements of MFIP-R services according to section 256.048, subdivision 6.

**Subd. 3. Staffing.** County agencies may hire MFIP-R staff, which includes employment specialists, job developers, and vocational counselors to provide pre-employment and employment services described in section 256.048, subdivision 6, and coordinate social and support services. County agencies are expected to ensure that staff providing employment and pre-employment services have the necessary training and experience to perform the specific services which they are assigned to do.

**History:** 1995 c 178 art 7 s 1

**NOTE:** This section, as added by Laws 1995, chapter 178, article 7, section 1, is effective July 1, 1996. See Laws 1995, chapter 178, article 7, section 6.

### 256.0475 DEFINITIONS.

**Subdivision 1. Employability plan.** "Employability plan" means the plan developed by MFIP-R staff and the caregiver under section 256.048.

**Subd. 2. Family support agreement.** "Family support agreement" means the subsection of the employability plan which is limited to employment, education, employment and training services, and scheduled meetings with MFIP-R staff. For mandatory caregivers, noncompliance with the family support agreement may result in sanction.

**Subd. 3. Mandatory caregiver.** "Mandatory caregiver" means a caregiver who is required to develop a family support agreement under section 256.048, and is not exempt under that section.

**Subd. 4. MFIP-R.** "MFIP-R" means the pre-employment and employment program under section 256.048 provided to caregivers assigned to the Minnesota family investment plan in Ramsey county who receive financial assistance under sections 256.033, 256.034, and 256.036.

**History:** 1995 c 178 art 7 s 2

**NOTE:** This section, as added by Laws 1995, chapter 178, article 7, section 2, is effective July 1, 1996. See Laws 1995, chapter 178, article 7, section 6.

### 256.048 INCOME SUPPORT AND TRANSITION.

**Subdivision 1. Expectations.** The requirement for a caregiver to develop a family support agreement is tied to the structure of the family and the length of time on assistance according to paragraphs (a) to (c).

(a) In a family headed by a single adult parental caregiver who has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP assistance for 12 or more months within the preceding 24 months, the parental caregiver must be developing and complying with the terms of the family support agreement commencing with the 13th month of assistance.

(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 parental caregiver must be developing and complying with a family support agreement concurrent with the receipt of assistance. The terms of the family support agreement must include compliance with section 256.736, subdivision 3b. If the parental caregiver fails to comply with the terms of the family support agreement, the sanctions in subdivision 4 apply. When the requirements in section 256.736, subdivision 3b, have been met, a caregiver has fulfilled the caregiver's obligation. County agencies must continue to offer MFIP-R services if the caregiver wants to continue with an employability plan. Caregivers who fulfill the requirements of section 256.736, subdivision 3b, are subject to the expectations of paragraphs (a) and (c).

(c) In a family with two adult parental caregivers, at least one of whom has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP assistance for six or more months within the preceding 12 months, one parental caregiver must be developing and complying with the terms of the family support

agreement commencing with the seventh month of assistance. The family and MFIP-R staff will designate the parental caregiver who will develop the family support agreement based on which parent has the greater potential to increase family income through immediate employment.

**Subd. 2. Exemptions.** A caregiver is exempt from expectations as provided in paragraphs (a) and (b).

(a) Except for clause (4), which applies only for a single-parent family, a caregiver in a single-parent or two-parent family is exempt from the expectations of MFIP-R if the caregiver is:

- (1) ill, incapacitated, or 60 years of age or older;
- (2) needed in the home because of the illness or incapacity of another family member;
- (3) the parent of a child under one year of age and is personally providing care for the child. This exemption does not apply to the school attendance requirement for minor parents or 18- and 19-year old parents as provided in section 256.736, subdivision 3b, paragraphs (f) and (g);
- (4) the parent of a child under six years of age and is employed or participating in education or employment and training services for 20 or more hours per week. This exemption does not apply to the school attendance requirement for minor parents or 18- and 19-year-old parents as provided in section 256.736, subdivision 3b, paragraph (f), clause (5);
- (5) working 30 hours or more per week or, if the number of hours cannot be verified, earns weekly, at least the federal minimum hourly wage rate multiplied by 30;
- (6) in the second or third trimester of pregnancy; or
- (7) not the natural parent, adoptive parent, or stepparent of a minor child in the assistance unit.

(b) In a two-parent household, only one parent may be exempt under paragraph (a), clause (2) or (3). If paragraph (a), clause (5), applies to either parent in a two-parent family, the other parent is exempt. In a two-parent household, if the parent designated to develop a family support agreement becomes exempt and the exemption is expected to last longer than six months, then the second parent is required to develop a family support agreement unless otherwise exempt under paragraph (a).

**Subd. 3. Good cause for failure to comply.** Caregivers may claim the following reasons as good cause for failure to comply with the expectations of MFIP-R employment and pre-employment services:

- (1) needed child care is not available;
- (2) the job does not meet the definition of suitable employment according to section 256.736, subdivision 1a, paragraph (h);
- (3) the parental caregiver is ill, incapacitated, or injured;
- (4) a family member is ill and needs care by the parental caregiver;
- (5) the parental caregiver is unable to secure the necessary transportation;
- (6) the parental caregiver is in an emergency situation;
- (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 the age of 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 but employment is not available;
- (12) the parental caregiver documents other verifiable impediments to compliance with the family support agreement beyond the parental caregiver's control; or
- (13) the family support agreement requires an educational program for a parent under the age of 20, but the only available school program requires round trip commuting time from the custodial parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

**Subd. 4. Sanction.** The county agency must reduce an assistance unit's assistance payment by ten percent of the transitional standard for the applicable family size when a caregiver, who is not exempt from the expectations in this section, fails to attend a mandatory briefing, fails to attend scheduled meetings with MFIP-R staff, or fails to develop or comply with the terms of the caregiver's family support agreement. MFIP-R staff must send caregivers a notice of intent to sanction. For the purpose of this section, "notice of intent to sanction" means MFIP-R staff must provide written notification to the caregiver that the caregiver is not fulfilling the requirement to develop or comply with the family support agreement. This notification must inform the caregiver of the right to request a conciliation conference within ten days of the mailing of the notice of intent to sanction or the right to request a fair hearing under section 256.045. If a caregiver requests a conciliation conference, the county agency must postpone implementation of the sanction pending completion of the conciliation conference. If the caregiver does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the MFIP-R staff must notify the county agency that the assistance payment should be reduced.

Upon notification from MFIP-R staff that an assistance payment should be reduced, the county agency must send a notice of adverse action to the caregiver stating that the assistance payment will be reduced in the next month following the ten-day notice requirement and state the reason for the action. For the purpose of this section, "notice of adverse action" means the county agency must send a notice of sanction, reduction, suspension, denial, or termination of benefits before taking any of those actions. The caregiver may request a fair hearing under section 256.045, upon notice of intent to sanction or notice of adverse action, but the conciliation conference is available only upon notice of intent to sanction.

**Subd. 5. Orientation.** The county agency must provide a financial assistance orientation which supplies information to caregivers about the MFIP-R and must encourage parental caregivers to engage in activities to stabilize the family and lead to employment and self-support.

**Subd. 6. Pre-employment and employment services.** The county agency must provide services identified in clauses (1) to (10). Services include:

(1) a required briefing for all nonmandatory caregivers assigned to MFIP-R, which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services, an overview of job search techniques, and the opportunity to volunteer for MFIP-R job search activities and basic education services;

(2) a briefing for all mandatory caregivers assigned to MFIP-R, which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services;

(3) an MFIP assessment that meets the requirements of section 256.736, subdivision 10, paragraph (a), clause (14), and addresses caregivers' skills, abilities, interests, and needs;

(4) development, together with the caregiver, of an employability plan and family support agreement according to subdivision 7;

(5) coordination of services including child care, transportation, education assistance, and social services necessary to enable caregivers to fulfill the terms of the employability plan and family support agreement;

(6) provision of full-time English as a second language (ESL) classes;

(7) provision of a broad range of employment and pre-employment services including basic skills testing, interest and aptitude testing, career exploration, job search activities, community work experience program under section 256.737, or on-the-job training under section 256.738;

(8) evaluation of the caregiver's compliance with the employability plan and family support agreement and support and recognition of progress toward employment goals;

(9) provision of postemployment follow-up for up to six months after caregivers become exempt or exit MFIP-R due to employment if requested by the caregiver; and

(10) approval of education and training program activities.

**Subd. 7. Employability plan and family support agreement.** (a) The caregiver and MFIP-R staff will develop an employability plan and family support agreement. The employability plan includes the caregiver's overall employment goal, activities necessary to reach that goal, a timeline for each activity, and the support services provided by the agency. All activities in the employability plan must contribute to the caregiver's overall employment goal.

(b) The family support agreement is the enforceable section of an employability plan for mandatory caregivers. The family support agreement must be limited to employment, education, or employment and training services, and scheduled meetings with MFIP-R staff. The family support agreement must be signed by both an MFIP-R staff and the parental caregiver.

(1) In developing an employability plan and family support agreement, MFIP-R staff must discuss with the caregiver the economic benefits under MFIP of taking available employment. MFIP-R staff must provide examples of how different levels of earnings increase available income.

(2) Activities in the family support agreement must enhance the family's opportunities to increase its income in a timely manner through paid employment.

(3) Each step of the family support agreement shall build upon prior steps and facilitate progress toward the caregiver's overall employment goal.

(4) Social services, such as mental health or chemical dependency services, parenting education, or budget management, can be included in the employability plan but not in the family support agreement and are not subject to sanctions under subdivision 4.

(5) The family support agreement must state the parental caregiver's obligations and the standards for satisfactory compliance with the requirements of MFIP-R.

**Subd. 8. Requirement to attend briefing.** All MFIP-R caregivers are required to attend a mandatory briefing which includes a review of the information presented at an earlier MFIP-R orientation pursuant to subdivision 5, and an overview of services available under MFIP-R pre-employment and employment services.

**Subd. 9. Requirement to participate in job search.** The family support agreement for mandatory caregivers will include 30 hours per week of job search activity. The family support agreement for single parental caregivers with a child under the age of six may require no more than 20 hours of job search activity. Job search requirements do not apply to minor parental caregivers and parental caregivers under the age of 20 who must meet the educational requirement under section 256.736, subdivision 3b.

**Subd. 10. Length of job search.** Caregivers participating in job search shall have eight weeks to find employment which is consistent with the employment goal in the family support agreement. If after eight weeks of job search the parental caregiver does not find employment consistent with the overall employment goal, the caregiver must accept any suitable employment.

**Subd. 11. Level of employment.** Caregivers participating in job search are expected to seek and accept full-time employment. Any caregiver satisfies this requirement by working at least 30 hours per week. Single parents with a child under the age of six satisfy the requirement by working at least 20 hours per week.

**Subd. 12. Cessation of employment.** Mandatory caregivers who quit a job, are laid off, or are terminated must contact MFIP-R staff within ten calendar days of the date the employment ended to schedule a meeting to revise the family support agreement to incorporate job search activities to obtain suitable employment. A caregiver who fails to contact MFIP-R staff within ten calendar days, fails to attend a scheduled meeting to revise the family support agreement, or fails to accept an offer of suitable employment is subject to sanctions under subdivision 4.

**Subd. 13. Education and training activities; basic education.** Basic education, including adult basic education, high school or general equivalency diploma, or ESL may be included in the family support agreement when a caregiver is actively participating in job search activities as specified in the family support agreement, or employed at least 12 hours per week. Six months of basic education activities may be included in the family support

agreement, and extension of basic education activities is contingent upon review and approval by MFIP-R staff.

Non-English-speaking caregivers have the option to participate in full-time ESL activities for up to six months prior to participation in job search with approval of MFIP-R staff.

**Subd. 14. Education and training activities; post-secondary education.** (a) Mandatory caregivers, mandatory caregivers who become exempt, and caregivers converted from STRIDE or ACCESS may have post-secondary education included in the family support agreement. For individuals who are participating in an educational program under this paragraph on a full-time basis as determined by the institution, there is no work requirement. For individuals participating in an educational program on a part-time basis as determined by the institution, the minimum number of hours that a participant must work shall be increased or decreased in inverse proportion to the number of credit hours being taken, up to a maximum of 12 hours weekly of work.

(b) Conditions for approval of a post-secondary education program include demonstration by the caregiver that:

(1) there is a market for full-time employees with this education or training where the caregiver will or is willing to reside upon completion of the program;

(2) the average wage level for employees with this education or training is significantly greater than the caregiver can earn without this education or training;

(3) the caregiver can meet the requirements for admission into the program; and

(4) there is a reasonable expectation that the caregiver will complete the training program based on such factors as the caregiver's current MFIP assessment; previous education, training, and work history; current motivation; and changes in previous circumstances.

(c) A comparison must be made between income foregone by delaying immediate entry into full-time paid employment while in pursuit of education or training and the probable income which will be earned following the education or training. The advantages and disadvantages to the family must be discussed with respect to both options.

(d) Activities under this subdivision are limited to the equivalent of two years of full-time education, with the following exceptions:

(1) caregivers in subdivision 15;

(2) caregivers who have already obtained a post-secondary degree. These caregivers are limited to course work necessary to upgrade skills, or obtain licensure or certification;

(3) extenuating circumstances that prohibit the caregiver from completing the program within the equivalent of two years; or

(4) the education activities may be part of a four-year education program provided the family support agreement specifies that the employment goal will be met at the time the caregiver completes the equivalent of two years of full-time education or that the caregiver will participate in activities leading to the employment goal following completion of the two years of full-time education.

(e) Caregivers in education or training programs must maintain satisfactory progress. "Satisfactory progress" in an education or training program means the caregiver remains in good standing as defined by the education or training institution and meets the requirements in the caregiver's MFIP-R employability plan. MFIP-R staff may withdraw approval of the caregiver's employability plan when the caregiver does not maintain satisfactory progress in the education or training program.

**Subd. 15. Converted STRIDE and ACCESS cases.** Caregivers with an employability plan from STRIDE or ACCESS must develop an MFIP-R employability plan. With approval of the MFIP-R staff, the family support agreement for caregivers under this section may include continuation of educational activities, up to a baccalaureate degree, if initiated under STRIDE or ACCESS. Caregivers who continue these activities must also participate in job search or work at least 12 hours per week.

**Subd. 16. Revisions to family support agreement.** The caregiver may revise the family support agreement with approval of MFIP-R staff.

**Subd. 17. Volunteers for MFIP-R pre-employment and employment services.** (a) Upon request, local agencies must continue to offer MFIP-R services to:

(1) caregivers with a signed family support agreement who become exempt under subdivision 2; and

(2) caregivers randomly assigned to MFIP during the conversion period who have an active STRIDE or ACCESS plan.

(b) County agencies must also service the following caregivers, as funding allows:

(1) second parent in a two-parent family; and

(2) caregivers who have not reached the timing for mandatory participation.

(c) Volunteers under paragraph (a) may access all MFIP-R services. Volunteers under paragraph (b), clause (1), may access MFIP-R job search and basic education services only. Volunteers under paragraph (b), clause (2), may access only MFIP-R job search services.

(d) Caregivers identified in this subdivision are voluntary participants for MFIP-R pre-employment and employment services and may not be sanctioned for failure to cooperate unless they reach the timing of MFIP-R pre-employment and employment services under subdivision 6, or are no longer exempt under subdivision 2.

**Subd. 18. Conciliation.** The county agency must inform the mandatory parental caregiver of the option of a conciliation conference when the mandatory parental caregiver receives a notice of intent to sanction or cannot reach agreement with MFIP-R staff about the contents or interpretation of the family support agreement.

Conciliation procedures shall be available as provided in section 256.736, subdivision 11, paragraph (c). Upon receiving a notice of intent to sanction, a caregiver may request a hearing under section 256.045 without exercising the option of a conciliation conference.

**Subd. 19. Child care.** The commissioner shall ensure that each MFIP caregiver who is employed or is developing or is engaged in activities identified in an employability plan under subdivision 7, and who needs assistance with child care costs to be employed or to develop or comply with the terms for an employability plan, receives a child care subsidy through child care money appropriated for the MFIP. 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 and leaves the program as a result of increased earnings from employment, and 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. 20. 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:** 1995 c 178 art 7 s 3

**NOTE:** This section, as added by Laws 1995, chapter 178, article 7, section 3, is effective July 1, 1996. See Laws 1995, chapter 178, section 6.

### 256.049 APPLICABILITY.

Section 256.035 will not apply to the expansion of MFIP into Ramsey county (MFIP-R). Sections 256.047 to 256.048 will substitute for section 256.035 for the purposes of MFIP-R. Sections 256.031 to 256.034, and 256.036, 256.0361, and 268.871 are applicable to MFIP-R insofar as they are not inconsistent with sections 256.047 to 256.048. Minnesota Rules, part 9500.4220, does not apply to MFIP-R. Minnesota Rules, parts 9500.4000 to 9500.4210, and 9500.4230 to 9500.4340, are applicable to the expansion of MFIP into Ramsey county insofar as they are not inconsistent with sections 256.047 to 256.048.

**History:** 1995 c 178 art 7 s 4

**NOTE:** This section, as added by Laws 1995, chapter 178, article 7, section 4, is effective July 1, 1996. See Laws 1995, chapter 178, article 7, section 6.

### 256.12 DEFINITIONS.

*[For text of subs 9 and 10, see M.S.1994]*

**Subd. 14. Dependent child.** (a) "Dependent child," as used in sections 256.72 to 256.87, means a child under the age of 18 years, or a child under the age of 19 years who is



regularly attending as a full-time student, and is expected to complete before reaching age 19, a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment, who is found to be deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity of a parent, or who is a child of an unemployed parent as that term is defined by the commissioner of human services, such definition to be consistent with and not to exceed minimum standards established by the Congress of the United States and the Secretary of Health and Human Services. When defining "unemployed parent," the commissioner shall count up to four calendar quarters of full-time attendance in any of the following toward the requirement that a principal earner have six or more quarters of work in any 13 calendar quarter period ending within one year before application for aid to families with dependent children:

- (1) an elementary or secondary school;
- (2) a federally approved vocational or technical training course designed to prepare the parent for gainful employment; or
- (3) full-time participation in an education or training program established under the Job Training Partnership Act.

(b) Dependent child also means a child:

- (1) whose relatives are liable under the law for the child's support and are not able to provide adequate care and support of the child; and
- (2) who is living with a parent or a person in one of the groups listed under Code of Federal Regulations, title 45, section 233.90(c)(1)(v)(A) in a place of residence maintained by one or more of these relatives as a home.

(c) Dependent child also means a child who has been removed from the home of a relative after a judicial determination that continuance in the home would be contrary to the welfare and best interests of the child and whose care and placement in a foster home, a different relative's home, or a private licensed child care institution is, in accordance with the rules of the commissioner, the responsibility of the state or county agency under sections 256.72 to 256.87.

*[For text of subs 15 to 23, see M.S.1994]*

**History:** 1995 c 207 art 5 s 1

## **256.476 CONSUMER SUPPORT PROGRAM.**

**Subdivision 1. Purpose and goals.** The commissioner of human services shall establish a consumer support grant program to assist individuals with functional limitations and their families in purchasing and securing supports which the individuals need to live as independently and productively in the community as possible. The commissioner and local agencies shall jointly develop an implementation plan which must include a way to resolve the issues related to county liability. The program shall:

- (1) make support grants available to individuals or families as an effective alternative to existing programs and services, such as the developmental disability family support program, the alternative care program, personal care attendant services, home health aide services, and nursing facility services;
- (2) provide consumers more control, flexibility, and responsibility over the needed supports;
- (3) promote local program management and decision making; and
- (4) encourage the use of informal and typical community supports.

**Subd. 2. Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) "County board" means the county board of commissioners for the county of financial responsibility as defined in section 256G.02, subdivision 4, or its designated representative. When a human services board has been established under sections 402.01 to 402.10, it shall be considered the county board for the purposes of this section.

(b) "Family" means the person's birth parents, adoptive parents or stepparents, siblings or stepsiblings, children or stepchildren, grandparents, grandchildren, niece, nephew, aunt, uncle, or spouse. For the purposes of this section, a family member is at least 18 years of age.

(c) "Functional limitations" means the long-term inability to perform an activity or task in one or more areas of major life activity, including self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living. For the purpose of this section, the inability to perform an activity or task results from a mental, emotional, psychological, sensory, or physical disability, condition, or illness.

(d) "Informed choice" means a voluntary decision made by the person or the person's legal representative, after becoming familiarized with the alternatives to:

- (1) select a preferred alternative from a number of feasible alternatives;
- (2) select an alternative which may be developed in the future; and
- (3) refuse any or all alternatives.

(e) "Local agency" means the local agency authorized by the county board to carry out the provisions of this section.

(f) "Person" or "persons" means a person or persons meeting the eligibility criteria in subdivision 3.

(g) "Responsible individual" means an individual designated by the person or their legal representative to act on their behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or their legal representative, if any, to assist in purchasing and arranging for supports. For the purposes of this section, a responsible individual is at least 18 years of age.

(h) "Screening" means the screening of a person's service needs under sections 256B.0911 and 256B.092.

(i) "Supports" means services, care, aids, home modifications, or assistance purchased by the person or the person's family. Examples of supports include respite care, assistance with daily living, and adaptive aids. For the purpose of this section, notwithstanding the provisions of section 144A.43, supports purchased under the consumer support program are not considered home care services.

**Subd. 3. Eligibility to apply for grants.** (a) A person is eligible to apply for a consumer support grant if the person meets all of the following criteria:

(1) the person is eligible for medical assistance as determined under sections 256B.055 and 256B.056 or the person is eligible for alternative care services as determined under section 256B.0913;

(2) the person is able to direct and purchase the person's own care and supports, or the person has a family member, legal representative, or other responsible individual who can purchase and arrange supports on the person's behalf;

(3) the person has functional limitations, requires ongoing supports to live in the community, and is at risk of or would continue institutionalization without such supports; and

(4) the person will live in a home. For the purpose of this section, "home" means the person's own home or home of a person's family member. These homes are natural home settings and are not licensed by the department of health or human services.

(b) Persons may not concurrently receive a consumer support grant if they are:

(1) receiving home and community-based services under United States Code, title 42, section 1396h(c); personal care attendant and home health aide services under section 256B.0625; a developmental disability family support grant; or alternative care services under section 256B.0913; or

(2) residing in an institutional or congregate care setting.

(c) A person or person's family receiving a consumer support grant shall not be charged a fee or premium by a local agency for participating in the program. A person or person's family is not eligible for a consumer support grant if their income is at a level where they are required to pay a parental fee under sections 252.27, 256B.055, subdivision 12, and 256B.14 and rules adopted under those sections for medical assistance services to a disabled child living with at least one parent.

**Subd. 4. Support grants; criteria and limitations.** (a) A county board may choose to participate in the consumer support grant program. If a county board chooses to participate in the program, the local agency shall establish written procedures and criteria to determine the amount and use of support grants. These procedures must include, at least, the availability of

respite care, assistance with daily living, and adaptive aids. The local agency may establish monthly or annual maximum amounts for grants and procedures where exceptional resources may be required to meet the health and safety needs of the person on a time-limited basis.

(b) Support grants to a person or a person's family may be provided through a monthly subsidy or lump sum payment basis and be in the form of cash, voucher, or direct county payment to vendor. Support grant amounts must be determined by the local agency. Each service and item purchased with a support grant must meet all of the following criteria:

(1) it must be over and above the normal cost of caring for the person if the person did not have functional limitations;

(2) it must be directly attributable to the person's functional limitations;

(3) it must enable the person or the person's family to delay or prevent out-of-home placement of the person; and

(4) it must be consistent with the needs identified in the service plan, when applicable.

(c) Items and services purchased with support grants must be those for which there are no other public or private funds available to the person or the person's family. Fees assessed to the person or the person's family for health and human services are not reimbursable through the grant.

(d) In approving or denying applications, the local agency shall consider the following factors:

(1) the extent and areas of the person's functional limitations;

(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment or the person's own home.

(e) At the time of application to the program or screening for other services, the person or the person's family shall be provided sufficient information to ensure an informed choice of alternatives by the person, the person's legal representative, if any, or the person's family. The application shall be made to the local agency and shall specify the needs of the person and family, the form and amount of grant requested, the items and services to be reimbursed, and evidence of eligibility for medical assistance or alternative care program.

(f) Upon approval of an application by the local agency and agreement on a support plan for the person or person's family, the local agency shall make grants to the person or the person's family. The grant shall be in an amount for the direct costs of the services or supports outlined in the service agreement.

(g) Reimbursable costs shall not include costs for resources already available, such as special education classes, day training and habilitation, case management, other services to which the person is entitled, medical costs covered by insurance or other health programs, or other resources usually available at no cost to the person or the person's family.

**Subd. 5. Reimbursement, allocations, and reporting.** (a) For the purpose of transferring persons to the consumer support grant program from specific programs or services, such as the developmental disability family support program and alternative care program, personal care attendant, home health aide, or nursing facility services, the amount of funds transferred by the commissioner between the developmental disability family support program account, the alternative care account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer support grants;

(2) their eligibility for current program and services;

(3) the amount of nonfederal dollars expended on those individuals for those programs and services; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service

openings, and the nonfederal dollars associated with those persons or service openings, to the consumer support grant program.

(c) The commissioner shall use up to five percent of each county's allocation, as adjusted, for payments to that county for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(d) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

**Subd. 6. Right to appeal.** Notice, appeal, and hearing procedures shall be conducted in accordance with section 256.045. The denial, suspension, or termination of services under this program may be appealed by a recipient or applicant under section 256.045, subdivision 3. It is an absolute defense to an appeal under this section, if the county board proves that it followed the established written procedures and criteria and determined that the grant could not be provided within the county board's allocation of money for consumer support grants.

**Subd. 7. Federal funds.** The commissioner and the counties shall make reasonable efforts to maximize the use of federal funds including funds available through grants and federal waivers. If federal funds are made available to the consumer support grant program, the money shall be allocated to the responsible county agency's consumer support grant fund.

**Subd. 8. Commissioner responsibilities.** The commissioner shall:

- (1) transfer and allocate funds pursuant to this section;
- (2) determine allocations based on projected and actual local agency use;
- (3) monitor and oversee overall program spending;
- (4) evaluate the effectiveness of the program;
- (5) provide training and technical assistance for local agencies and consumers to help identify potential applicants to the program; and
- (6) develop guidelines for local agency program administration and consumer information.

**Subd. 9. County board responsibilities.** County boards receiving funds under this section shall:

- (1) determine the needs of persons and families for services and supports;
- (2) determine the eligibility for persons proposed for program participation;
- (3) approve items and services to be reimbursed and inform families of their determination;
- (4) issue support grants directly to or on behalf of persons;
- (5) submit quarterly financial reports and an annual program report to the commissioner;
- (6) coordinate services and supports with other programs offered or made available to persons or their families; and
- (7) provide assistance to persons or their families in securing or maintaining supports, as needed.

**Subd. 10. Consumer responsibilities.** Persons receiving grants under this section shall:

- (1) spend the grant money in a manner consistent with their agreement with the local agency;
- (2) notify the local agency of any necessary changes in the grant or the items on which it is spent;
- (3) notify the local agency of any decision made by the person, the person's legal representative, or the person's family that would change their eligibility for consumer support grants;
- (4) arrange and pay for supports; and
- (5) inform the local agency of areas where they have experienced difficulty securing or maintaining supports.

**History:** 1995 c 207 art 3 s 15

**NOTE:** This section, as added by Laws 1995, chapter 207, article 3, section 15, is effective July 1, 1996. See Laws 1995, chapter 207, article 3, section 24.

**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 children, families, and learning, human services, health, economic security, 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 4, see M.S.1994]*

**Subd. 5. Duties and powers.** The council shall have the following duties and powers:

(1) to advise and otherwise aid the governor; appropriate state agencies, including but not limited to the departments of children, families, and learning, human services, economic security, and human rights and the divisions of rehabilitation services and services for the blind; the state legislature; and the public on matters pertaining to public policy and the administration of programs, services, and facilities for persons who have a disability in Minnesota;

(2) to encourage and assist in the development of coordinated, interdepartmental goals and objectives and the coordination of programs, services and facilities among all state departments and private providers of service as they relate to persons with a disability;

(3) to serve as a source of information to the public regarding all services, programs and legislation pertaining to persons with a disability;

(4) to review and make comment to the governor, state agencies, the legislature, and the public concerning adequacy of state programs, plans and budgets for services to persons with a disability and for funding under the various federal grant programs;

(5) to research, formulate and advocate plans, programs and policies which will serve the needs of persons who are disabled;

(6) to advise the departments of labor and industry and economic security on the administration and improvement of the workers' compensation law as it relates to programs, facilities and personnel providing assistance to workers who are injured and disabled;

(7) to advise the workers' compensation division of the department of labor and industry and the workers' compensation court of appeals as to the necessity and extent of any alteration or remodeling of an existing residence or the building or purchase of a new or different residence which is proposed by a licensed architect under section 176.137;

(8) to initiate or seek to intervene as a party in any administrative proceeding and judicial review thereof to protect and advance the right of all persons who are disabled to an accessible physical environment as provided in section 16B.67; and

(9) to initiate or seek to intervene as a party in any administrative or judicial proceeding which concerns programs or services provided by public or private agencies or organizations and which directly affects the legal rights of persons with a disability.

*[For text of subs 5a to 7, see M.S.1994]*

**History:** 1Sp1995 c 3 art 16 s 13

**256.486 ASIAN-AMERICAN JUVENILE CRIME INTERVENTION AND PREVENTION GRANT PROGRAM.**

Subdivision 1. **Grant program.** The commissioner of human services shall establish a grant program for coordinated, family-based crime intervention and prevention services for Asian-American youth. The commissioners of human services, children, families, and learning, and public safety shall work together to coordinate grant activities.

*[For text of subs 2 to 5, see M.S.1994]*

**History:** *1Sp1995 c 3 art 16 s 13*

**256.73 ASSISTANCE, RECIPIENTS.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Allowance barred by ownership of property.** Ownership by an assistance unit of property as follows is a bar to any allowance under sections 256.72 to 256.87:

(1) The value of real property other than the homestead, which when combined with other assets exceeds the limits of paragraph (2), unless the assistance unit is making a good faith effort to sell the nonexcludable real property. The time period for disposal must not exceed nine consecutive months. The assistance unit must sign an agreement to dispose of the property and to give the local agency a lien to secure repayment of benefits received by the assistance unit during the nine-month period covered by the agreement. The provisions of section 514.981, subdivisions 2, paragraphs (a), clauses (1), (3), (4), and (5), and (e); 4 and 5, paragraphs (a), clause (2), and (b), clauses (3) and (4), and (d); and 6; section 514.982, subdivisions 1, clauses (1), (2), and (4); and 2; and sections 514.983 and 514.984, regarding medical assistance liens, shall apply to AFDC liens under this section, except that the filing fees paid by the county agency under this section shall be deducted from recoveries made under this lien provision. For purposes of this paragraph, all references in sections 514.981 to 514.984, to medical assistance liens and to medical assistance benefits shall be construed to be references to AFDC liens and to AFDC benefits, respectively. If the property is intentionally sold at less than fair market value or if a good faith effort to sell the property is not being made, the overpayment amount shall be computed using the fair market value determined at the beginning of the nine-month period. For the purposes of this section, "homestead" means the home that is owned by, and is the usual residence of, the child, relative, or other member of the assistance unit together with the surrounding property which is not separated from the home by intervening property owned by others. "Usual residence" includes the home from which the child, relative, or other members of the assistance unit is temporarily absent due to an employability development plan approved by the local human service agency, which includes education, training, or job search within the state but outside of the immediate geographic area. Public rights-of-way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property; or

(2) Personal property of an equity value in excess of \$1,000 for the entire assistance unit, exclusive of personal property used as the home, one motor vehicle of an equity value not exceeding \$1,500 or the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business, one burial plot for each member of the assistance unit, one prepaid burial contract with an equity value of no more than \$1,000 for each member of the assistance unit, clothing and necessary household furniture and equipment and other basic maintenance items essential for daily living, in accordance with rules promulgated by and standards established by the commissioner of human services.

Subd. 3a. **Persons ineligible.** No assistance shall be given under sections 256.72 to 256.87:

(1) on behalf of any person who is receiving supplemental security income under title XVI of the Social Security Act unless permitted by federal regulations;

(2) for any month in which the assistance unit's gross income, without application of deductions or disregards, exceeds 185 percent of the standard of need for a family of the same size and composition; except that the earnings of a dependent child who is a full-time student may be disregarded for six months per calendar year and the earnings of a dependent child

that are derived from the Jobs Training and Partnership Act (JTPA) may be disregarded for six months per calendar year. These two earnings disregards cannot be combined to allow more than a total of six months per calendar year when the earned income of a full-time student is derived from participation in a program under the JTPA. If a stepparent's income is taken into account in determining need, the disregards specified in section 256.74, subdivision 1a, shall be applied to determine income available to the assistance unit before calculating the unit's gross income for purposes of this paragraph. If a stepparent's needs are included in the assistance unit as specified in section 256.74, subdivision 1, the disregards specified in section 256.74, subdivision 1, shall be applied.

(3) to any assistance unit for any month in which any caretaker relative with whom the child is living is, on the last day of that month, participating in a strike;

(4) on behalf of any other individual in the assistance unit, nor shall the individual's needs be taken into account for any month in which, on the last day of the month, the individual is participating in a strike;

(5) on behalf of any individual who is the principal earner in an assistance unit whose eligibility is based on the unemployment of a parent when the principal earner, without good cause, fails or refuses to accept employment, or to register with a public employment office, unless the principal earner is exempt from these work requirements.

**Subd. 3b. Eligibility not barred by working over 99 hours; past employment history; 30-day waiting period.** An individual receiving assistance may work over 99 hours per month and remain eligible for assistance, provided all other requirements of the aid to families with dependent children-unemployed parent program are met. The applicant is not required to demonstrate past employment history or 30 days of prior unemployment to be eligible for the AFDC-unemployed parent. This subdivision is effective upon federal approval and implementation of the waiver under Laws 1995, chapter 178, article 2, section 46, subdivision 4.

*[For text of subd 5, see M.S.1994]*

**Subd. 5a. Parenting or pregnant minors; restriction on assistance with federal exceptions.** (a) The definitions in this paragraph only apply to this subdivision.

(1) "Minor parent" means an individual who:

(i) is under the age of 18;

(ii) has never been married or otherwise legally emancipated; and

(iii) is either the natural parent of a dependent child living in the same household or eligible for assistance paid to a pregnant woman under subdivision 5.

(2) "Household of a parent, legal guardian, or other adult relative" means the place of residence of:

(i) a natural or adoptive parent;

(ii) a legal guardian pursuant to appointment or acceptance under section 260.242, 525.615, or 525.6165, and related laws; or

(iii) another individual who is age 18 or over and related to the minor parent as specified in Code of Federal Regulations, title 45, section 233.90(c)(1)(v), provided that the residence is maintained as a home for the minor parent and child under Code of Federal Regulations, title 45, section 233.90(c)(1)(v)(B).

(3) "Adult-supervised supportive living arrangement" means a private family setting which assumes responsibility for the care and control of the minor parent and dependent child, or other living arrangement, not including a public institution, licensed by the commissioner of human services which ensures that the minor parent receives adult supervision and supportive services, such as counseling, guidance, independent living skills training, or supervision.

(b) A minor parent and the dependent child who is in the care of the minor parent must reside in the household of a parent, legal guardian, or other adult relative, or in an adult-supervised supportive living arrangement in order to receive AFDC unless:

(1) the minor parent has no living parent or legal guardian whose whereabouts is known;

(2) no living parent or legal guardian of the minor parent allows the minor parent to live in the parent's or legal guardian's home;

(3) the minor parent lived apart from the minor parent's own parent or legal guardian for a period of at least one year before either the birth of the dependent child or the minor parent's application for AFDC;

(4) the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if the minor parent and the dependent child resided in the same residence with the minor parent's parent or legal guardian;

(5) the minor parent and dependent child have, on October 1, 1995, been living independently as part of an approved social services plan for less than one year; or

(6) an adult supervised supportive living arrangement is not available for the minor parent and the dependent child in the county in which the minor currently resides. If an adult supervised supportive living arrangement becomes available within the county, the minor parent and child must reside in that arrangement.

(c) Minor applicants must be informed orally and in writing about the eligibility requirements and their rights and obligations under the AFDC program. The county must advise the minor of the possible exemptions and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

(d) If the county worker has reason to suspect that the physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided with the minor parent's parent or legal guardian, then the county worker must make a referral to child protective services to determine if paragraph (b), clause (4), applies. A new determination by the county worker is not necessary if one has been made within the last six months, unless there has been a significant change in circumstances which justifies a new referral and determination.

(e) If a minor parent is not living with a parent or legal guardian due to paragraph (b), clause (1), (2), or (4), the minor parent must reside, when possible, in a living arrangement that meets the standards of paragraph (a), clause (3).

(f) When a minor parent and his or her dependent child live with the minor parent's parent, legal guardian, or other adult relative, or in an adult supervised supportive living arrangement, AFDC must be paid, when possible, in the form of a protective payment on behalf of the minor parent and dependent child in accordance with Code of Federal Regulations, title 45, section 234.60.

*[For text of subd 6, see M.S.1994]*

**Subd. 8. Recovery of overpayments.** (a) Except as provided in subdivision 8a, if an amount of aid to families with dependent children assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) When an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need or the amount of the monthly payment, whichever is less, for all overpayments whether or not the overpayment is due solely to agency error. If the overpayment is due solely to having wrongfully obtained assistance, whether based on a court order, the finding of an administrative fraud disqualification hearing or a waiver of such a hearing, or a confession of judgment containing an admission of an intentional program violation, the amount of this reduction shall be ten percent. In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(c) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the above aid reductions, until the total amount of the overpayment is repaid.

(d) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance in accordance with standards adopted in rule by the commis-



sioner of human services. The county agency need not attempt to recover overpayments of less than \$35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of fraud under section 256.98.

**Subd. 8a. Start work offset.** An overpayment resulting from earned income received in the first month of employment is not recoverable by the county agency provided the aid to families with dependent children assistance unit has not voluntarily quit employment, without good cause under section 268.09, subdivision 1, paragraph (a), in the past two years. A "start work offset" for purposes of this subdivision is the amount of the overpayment the assistance unit would otherwise be required to repay to the county under subdivision 8. This subdivision is effective upon federal approval and implementation of the waiver under Laws 1995, chapter 178, article 2, section 46, subdivision 3.

*[For text of subds 9 to 11, see M.S.1994]*

**History:** 1995 c 178 art 2 s 3-6; 1995 c 207 art 5 s 2,3

**256.734** [Repealed, 1995 c 178 art 2 s 49]

### TEMPORARY PUBLIC OR COMMUNITY SERVICE JOBS

#### **256.7341 TEMPORARY PUBLIC SERVICE OR COMMUNITY SERVICE JOBS.**

A participant, except an obligor participating in an approved community investment program under section 518.551, may not work in a temporary public service or community service job for a public employer for more than 67 working days or 536 hours in a calendar year, whichever is greater, as part of a work program established under this chapter except by written agreement of the exclusive representative of affected employees of the public employer. Upon the written request of the exclusive bargaining representative, a county or public service employer shall make available to the affected exclusive bargaining representative a report of hours worked by participants in temporary public service or community service jobs.

**History:** 1995 c 178 art 2 s 7

#### **256.7351 WORK FIRST PROGRAM.**

**Subdivision 1. Citation.** Sections 256.7351 to 256.7359 may be cited as the work first program.

**Subd. 2. Definitions.** As used in sections 256.7351 to 256.7359, the following words have the meanings given them.

(a) "AFDC" means aid to families with dependent children.

(b) "AFDC-UP" means AFDC clients who are eligible for assistance by reason of unemployment as defined by the commissioner under section 256.12, subdivision 14.

(c) "Applicant" means an individual who has submitted a request for assistance and has never received an AFDC or FGA grant through the MAXIS computer system as a caretaker, or an applicant whose AFDC or FGA application was denied or benefits were terminated due to noncompliance with work first requirements.

(d) "Application date" means the date any Minnesota county agency receives a signed and dated CAF Part I.

(e) "CAF" means a combined application form on which people apply for multiple assistance programs including: aid to families with dependent children, refugee cash assistance, general assistance, work readiness, Minnesota supplemental aid, food stamps, medical assistance, general assistance medical care, emergency assistance, emergency medical assistance, and emergency general assistance medical care.

(f) "Caretaker" means a parent or eligible adult, including a pregnant woman, who is part of the assistance unit that has applied for or is receiving an AFDC or FGA grant.

(g) "Child support" means a voluntary or court-ordered payment by absent parents in an assistance unit.

(h) "Commissioner" means the commissioner of human services.

(i) "Department" means the department of human services.

(j) "Employability development plan" or "EDP" means a plan developed by the applicant, with advice from the employment advisor, for the purposes of identifying an employment goal, improving work skills through certification or education, training or skills recertification, and which addresses barriers to employment.

(k) "EDP status report form" means a program form on which deferred participants indicate what has been achieved in the participant's EDP and the types of problems encountered.

(l) "Employment advisor" means a program staff who is qualified to assist the participant to develop a job search or employability development plan, match the participant with existing job openings, refer the participant to employers, and has an extensive knowledge of employers in the area.

(m) "Financial specialist" means a program staff who is trained to explain the benefits offered under the program, determine eligibility for different assistance programs, and broker other resources from employers and the community.

(n) "Job network" means people that a person may contact to learn more about particular companies, inquire about job leads, or discuss one's occupational interests and expertise.

(o) "Job search allowance" means the amount of financial assistance needed to support job search.

(p) "Job search plan" or "JSP" means the specific plan developed by the applicant, with advice from the employment advisor, to secure a job as soon as possible, and focus the scope of the search process and other activities. Under the work first program, a job search plan shall meet the requirements for an EDP under section 256.736, subdivision 10, paragraph (a), clause (15).

(q) "JSP status report form" means a program form on which participants indicate the number of submitted job applications, job interviews held, jobs offered, other outcomes achieved, problems encountered, and the total number of hours spent on job search per week.

(r) "Participant" means a recipient who is required to participate in the work first program.

(s) "Program" means the work first program.

(t) "Provider" means an employment and training agency certified by the commissioner of economic security under section 268.871, subdivision 1.

(u) "Self-employment" means employment where people work for themselves rather than an employer, are responsible for their own work schedule, and do not have taxes or FICA withheld by an employer.

(v) "Self-sufficiency agreement" means the agreement between the provider or its representative and the applicant that describes the activities that the applicant must conduct and the necessary services and aid to be furnished by the provider to enable the individual to meet the purpose of either the JSP or EDP.

(w) "Subsidized job" means a job that is partly reimbursed by the provider for cost of wages for participants in the program.

**Subd. 3. Establishing work first program.** The commissioners of human services and economic security may develop and establish pilot projects which require applicants for aid under AFDC under section 256.72, or general assistance program (FGA) under section 256D.05, subdivision 1, clause (15), to meet the requirements of the work first program. The purpose of the program is to:

(1) ensure that the participant is working as early as possible;

(2) promote greater opportunity for economic self-support, participation, and mobility in the work force; and

(3) minimize the risk for long-term welfare dependency.

**Subd. 4. Program administration.** The program must be administered in a way that, in addition to the county agency, other sectors in the community such as employers from the public and private sectors, not-for-profit organizations, educational and social service agencies, labor unions, and neighborhood associations are involved.

**Subd. 5. Program design.** The program shall meet the following principles:

- (1) work is the primary means of economic support;
- (2) the individuals's potential is reviewed during the application process to determine how to approach the job market aggressively;
- (3) public aid such as cash and medical assistance, child care, child support assurance, and other cash benefits are used to support intensive job search and immediate work; and
- (4) maximum use is made of tax credits to supplement income.

**Subd. 6. Waiver requests.** The department shall request all waivers as soon as possible to implement the program in coordination with section 256D.055, provided that all conditions are met under section 256.01, subdivision 2, clause (12). Upon obtaining all waivers, the department shall amend the state plans for the AFDC and the Jobs Opportunities and Basic Skills Program (JOBS), and Supportive Services plan to coordinate these programs under the work first program for the pilot counties, and shall seek approval of state plan amendments. The department shall request all waivers from federal statutes and regulations to qualify the program as a federally approved demonstration project under section 1115 of the Social Security Act.

**Subd. 7. Duties of commissioner.** In addition to any other duties imposed by law, the commissioner shall:

- (1) request all waivers to implement the program;
- (2) establish the program according to sections 256.7351 to 256.7359 and allocate money as appropriate to pilot counties participating in the program;
- (3) provide systems development and staff training;
- (4) accept and supervise the disbursement of any funds that may be provided from other sources for use in the demonstration program; and
- (5) direct a study to safeguard the interests of children.

**Subd. 8. Duties of county agency.** The county agency shall:

- (1) collaborate with the commissioners of human services and economic security and other agencies to develop, implement, and evaluate the demonstration of the work first program;
- (2) operate the work first program in partnership with private and public employers, local industry councils, labor unions, and employment, educational, and social service agencies and according to subdivision 4;
- (3) ensure that program components such as client orientation, immediate job search, job development, creation of temporary public service jobs, job placements, and post placement follow-up are implemented according to the work first program; and
- (4) for job assignments under section 256.7355 provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements and ensure that no work assignment under this section results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contract for services of collective bargaining agreements; or (v) a participant filling an established unfilled position vacancy, except for on-the-job training under this section. If there is a dispute between an exclusive bargaining representative and a county or public work employer over whether or not job duties are covered under a collective bargaining agreement, the exclusive bargaining representative, the county, or the public works employer may petition the bureau of mediation services, who shall determine if the job duties are covered by a collective bargaining agreement.

**Subd. 9. Duties of participant.** To be eligible for an AFDC or family GA benefit, a participant shall cooperate with the county agency, the provider, and the participant's employer in all aspects of the program.

**History:** 1995 c 178 art 5 s 1

**256.7352 PROGRAM PARTICIPANTS; PROGRAM EXPECTATIONS.**

All applicants selected for participation are expected to meet the requirements under the work first program. Payments for rent and utilities up to the AFDC or FGA benefits to which the assistance unit is entitled will be vendor paid for as many months as the applicant is eligible or six months, whichever comes first. The residual amount after vendor payment, if any, will be paid to the AFDC or FGA applicant or recipient, unless it is used as a wage subsidy under section 256.7354, subdivision 2.

**History:** 1995 c 178 art 5 s 2

**256.7353 PROGRAM REQUIREMENTS.**

**Subdivision 1. Notification of program.** Except for the provisions in this section, the provisions for AFDC and FGA application process shall be followed. Within two days after the receipt of a completed combined application form, the county agency must refer to the provider the applicant who meets the conditions under section 256.7352, and notify the applicant in writing of the program including the following provisions:

- (1) notification that, as part of the application process, applicants are required to attend orientation, to be followed immediately by a job search;
- (2) the program provider, the date, time, and location of the scheduled program orientation;
- (3) the procedures for qualifying for and receiving benefits under the program;
- (4) the immediate availability of supportive services, including, but not limited to, child care, transportation, medical assistance, and other work-related aid; and
- (5) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for exemptions and deferrals, the consequences for refusing or failing to participate fully, and the appeal process.

**Subd. 2. Program orientation.** The provider must give a face-to-face orientation regarding the program to the applicant within five days after the date of application. The orientation must be designed to inform the applicant of:

- (1) the importance of locating and obtaining a job as soon as possible;
- (2) benefits to be provided to support work;
- (3) the manner by which benefits shall be paid;
- (4) how other supportive services such as medical assistance, child care, transportation, and other work-related aid shall be available to support job search and work;
- (5) the consequences for failure without good cause to comply with program requirements; and
- (6) the appeal process.

**Subd. 3. Job search plan; employment advisor; financial specialist.** At the end of orientation, the provider must assign an employment advisor and a financial specialist to the applicant. With advice from the employment advisor, the applicant must develop a job search plan (JSP) based on existing job markets, prior employment, work experience, and transferable work skills, unless exempt under subdivision 5. A job search must be planned and conducted for a period of up to eight consecutive weeks from the date of application and for at least 32 hours per week. The types of and target number of job openings to be pursued per week must be written in the job search plan. The following activities may be included in the job search plan:

- (1) motivational counseling;
- (2) job networking or training on how to locate job openings;
- (3) development of a personal resume; and
- (4) information on how to conduct job interviews and establish a personal job network.

Following the development of the JSP or the employability development plan (EDP) under subdivision 9, the financial specialist must interview the applicant to determine eligibility for and the extent of benefits under sections 256.7356 and 256.7357 to support the job search or employability development plan. The provider must attach to the appropriate plan the summary of the necessary enabling services and benefits to be furnished by the provider.

The provider or its representative and the applicant must sign the plan, with its attachment, to indicate a self-sufficiency agreement between the provider and the participant.

**Subd. 4. Immediate job search.** An applicant must be required to begin job search within seven days after the date of application for at least 32 hours per week for up to eight weeks, unless exempted under subdivision 5 or deferred under subdivision 9. For an applicant who is working at least 20 hours per week, job search shall consist of 12 hours per week for up to eight weeks. Within the first five days of job search, the applicant is required to initiate informational contacts with prospective employers, generate additional job leads from the job network, review references and experiences from previous employment, and carry out the other activities under the job search plan developed under subdivision 3.

**Subd. 5. Exemption categories.** The applicant will be exempted from the job search requirements and development of JSP and EDP under subdivisions 3, 4, and 8, if the applicant belongs to any of the following groups:

(1) caretakers under age 20 who have not completed a high school education and are attending high school on a full-time basis;

(2) individuals who are age 60 or older;

(3) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment;

(4) caretakers whose presence in the home is needed because of illness or incapacity of another member in the household;

(5) women who are pregnant, if it has been medically verified that the child is expected to be born within the next six months;

(6) caretakers or other caretaker relatives of a child under the age of three who personally provide full-time care for the child;

(7) individuals employed at least 30 hours per week;

(8) individuals for whom participation would require a round trip commuting time by available transportation of more than two hours, excluding transporting of children for child care;

(9) individuals for whom lack of proficiency in English is a barrier to employment, provided such individuals are participating in an intensive program which lasts no longer than six months and is designed to remedy their language deficiency; individuals who, because of advanced age or lack of ability, are incapable of gaining proficiency in English, as determined by the county social worker, shall continue to be exempt under this subdivision and are not subject to the requirement that they be participating in a language program;

(10) individuals under such duress that they are incapable of participating in the program, as determined by the county social worker; or

(11) individuals in need of refresher courses for purposes of obtaining professional certification or licensure.

**Subd. 6. AFDC-UP applicants.** All applicants and recipients under the AFDC-UP program will be required to meet the requirements in the community work experience program under section 256.737, instead of the requirements in subdivisions 4 to 14.

**Subd. 6a. Designated participant in FGA families.** Unless all adult members of an FGA family are exempt under section 256.7343, subdivision 1, one adult in the family must be designated to participate in all the requirements under this section. If the household contains more than one exempt adult, the adults may determine which adult must participate. If no designation is made or if the adults cannot agree, the county shall designate the adult having earned the greater income, including in-kind income, during the 24-month period immediately preceding the month of application for general assistance, as the adult that must participate. When there are no earnings or when earnings are identical for each adult, the county agency shall designate which adult must participate.

**Subd. 7. County duties.** The county must act on the application within 30 days of the application date. If the applicant is not eligible, the application will be denied and the county must notify the applicant of the denial in writing. An applicant whose application has been denied may be allowed to complete the job search plan; however, supportive services will not be provided.

**Subd. 8. Job search status report.** The applicant or participant must submit a completed JSP status report form to the employment advisor every two weeks during the job search process, with the first completed form due 21 days after the date of application.

**Subd. 9. Employability development plan.** At the discretion and approval of the employment advisor, the applicant may be deferred from the requirement to conduct at least 32 hours of job search per week for up to eight consecutive weeks, if during the development of the job search plan, the applicant is determined to:

(1) not have worked within the past 12 months and not have a high school or a general equivalency diploma provided the applicant agrees to develop and carry out an EDP instead of job search, and concurrently work for at least 16 hours per week in a temporary public service job. The EDP must include the employment goals and specific outcomes the participant must achieve;

(2) be within six months of completing any post-secondary training program, provided that the applicant agrees to develop and carry out an EDP instead of a job search, and concurrently work for a minimum number of hours per week in a temporary public service job. The EDP must include the employment goal and specific outcomes that the participant must achieve. The applicant that is deferred under this subdivision may choose to work in a job other than a public service job for a minimum number of hours per week rather than in a temporary public service job. For individuals who are participating in an educational program under this paragraph and who are attending school full time as determined by the institution there is no work requirement.

For individuals participating in an educational program on a part-time basis as determined by the institution, the minimum number of hours that a participant must work shall be decreased as the participant increases the number of credit hours taken, except that the participant shall not be required to work more than eight hours per week.

During vacation periods of one month or more, the 16-hour per week minimum work requirement shall apply.

The applicant may be deferred for up to six months. At the end of the deferment period, the participant must develop a job search plan and conduct at least 32 hours of job search per week for up to eight consecutive weeks, and submit reports as required under subdivisions 3 and 4; or

(3) be in treatment for chemical dependency, be a victim of domestic abuse, or be homeless, provided that the applicant agrees to develop an EDP instead of a JSP, and immediately follow through with the activities in the EDP. The EDP must include specific outcomes that the applicant must achieve for the duration of the EDP and activities which are needed to address the issues identified. Under this clause, the applicant may be deferred for up to eight weeks.

**Subd. 10. EDP status report.** The participant who is deferred from job search under subdivision 9 must submit a completed EDP status report form to the employment advisor every 14 days as long as the participant continues to be deferred, with the first completed form due 21 days after the date of application.

**Subd. 11. Job offer.** The participant must not refuse any job offer, provided that the job is within the participant's physical and mental abilities, pays hourly gross wages of not less than the applicable state or federal minimum wage, and meets health and safety standards set by federal, state, and local agencies. If a job is offered, the participant must inform the provider immediately to redetermine eligibility for and extent of benefits and services to support work. To enhance job retention, the provider may provide services such as motivational counseling or on-site problem solving for up to six months. The participant who has completed at least six months of work in a nonsubsidized job shall be encouraged to participate in a training program that would improve the participant's ability to obtain a job that pays a higher wage.

**Subd. 12. Duty to report.** The participant must immediately inform the provider regarding any changes related to the participant's employment status.

**Subd. 13. Requirement to work in a temporary public service job.** (a) If after the completion of the maximum eight weeks of job search the participant has failed to secure a nonsubsidized or a subsidized job for at least 32 hours per week, or does not earn a net income

from self-employment that is equal to at least the AFDC or FGA monthly grant for the household size, whichever is applicable, the participant is required to work in a temporary public service job for up to 67 working days for (1) at least 32 hours per week, or (2) a period equivalent to the result of dividing the AFDC or FGA grant amount which the participant would otherwise receive, whichever is applicable, by the federal hourly minimum wage, or applicable hourly state minimum wage, or the hourly rate of pay for individuals employed in the same occupation at the site, whichever is highest. If the result is more than 128 hours per month, the participant's requirement to work in a temporary public service job shall not be more than 32 hours per week.

(b) Within seven days from the date of application, the participant that is deferred under subdivision 9, clause (1) or (2), and is participating in an educational program on a part-time basis must work in a temporary public service job as required under subdivision 9, clause (2).

(c) The provider shall strive to match the profile of the participant with the needs of the employers that are participating in a temporary jobs program under section 256.7355.

Subd. 14. **Termination of work assignment.** Work assignments are governed by section 256.7341.

*History: 1995 c 178 art 5 s 3*

### **256.7354 JOB DEVELOPMENT AND SUBSIDY.**

Subdivision 1. **Job inventory.** The provider must develop an inventory of job openings including full-time, part-time, permanent, temporary or seasonal, and training positions, in partnership with private and public employers, local industry councils, and employment agencies. To the extent possible, the inventory must include specific information regarding job openings, must be updated on a weekly basis, and must be available to all participants on a daily basis.

Subd. 2. **Job subsidy.** The county may use all or part of AFDC or FGA benefits as a subsidy to employers for the purpose of providing work experience or training to the participant who has completed the job search plan, provided that (1) the job to be subsidized is permanent and full time, and pays an hourly rate of at least \$6 per hour; (2) the employer agrees to retain the participant after satisfactory completion of the work experience or training period; and (3) the participant has first tried to secure a nonsubsidized job by following the job search plan. The subsidy may be available for up to six months.

*History: 1995 c 178 art 5 s 4*

### **256.7355 TEMPORARY JOBS PROGRAM.**

Subdivision 1. **Program established.** The provider must establish and operate a program to provide temporary jobs to participants who, after eight weeks of job search, are not hired into a nonsubsidized or a subsidized job, or are deferred under section 256.7353, subdivision 9. The temporary jobs to be created under this section must be public service jobs that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to the aged or disabled citizens, and child care.

Subd. 2. **Assignment to temporary public service jobs.** The provider must assign the participant that is within completion of the required eight weeks of job search and has failed to secure a nonsubsidized or a subsidized job for at least 32 hours per week, or does not earn a net income from self-employment that is equal to at least the AFDC or FGA monthly grant for the household size, whichever is applicable, to a temporary public service job. The assignment must be made seven days before the end of the job search and be based on section 256.7353, subdivision 13. The participant that is deferred under section 256.7353, subdivision 9, will be assigned by the provider to a temporary public service job within seven days after the application.

Subd. 3. **Participant's status.** The participant who is working in a temporary public service job under this section is not considered an employee for the purposes of unemployment insurance compensation, retirement, or civil service laws, and shall not perform work ordinarily performed by a public employee.

Subd. 4. **Continuous job search requirement.** At the discretion of the employer or the provider, the participant who is working in a temporary public service job under section

256.7353, subdivision 13, may be required to continue to look for a job for up to eight hours per week.

**Subd. 5. Excused absences.** The participant who is working in a temporary public service job may be allowed excused absences from the assigned temporary job site up to eight hours per month. For the purposes of this subdivision, "excused absence" means absence due to temporary illness or injury of the caretaker or a member of the caretaker's family, the unavailability of licensed child care or unavailability of transportation needed to go to and from the work site, a job interview, or a nonmedical emergency. For the purposes of this subdivision, "emergency" means a sudden, unexpected occurrence or situation of a serious or urgent nature that requires action.

**Subd. 6. Move to a different county.** If the applicant or recipient who is required to participate in the work first program moves to a different county in Minnesota, the benefits and enabling services agreed upon in the self-sufficiency agreement shall be provided by the pilot county where the applicant or recipient originated, so long as the move was part of the job search or employability development plan. If the applicant or recipient is moving to a different county for failure to comply with the requirement of the work first program, the applicant or recipient will not be eligible for AFDC or FGA in Minnesota for at least six months from the date of the move.

**History:** 1995 c 178 art 5 s 5

#### **256.7356 TRANSITIONAL BENEFITS TO SUPPORT WORK; RENT AND UTILITIES VENDOR PAYMENT.**

Payments for rent and utilities up to the amount of AFDC or FGA benefits to which the assistance unit is entitled shall be provided in the form of vendor payments for as many months as the applicant is eligible or six months, whichever comes first. The residual amount after vendor payment, if any, will be paid to the AFDC or FGA recipient, unless it is used as a wage subsidy under section 256.7344, subdivision 2. This provision shall apply to all applicants including those meeting the exemption categories under section 256.7353, subdivision 5, or deferral categories under section 256.7353, subdivision 9. To the extent needed, a job search allowance shall be provided for up to eight weeks to cover expenses related to the job search. Before the job search allowance is issued, it must be approved by the employment advisor and financial specialist, and clearly described in the job search.

**History:** 1995 c 178 art 5 s 6

#### **256.7357 ELIGIBILITY FOR FOOD STAMPS, MEDICAL ASSISTANCE, AND CHILD CARE.**

The participant shall be treated as an AFDC or FGA recipient for food stamps, medical assistance, and child care eligibility purposes. As with an AFDC recipient, the participant who leaves the program as a result of increased earnings from employment shall be eligible for transitional medical assistance and child care.

**History:** 1995 c 178 art 5 s 7

#### **256.7358 SANCTIONS AND APPEAL PROCESS.**

**Subdivision 1. Good cause.** (a) For the purpose of this subdivision, "good cause" means absence due to temporary illness or injury of the participant or a member of the participant's family; the unavailability of licensed child care or unavailability of transportation needed to attend orientation or conduct job search; or a nonmedical emergency as defined under section 256.7353, subdivision 5.

(b) The applicant who is required, but fails, without good cause, to participate in orientation, complete the JSP or EDP, and comply with the job search requirements under section 256.7353 prior to being eligible for AFDC or FGA shall be denied AFDC or FGA benefits. The applicant will not be eligible for AFDC or FGA benefits in Minnesota for at least six months.

(c) Following participation in the orientation, completion of JSP or EDP and participation in job search under section 256.7353, but before being determined eligible for AFDC or



FGA recipients in AFDC-UP cases who are subject to the vendor payment provisions under section 256.7356 are subject to the job search, work experience, and sanction provisions of sections 256.736, subdivision 14, and 256.737 and not the job search and work provisions under work first.

(d) If, after receiving a written warning from the county, the participant fails without good cause, to conduct at least 32 hours of job search per week in any given two-week period, the participant will be immediately required to work for at least 16 hours per week in a temporary public service job. The required 32 hours per week of job search will be reduced to 16 hours.

(e) If the participant who is deferred under section 256.7353, subdivision 9, fails to comply with the activities described in the EDP, the participant will lose the deferment status, provided that the participant has received at least two written warnings from the provider.

(f) If the participant refuses to work in a temporary public service job, or is terminated from a temporary public service job for failure to work, benefits to the assistance unit shall be terminated and the participant shall not be eligible for aid under the AFDC or FGA program for at least six months from the date of refusal or termination. If the participant before completing at least four consecutive months of employment voluntarily quits or is terminated from a nonsubsidized or a subsidized job, the participant shall immediately be assigned to work in a temporary public service job for at least 32 hours per week for up to 67 working days unless the participant is hired or rehired into a nonsubsidized or subsidized job.

**Subd. 2. Notice of sanctions.** If the county determines that the participant has failed or refused without good cause as defined in subdivision 1, to cooperate with the program requirements, the county shall inform the participant in writing of its intent to impose an applicable sanction listed under subdivision 1 and the opportunity to have a conciliation conference upon request and within five days of receipt of the notice before a sanction is imposed.

**History:** 1995 c 178 art 5 s 8

### 256.7359 FUNDING.

**Subdivision 1. Block grant.** A block grant to fund the entire program including, but not limited to, the costs for program administration and provision of cash benefits and program services including the entire costs of vendor payments made on behalf of clients and the entire cost of the temporary jobs program, will be paid to the county agency or provider participating in the work first program. Counties may request additional funds if there are unexpected increases in caseload.

**Subd. 2. Leveraging grant amount to secure other funds.** The county agency or the provider in cooperation with the department may leverage the grant amount to secure other funds from employers, foundations, and the community for the purpose of developing additional components to benefit children and improve the program.

**Subd. 3. Employer reimbursement.** The employer shall be reimbursed for wages paid to participants under section 256.7354, subdivision 2.

**History:** 1995 c 178 art 5 s 9

### 256.736 EMPLOYMENT AND TRAINING PROGRAMS.

*[For text of subd 1a, see M.S.1994]*

**Subd. 3. Registration.** (a) To the extent permissible under federal law, every caretaker or child is required to register for employment and training services, as a condition of receiving AFDC, unless the caretaker or child is:

(1) a child who is under age 16, a child age 16 or 17 who is attending elementary or secondary school or a secondary level vocational or technical school full time;

(2) ill, incapacitated, or age 60 or older;

(3) a person for whom participation in an employment and training service would require a round trip commuting time by available transportation of more than two hours;

(4) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a caretaker or other caretaker relative of a child under the age of three who personally provides full-time care for the child. In AFDC-UP cases, only one parent or other relative may qualify for this exemption;

(6) a caretaker or other caretaker relative personally providing care for a child under six years of age, except that when child care is arranged for or provided, the caretaker or caretaker relative may be required to register and participate in employment and training services up to a maximum of 20 hours per week. In AFDC-UP cases, only one parent or other relative may qualify for this exemption;

(7) a pregnant woman, if it has been medically verified that the child is expected to be born within the next six months;

(8) employed at least 30 hours per week; or

(9) an individual added to an assistance unit as an essential person under section 256.74, subdivision 1, who does not meet the definition of a "caretaker" as defined in subdivision 1a, paragraph (c).

(b) To the extent permissible by federal law, applicants for benefits under the AFDC program are registered for employment and training services by signing the application form. Applicants must be informed that they are registering for employment and training services by signing the form. Persons receiving benefits on or after July 1, 1987, shall register for employment and training services to the extent permissible by federal law. The caretaker has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

**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 family services committee, the house health and human services committee, the family services division of the senate family services and health care committees, and the human services division of the house health and human services 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).

(d) Participants who are eligible and enroll in the STRIDE program under one of the categories of this subdivision are required to cooperate with the assessment and employability plan development and to meet the terms of their employability plan. Failure to comply, without good cause, shall result in the imposition of sanctions as specified in subdivision 4, clause (6).

*[For text of subs 3b to 4, see M.S.1994]*

**Subd. 4a. Notice, conciliation, and right of appeal.** If the employment and training service provider determines that the caretaker has failed or refused, without good cause, to cooperate or accept employment, the employment and training service provider shall issue to the caretaker a written notice of its determination of noncooperation or refusal to accept employment. The notice must include a detailed explanation of the reason for the determination and must specify the consequences for failure or refusal to cooperate or accept employment, the actions which the employment and training service provider believes are necessary for the caretaker to comply with the employment and training program, and the right to request, within ten days of the date the notice was mailed or hand delivered, a conciliation conference. The employment and training service provider or the county agency must conduct a conciliation conference within five days of a timely request. If the dispute between the employment and training service provider and the caretaker is not resolved in the conciliation conference or a request for a conciliation conference is not made within the required time, the employment and training service provider shall notify the county board of a caretaker's failure without good cause to cooperate or accept employment. Unless the county agency has evidence to the contrary, the county agency shall implement the sanction provisions of subdivision 4. Any determination, action, or inaction on the part of the county board relating to a caretaker's participation under this section is subject to the notice and hearing procedures in section 256.045, and Code of Federal Regulations, title 45, section 205.10.

**Subd. 5. Extension of employment and training opportunities.** The commissioner of human services shall cooperate with the commissioner of economic security and the commissioner of trade and economic development to extend the availability of training and employment opportunities on a statewide basis and to assist local employment advisory groups convened under this subdivision. The county welfare agency may convene an employment advisory group which shall include but not be limited to representatives from the local chamber of commerce, from major area employers, from private and public collective bargaining units who shall be represented by their exclusive representatives, from secondary and post-secondary educational institutions in the community, and from job services offices operated by the commissioner of economic security under chapter 268. The county welfare agency shall work with the local employment advisory group to maximize the job opportunities for welfare clients. In a county where a private industry council has been established, the county welfare agency may work with the council to maximize job opportunities in lieu of or in addition to convening an employment advisory group.

*[For text of subs 6 to 9, see M.S.1994]*

**Subd. 10. County duties.** (a) To the extent of available state appropriations, county boards shall:

- (1) refer all mandatory and eligible volunteer caretakers permitted to participate under subdivision 3a to an employment and training service provider for participation in employment and training services;
- (2) identify to the employment and training service provider the target group of which the referred caretaker is a member;
- (3) provide all caretakers with an orientation which meets the requirements in subdivisions 10a and 10b;
- (4) work with the employment and training service provider to encourage voluntary participation by caretakers in the target groups;
- (5) work with the employment and training service provider to collect data as required by the commissioner;
- (6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;
- (7) encourage nontarget caretakers to develop a plan to obtain self-sufficiency;
- (8) notify the commissioner of the caretakers required to participate in employment and training services;
- (9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;
- (10) provide transportation assistance using available funds to caretakers who participate in employment and training programs;
- (11) ensure that orientation, job search, services to custodial parents under the age of 20, educational activities and work experience for AFDC-UP families, and case management services are made available to appropriate caretakers under this section, except that payment for case management services is governed by subdivision 13;
- (12) explain in its local service unit plan under section 268.88 how it will ensure that target caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services;
- (13) to the extent allowed by federal laws and regulations, provide a job search program as defined in subdivision 14, a community work experience program as defined in section 256.737, grant diversion as defined in section 256.739, and on-the-job training as defined in section 256.738. A county may also provide another work and training program approved by the commissioner and the secretary of the United States Department of Health and Human Services. Planning and approval for employment and training services listed in this clause must be obtained through submission of the local service unit plan as specified under section 268.88. A county is not required to provide a community work experience program if the county agency is successful in placing at least 40 percent of the monthly average of all caretakers who are subject to the job search requirements of subdivision 14 in grant diversion or on-the-job training program;
- (14) prior to participation, provide an assessment of each AFDC recipient who is required or volunteers to participate in an approved employment and training service. The assessment must include an evaluation of the participant's (i) educational, child care, and other supportive service needs; (ii) skills and prior work experience; and (iii) ability to secure and retain a job which, when wages are added to child support, will support the participant's family. The assessment must also include a review of the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening and preschool screening under chapter 123, if available; the participant's family circumstances; and, in the case of a custodial parent under the age of 18, a review of the effect of a child's development and educational needs on the parent's ability to participate in the program;
- (15) develop an employability development plan for each recipient for whom an assessment is required under clause (14) which:
  - (i) reflects the assessment required by clause (14);
  - (ii) takes into consideration the recipient's physical capacity, skills, experience, health and safety, family responsibilities, place of residence, proficiency, child care and other supportive service needs;

(iii) is based on available resources and local employment opportunities;

(iv) specifies the services to be provided by the employment and training service provider;

(v) specifies the activities the recipient will participate in, including the worksite to which the caretaker will be assigned, if the caretaker is subject to the requirements of section 256.737, subdivision 2;

(vi) specifies necessary supportive services such as child care;

(vii) reflects the effort to arrange mandatory activities so that the activities do not interfere with access to available English as a second language classes and to the extent possible, reflects the preferences of the participant;

(viii) includes a written agreement between the county agency and the caretaker that outlines a reasonable schedule for completing the plan, including specific completion deadlines, and confirms that

(A) there is a market for full-time employees with this education or training where the caretaker will or is willing to reside upon completion of the program;

(B) the average wage level for employees with this education or training is greater than the caretaker can earn without this education or training;

(C) the caretaker has the academic ability to successfully complete the program; and

(D) there is a reasonable expectation that the caretaker will complete the training program based on such factors as the caretaker's previous education, training, work history, current motivation, and changes in previous circumstances; and

(ix) specifies the recipient's long-term employment goal which shall lead to self-sufficiency;

(16) provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements and assure that no work assignment under this section or sections 256.737, 256.738, and 256.739, or the Minnesota parent's fair share mandatory community work experience program results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section or sections 256.737, 256.738, and 256.739; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contracts for services or collective bargaining agreements; or (v) except for on-the-job training under section 256.738, a participant filling an established unfilled position vacancy. If an exclusive bargaining representative and a county or public service employer disagree regarding whether job duties are covered under a collective bargaining agreement, the exclusive bargaining representative or the county or public service employer may petition the bureau of mediation services, and the bureau shall determine if the job duties are covered by a collective bargaining agreement; and

(17) assess each caretaker in an AFDC-UP family who is under age 25, has not completed high school or a high school equivalency program, and who would otherwise be required to participate in a work experience placement under section 256.737 to determine if an appropriate secondary education option is available for the caretaker. If an appropriate secondary education option is determined to be available for the caretaker, the caretaker must, in lieu of participating in work experience, enroll in and meet the educational program's participation and attendance requirements. "Secondary education" for this paragraph means high school education or education designed to prepare a person to qualify for a high school equivalency certificate, basic and remedial education, and English as a second language education. A caretaker required to participate in secondary education who, without good cause, fails to participate shall be subject to the provisions of subdivision 4a and the sanction provisions of subdivision 4, clause (6). For purposes of this clause, "good cause" means the inability to obtain licensed or legal nonlicensed child care services needed to enable the caretaker to attend, inability to obtain transportation needed to attend, illness or incapacity of the caretaker or another member of the household which requires the caretaker to be present in the home, or being employed for more than 30 hours per week.

(b) Funds available under this subdivision may not be used to assist, promote, or deter union organizing.

(c) A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

(d) Notwithstanding section 256G.07, when a target caretaker relocates to another county to implement the provisions of the caretaker's case management contract or other written employability development plan approved by the county human service agency, its case manager or employment and training service provider, the county that approved the plan is responsible for the costs of case management and other services required to carry out the plan, including employment and training services. The county agency's responsibility for the costs ends when all plan obligations have been met, when the caretaker loses AFDC eligibility for at least 30 days, or when approval of the plan is withdrawn for a reason stated in the plan, whichever occurs first. Responsibility for the costs of child care must be determined under chapter 256H. A county human service agency may pay for the costs of case management, child care, and other services required in an approved employability development plan when the nontarget caretaker relocates to another county or when a target caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.

**Subd. 10a. Orientation.** (a) Each county agency must provide an orientation to all caretakers within its jurisdiction in the time limits described in this paragraph:

(1) within 60 days of being determined eligible for AFDC for caretakers with a continued absence or incapacitated parent basis of eligibility; or

(2) within 30 days of being determined eligible for AFDC for caretakers with an unemployed parent basis of eligibility.

(b) Caretakers are required to attend an in-person orientation if the caretaker is a member of one of the groups listed in subdivision 3a, paragraph (a), unless the caretaker is exempt from registration under subdivision 3 and the caretaker's exemption basis will not expire within 60 days of being determined eligible for AFDC, or the caretaker is enrolled at least half time in any recognized school, training program, or institution of higher learning and the in-person orientation cannot be scheduled at a time that does not interfere with the caretaker's school or training schedule. The county agency shall require attendance at orientation of caretakers described in subdivision 3a, paragraph (b) or (c), if the commissioner determines that the groups are eligible for participation in employment and training services.

(c) The orientation must consist of a presentation that informs caretakers of:

(1) the identity, location, and phone numbers of employment and training and support services available in the county;

(2) the types and locations of child care services available through the county agency that are accessible to enable a caretaker to participate in educational programs or employment and training services;

(3) the child care resource and referral program designated by the commissioner providing education and assistance to select child care services and a referral to the child care resource and referral when assistance is requested;

(4) the obligations of the county agency and service providers under contract to the county agency;

(5) the rights, responsibilities, and obligations of participants;

(6) the grounds for exemption from mandatory employment and training services or educational requirements;

(7) the consequences for failure to participate in mandatory services or requirements;

(8) the method of entering educational programs or employment and training services available through the county;

(9) the availability and the benefits of the early and periodic, screening, diagnosis and treatment (EPSDT) program and preschool screening under chapter 123;

(10) their eligibility for transition year child care assistance when they lose eligibility for AFDC due to their earnings;

(11) their eligibility for extended medical assistance when they lose eligibility for AFDC due to their earnings; and

(12) the availability and benefits of the Head Start program.

(d) All orientation programs should provide information to caretakers on parenting, nutrition, household management, food preparation, and other subjects relevant to promoting family integration and self-sufficiency and provide detailed information on community resources available for training sessions on these topics.

(e) Orientation must encourage recipients to view AFDC as a temporary program providing grants and services to individuals who set goals and develop strategies for supporting their families without AFDC assistance. The content of the orientation must not imply that a recipient's eligibility for AFDC is time limited. Orientation may be provided through audio-visual methods, but the caretaker must be given an opportunity for face-to-face interaction with staff of the county agency or the entity providing the orientation, and an opportunity to express the desire to participate in educational programs and employment and training services offered through the county agency.

(f) County agencies shall not require caretakers to attend orientation for more than three hours during any period of 12 continuous months. The county agency shall also arrange for or provide needed transportation and child care to enable caretakers to attend.

The county or, under contract, the county's employment and training service provider shall mail written orientation materials containing the information specified in paragraph (c), clauses (1) to (3) and (8) to (12), to each caretaker exempt from attending an in-person orientation or who has good cause for failure to attend after at least two dates for their orientation have been scheduled. The county or the county's employment and training service provider shall follow up with a phone call or in writing within two weeks after mailing the material.

(g) Persons required to attend orientation must be informed of the penalties for failure to attend orientation, support services to enable the person to attend, what constitutes good cause for failure to attend, and rights to appeal. Persons required to attend orientation must be offered a choice of at least two dates for their first scheduled orientation. No person may be sanctioned for failure to attend orientation until after a second failure to attend.

(h) Good cause for failure to attend an in-person orientation exists when a caretaker cannot attend because of:

(1) temporary illness or injury of the caretaker or of a member of the caretaker's family that prevents the caretaker from attending an orientation during the hours when the orientation is offered;

(2) a judicial proceeding that requires the caretaker's presence in court during the hours when orientation is scheduled; or

(3) a nonmedical emergency that prevents the caretaker from attending an orientation during the hours when orientation is offered. "Emergency" for the purposes of this paragraph means a sudden, unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

(i) Caretakers must receive a second orientation only when:

(1) there has been a 30-day break in AFDC eligibility; and

(2) the caretaker has not attended an orientation within the previous 12-month period, excluding the month of reapplication for AFDC.

*[For text of subs 10b to 12, see M.S.1994]*

**Subd. 13. State share.** The state must pay 75 percent of the nonfederal share of costs incurred by counties under subdivision 11.

Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025, for the county share of county agency expenditures made under subdivision 11 from January 1, 1991, to June 30, 1995. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Beginning July 1, 1995, the state must pay 100 percent of the nonfederal share incurred by counties under subdivision 11, up to the limit of state appropriations. If the state appropriation is not sufficient to fund the cost of case management services for all caretakers identi-

fied in subdivision 2a, the commissioner must define a statewide subgroup of caretakers which includes all caretakers in subdivision 2a, clause (1), and as many caretakers as possible from subdivision 2a, clauses (2) and (3).

**Subd. 14. Job search.** (a) Each county agency must establish and operate a job search program as provided under this section. Unless all caretakers in the household are exempt, one nonexempt caretaker in each AFDC-UP household must be referred to and begin participation in the job search program within 30 days of being determined eligible for AFDC. If the assistance unit contains more than one nonexempt caretaker, the caretakers may determine which caretaker shall participate. The designation may be changed only once annually at the annual redetermination of eligibility. If no designation is made or if the caretakers cannot agree, the county agency shall designate the caretaker having earned the greater of the incomes, including in-kind income, during the 24-month period immediately preceding the month of application for AFDC benefits as the caretaker that must participate. When no designation is made or the caretakers cannot agree and neither caretaker had earnings or the earnings were identical for each caretaker, then the county agency shall designate the caretaker who must participate. A caretaker is exempt from job search participation if:

(1) the caretaker is exempt from registration under subdivision 3; or  
 (2) the caretaker is under age 25, has not completed a high school diploma or an equivalent program, and is participating in a secondary education program as defined in subdivision 10, paragraph (a), clause (17), which is approved by the employment and training service provider in the employability development plan.

(b) The job search program must provide four consecutive weeks of job search activities for no less than 20 hours per week but not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county agency if the caretaker fails to cooperate with the job search requirement. A person for whom lack of proficiency in English, as determined by an appropriate evaluation, is a barrier to employment, can choose to attend an available intensive, functional work literacy program for a minimum of 20 hours in place of the 20 hours of job search activities. The caretaker's employability development plan must include the length of time needed in the program, specific outcomes, attendance requirements, completion dates, and employment goals as they pertain to the intensive literacy program.

(c) The job search program may provide services to non-AFDC-UP caretakers.

(d) After completion of job search requirements in this section, nonexempt caretakers shall be placed in and must participate in and cooperate with the work experience program under section 256.737, the on-the-job training program under section 256.738, or the grant diversion program under section 256.739. Caretakers must be offered placement in a grant diversion or on-the-job training program, if either such employment is available, before being required to participate in a community work experience program under section 256.737. When a nonexempt caretaker fails to cooperate with the job search program, the work experience program, the on-the-job training program, or the community work experience program and is subject to the sanction provisions of subdivision 4, the second caretaker in the assistance unit, unless exempt, must also be removed from the grant unless that second caretaker has been referred to and has started participating in the job search program and subsequently in the work experience program, the on-the-job training program, or the community work experience program prior to the date the sanction begins for the first caretaker. The second caretaker is ineligible for AFDC until the first caretaker's sanction ends or the second caretaker cooperates with the requirements.

*[For text of subd 15, see M.S.1994]*

**Subd. 16. Allocation and use of money.** (a) State money appropriated for employment and training services under this section must be allocated to counties as specified in paragraphs (b) to (l).

(b) For purposes of this subdivision, "targeted caretaker" means a recipient who:

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



(2) is a member of a family in which the youngest child is within two years of being ineligible for AFDC due to age; or

(3) has received 36 months or more of AFDC over the last 60 months.

(c) One hundred percent of the money appropriated for case management services as described in subdivision 11 must be allocated to counties based on the average number of cases in each county described in clause (1). Money appropriated for employment and training services as described in subdivision 1a, paragraph (d), other than case management services, must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average number of cases receiving AFDC in the county which either have been open for 36 or more consecutive months or have a caretaker who is under age 24 and who has no high school or general equivalency diploma. The average number of cases must be based on counts of these cases as of March 31, June 30, September 30, and December 31 of the previous year.

(2) Twenty percent of the state money must be allocated based on the average number of cases receiving AFDC in the county which are not counted under clause (1). The average number of cases must be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous year.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending December 31 of the previous year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for target group members in each county.

(d) No more than 15 percent of the money allocated under paragraph (b) and no more than 15 percent of the money allocated under paragraph (c) may be used for administrative activities.

(e) At least 55 percent of the money allocated to counties under paragraph (c) must be used for employment and training services for caretakers in the target groups, and up to 45 percent of the money may be used for employment and training services for nontarget caretakers. One hundred percent of the money allocated to counties for case management services must be used to provide those services to caretakers in the target groups.

(f) Money appropriated to cover the nonfederal share of costs for bilingual case management services to refugees for the employment and training programs under this section are allocated to counties based on each county's proportion of the total statewide number of AFDC refugee cases. However, counties with less than one percent of the statewide number of AFDC refugee cases do not receive an allocation.

(g) Counties, the department of economic security, and entities under contract with either the department of economic security or the department of human services for provision of STRIDE related services shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of economic security that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services and the United States Department of Agriculture for the reimbursement and appropriate the reimbursed money to the county, the department of economic security, or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

(h) The commissioner of human services shall review county expenditures of case management and employment and training block grant money at the end of the third quarter of the biennium and each quarter after that, and may reallocate unencumbered or unexpended money allocated under this section to those counties that can demonstrate a need for additional money. Reallocation of funds must be based on the formula set forth in paragraph (a), excluding the counties that have not demonstrated a need for additional funds.

(i) The county agency may continue to provide case management and supportive services to a participant for up to 90 days after the participant loses AFDC eligibility and may continue providing a specific employment and training service for the duration of that service to a participant if funds for the service are obligated or expended prior to the participant losing AFDC eligibility.

(j) One hundred percent of the money appropriated for an unemployed parent work experience program under section 256.737 must be allocated to counties based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending December 31 of the previous year.

(k) The commissioner may waive the requirement of paragraph (e) that case management funds be spent only on case management services in order to permit the development of a unified STRIDE funding allocation for each county agency. The unified allocation may be expended by the county agency for case management and employment and training activities in the proportion determined necessary to streamline administrative procedures and enhance program performance. The commissioner, in consultation with the commissioner of economic security, may also grant a waiver from program spending limits in paragraphs (d) and (e) to any county which can demonstrate increased program effectiveness through a written request to the department. Counties which request a waiver of the spending limits in paragraphs (d) and (e) shall amend their local service unit plans and receive approval of the plans prior to commencing the waiver. The commissioners of human services and economic security shall annually evaluate the effectiveness of all waivers approved under this subdivision.

(l) Effective July 1, 1995, the commissioner of human services shall begin developing a performance model for the purpose of analyzing each county's performance in the provision of STRIDE employment and training services. Beginning February 1, 1997, and each year thereafter, the commissioner of human services shall inform each county of the county's performance based upon the following measures:

- (1) employment rate at termination of STRIDE eligibility;
- (2) wage rate at termination of STRIDE eligibility;
- (3) average annual cost per placement calculated by dividing the total STRIDE expenditures by the number of participants placed in unsubsidized employment;
- (4) AFDC-UP participation rate;
- (5) percentage of 18- and 19-year-old custodial parents subject to secondary education requirements of subdivision 3b who complete secondary education or equivalent course of study; and

(6) achievement of federally mandated JOBS participation rate.

Performance measures (1), (2), and (3) shall be adjusted to reflect local conditions.

County agencies must take the results of these performance measures into consideration when selecting employment and training service providers.

*[For text of subs 18 and 19, see M.S.1994]*

**Subd. 20. Special provisions for persons participating in educational programs.** The provisions of this subdivision are applicable to all STRIDE participants, including those subject to subdivision 3b and section 256.737.

(a) For recipients eligible to participate under subdivision 3b who are enrolled in a high school equivalency program on a full-time basis, there is no work requirement. Individuals who are enrolled part time in a high school equivalency program must take classroom instruction for at least six hours per week, meet the attendance and satisfactory progress requirements as defined by the employment and training service provider in consultation with the provider of the high school equivalency program, and concurrently work a monthly average of not less than 64 hours in employment paying at least minimum wage or in documented volunteer work. Hours spent assisting at a licensed day care center shall count toward the weekly hours needed to fulfill the employment or volunteer requirement. "Volunteer work" shall include attendance at parenting skill classes. Failure to comply, without good cause, with this requirement shall result in the imposition of sanctions as specified in subdivision 4, clause (6).

(b) Concurrent with participation in post-secondary education or training approved in an employability development plan under subdivision 10, paragraph (a), clause (15), the participant must work at a minimum the number of hours per month prescribed by this subdivision in employment paying at least minimum wage or in documented volunteer work for a public or nonprofit agency and agree to search for and accept any offer of suitable employment upon completion of the education or training. For individuals who are participating in

an educational program under this paragraph on a full-time basis as determined by the institution, there is no work requirement. For individuals participating in an educational program on a part-time basis as determined by the institution, the number of hours that a participant must work shall be increased or decreased in inverse proportion to the number of credit hours being taken, with a maximum of eight hours weekly of work. Hours spent assisting at a licensed day care center shall count towards the weekly hours needed to fulfill the employment or volunteer requirement. "Volunteer work" shall include attendance at parenting skill classes.

**History:** 1995 c 178 art 2 s 8-15; 1995 c 207 art 5 s 4,5

### 256.737 COMMUNITY WORK EXPERIENCE PROGRAM.

*[For text of subd 1, see M.S.1994]*

**Subd. 1a. Commissioner's duties.** The commissioner shall:

- (a) assist counties in the design and implementation of these programs;
- (b) promulgate, in accordance with chapter 14, emergency rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until June 30, 1993, unless superseded by permanent rules;
- (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law;
- (d) ensure that participants at CWEP worksites are assigned to work, and require revision of the CWEP work plan in cases where work is not available at the site;
- (e) shall design and implement an intensive, functional work literacy program that addresses the barriers to employment for nonexempt caretakers in AFDC-UP households who lack proficiency in English. The commissioner is encouraged to work with adult basic education providers to provide functional work literacy services, where available. The intensive, functional work literacy program must be designed to assist nonexempt caretakers in AFDC-UP households achieve self-sufficiency by enhancing their employability through concurrent participation in meaningful work experience, job search skills, and functional work literacy; and
- (f) prohibit the use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee bargaining unit position established as of January 1, 1993.

The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. Written or oral concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative within seven days. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

**Subd. 2. Program requirements.** (a) Worksites developed under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to aged or disabled citizens, and child care. To the extent possible, the prior training, skills, and experience of a recipient must be used in making appropriate work experience assignments.

(b) As a condition to placing a person receiving aid to families with dependent children in a program under this subdivision, the county agency shall first provide the recipient the opportunity:

(1) for placement in suitable subsidized or unsubsidized employment through participation in job search under section 256.736, subdivision 14; or

(2) for placement in suitable employment through participation in on-the-job training under section 256.738 or grant diversion under section 256.739, if such employment is available.

(c) A caretaker referred to job search under section 256.736, subdivision 14, and who has failed to secure suitable employment must participate in a community work experience program.

(d) The county agency shall limit the maximum number of hours any participant under this section may work in any month to:

(1) for counties operating an approved mandatory community work experience program as of January 1, 1993, who elect this method for countywide operations, a number equal to the amount of the aid to families with dependent children payable to the family divided by the greater of the federal minimum wage or the applicable state minimum wage; or

(2) for all other counties, a caretaker must participate in any week 20 hours with no less than 16 hours spent participating in a work experience placement and no more than four of the hours spent in alternate activities as described in the caretaker's employability development plan. A person for whom lack of proficiency in English, as determined by an appropriate evaluation, is a barrier to employment, can choose to attend an available intensive, functional work literacy program and the hours will be applied to the four hours of alternate activities. The caretaker's employability development plan must include the length of time needed in the program, specific outcomes, completion dates, and employment goals as they pertain to the intensive language program. Placement in a work experience worksite must be based on the assessment required under section 256.736 and the caretaker's employability development plan. Caretakers participating under this clause may be allowed excused absences from the assigned job site of up to eight hours per month. For the purposes of this clause, "excused absence" means absence due to temporary illness or injury of the caretaker or a member of the caretaker's family, the unavailability of licensed child care or transportation needed to participate in the work experience placement, a job interview, or a nonmedical emergency. For purposes of this clause, "emergency" has the meaning given it in section 256.736, subdivision 10a, paragraph (g).

(e) After a participant has been assigned to a position under paragraph (d), clause (1), for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the aid to families with dependent children payable with respect to the family divided by the higher of (1) the federal minimum wage or the applicable state minimum wage, whichever is greater, or (2) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

(f) After each six months of a recipient's participation in an assignment, and at the conclusion of each assignment under this section, the county agency shall reassess and revise, as appropriate, each participant's employability development plan.

(g) Structured, supervised volunteer work with an agency or organization which is monitored by the county service provider may, with the approval of the commissioner of economic security, be used as a work experience placement.

(h) If there is no work available at the site to which a CWEP participant is assigned, then the CWEP work plan shall be revised so that participants may work at alternative sites.

*[For text of subs 3 to 6, see M.S.1994]*

**Subd. 7. Injury protection for work experience participants.** (a) Payment of any claims resulting from an alleged injury or death of a recipient participating in a community work experience program established and operated by a county pursuant to this section shall be determined in accordance with this section. This determination method applies to work experience programs established under aid to families with dependent children, work readiness, Minnesota parent's fair share, and to obligors participating in community services pursuant to section 518.551, subdivision 5a, in a county with an approved community investment program.

(b) Claims that are subject to this section shall be investigated by the county agency responsible for supervising the work to determine whether the claimed injury occurred, whether the claimed medical expenses are reasonable, and whether the loss is covered by the claimant's insurance. If insurance coverage is established, the county agency shall submit the claim to the appropriate insurance entity for payment. The investigating county agency shall submit all valid claims, in the amount net of any insurance payments, to the department of human services.

(c) The department of human services shall submit all claims for impairment compensation to the commissioner of labor and industry. The commissioner of labor and industry

shall review all submitted claims and recommend to the department of human services an amount of compensation comparable to that which would be provided under the impairment compensation schedule of section 176.101, subdivision 3b.

(d) The department of human services shall approve a claim of \$1,000 or less for payment if appropriated funds are available, if the county agency responsible for supervising the work has made the determinations required by this section, and if the work program was operated in compliance with the safety provisions of this section. The department shall pay the portion of an approved claim of \$1,000 or less that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each legislative session, the department shall submit to the appropriate committees of the senate and the house of representatives a list of claims of \$1,000 or less paid during the preceding calendar year and shall be reimbursed by legislative appropriation for any claims that exceed the original appropriation provided to the department to operate this program. Any unspent money from this appropriation shall carry over to the second year of the biennium, and any unspent money remaining at the end of the second year shall be returned to the state general fund.

On or before February 1 of each year, the department shall submit to the appropriate committees of the senate and the house of representatives a list of claims in excess of \$1,000 and a list of claims of \$1,000 or less that were submitted to but not paid by the department of human services, together with any recommendations of appropriate compensation. These claims shall be heard and determined by the appropriate committees of the senate and house of representatives and, if approved, shall be paid under the legislative claims procedure.

(e) Compensation paid under this section is limited to reimbursement for reasonable medical expenses and impairment compensation for disability in like amounts as allowed in section 176.101, subdivision 3b. Compensation for injuries resulting in death shall include reasonable medical expenses and burial expenses in addition to payment to the participant's estate in an amount up to \$200,000. No compensation shall be paid under this section for pain and suffering, lost wages, or other benefits provided in chapter 176. Payments made under this section shall be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

(f) The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant shall not be entitled to seek damages from any state or county insurance policy or self-insurance program.

(g) A claim is not valid for purposes of this subdivision if the local agency responsible for supervising the work cannot verify to the department of human services:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this subdivision; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards. A claim that is not valid because of failure to verify safety training or compliance with safety standards will not be paid by the department of human services or through the legislative claims process and must be heard, decided, and paid, if appropriate, by the local government unit responsible for supervising the work of the claimant.

(h) This program is effective July 1, 1995. Claims may be submitted on or after November 1, 1995.

**History:** 1995 c 178 art 2 s 16-18

## 256.74 ASSISTANCE.

**Subdivision 1. Amount.** The amount of assistance which shall be granted to or on behalf of any dependent child and parent or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. To the extent permissible under federal law, an eligible relative caretaker or par-

ent shall have the option to include in the assistance unit the needs, income, and resources of the following essential persons who are not otherwise eligible for AFDC because they do not qualify as a caretaker or as a dependent child:

(1) a parent or relative caretaker's spouse and stepchildren; or

(2) blood or legally adopted relatives who are under the age of 18 or under the age of 19 years who are regularly attending as a full-time student, and are expected to complete before or during the month of their 19th birthday, a high school or secondary level course of vocational or technical training designed to prepare students for gainful employment. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an AFDC family must be budgeted in the normal retrospective cycle. When the family's income, after application of the applicable disregards, exceeds the need standard for the family because of receipt of earned or unearned lump sum income, the family will be ineligible for the full number of months derived by dividing the sum of the lump sum income and other income by the monthly need standard for a family of that size. Any income remaining from this calculation is income in the first month following the period of ineligibility. The first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. For purposes of applying the lump sum provision, family includes those persons defined in the Code of Federal Regulations, title 45, section 233.20(a)(3)(ii)(F). A period of ineligibility must be shortened when the standard of need increases and the amount the family would have received also changes, an amount is documented as stolen, an amount is unavailable because a member of the family left the household with that amount and has not returned, an amount is paid by the family during the period of ineligibility to cover a cost that would otherwise qualify for emergency assistance, or the family incurs and pays for medical expenses which would have been covered by medical assistance if eligibility existed. In making its determination the county agency shall disregard the following from family income:

(1) all the earned income of each dependent child applying for AFDC if the child is a full-time student and all of the earned income of each dependent child receiving AFDC who is a full-time student or is a part-time student who is not a full-time employee. A student is one who is attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment and includes a participant in the Job Corps program under the Job Training Partnership Act (JTPA). The county agency shall also disregard all income of each dependent child applying for or receiving AFDC when the income is derived from a program carried out under JTPA, except that disregard of earned income may not exceed six months per calendar year;

(2) all educational assistance, except the county agency shall count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(3) the first \$90 of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) thirty dollars plus one-third of each individual's earned income for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; (b) refused without good cause to accept an offer of suitable employment; (c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregard; or (d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their

earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment. The disregard of \$30 and one-third of earned income in this clause shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of subclauses (a) to (d) shall be considered as one of the four months. An additional \$30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined \$30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under this clause, the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed: (a) \$175 for each individual age two and older, and \$200 for each individual under the age of two. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;

(6) the first \$50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit. The first \$50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit must be paid to the assistance unit within 15 days after the end of the month in which the collection of the periodic support payments occurred and must be disregarded when determining the amount of assistance. A review of a payment decision under this clause must be requested within 30 days after receiving the notice of collection of assigned support or within 90 days after receiving the notice if good cause can be shown for not making the request within the 30-day limit;

(7) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, or to repair or replace insured property; and

(8) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.

All payments made pursuant to a court order for the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order.

*[For text of subs 1a to 5, see M.S.1994]*

**Subd. 6. State supplementary payments.** The commissioner of human services shall report back on a plan for providing supplemental payments for recipients of AFDC whose income is reduced or terminated as a result of a reduction in the rate of pay, reduction in numbers of hours worked, or reduction in court ordered or agreed upon support, but whose assistance under the AFDC program is not adjusted accordingly because of the operation of retrospective budgeting procedures. The amount of assistance must be sufficient to ensure that the assistance unit's income equals, but does not exceed, the standard of assistance in the AFDC program for an assistance unit of like size and composition. A recipient shall not be eligible for supplementary assistance if the recipient voluntarily, and without good cause attributable to the employer, discontinued employment with the employer or was discharged for misconduct connected with work or for misconduct which interferes with or adversely affects employment. The commissioner's report shall provide information on the projected number of families likely to be eligible for supplementary payments during the 1997-1999 biennium;

and on the costs, including administrative costs, of making those payments to eligible recipients. The report shall be presented to the legislature by February 15, 1996.

**Subd. 7. Good cause claims.** All applications for good cause exemption from cooperation with child support enforcement shall be reviewed by designees of the county human services board to ensure the validity of good cause determinations.

**History:** 1995 c 178 art 2 s 19; 1995 c 207 art 5 s 6; art 10 s 5

### **256.76 ASSISTANCE, DETERMINATION OF AMOUNT.**

Subdivision 1. Upon the completion of the investigation the county agency shall decide whether the child is eligible for assistance under the provisions of sections 256.72 to 256.87 and determine the amount of the assistance and the date on which the assistance begins. A decision on an application for assistance must be made as promptly as possible and no more than 30 days from the date of application. Notwithstanding section 393.07, the county agency shall not delay approval or issuance of assistance pending formal action of the county board of commissioners. The first month's grant shall be based upon that portion of the month from the date of application, or from the date that the applicant meets all eligibility factors, whichever occurs later, provided that on the date that assistance is first requested, the county agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, or other emergency assistance. If an emergency need is found to exist, the applicant shall be granted assistance pursuant to section 256.871 within a reasonable period of time. It shall make a grant of assistance which shall be binding upon the county and be complied with by the county until the grant is modified or vacated. The county agency shall notify the applicant of its decision in writing. The assistance shall be paid monthly to the applicant or to the vendor of medical care upon order of the county agency from funds appropriated to the county agency for this purpose.

**History:** 1995 c 207 art 10 s 6

### **256.81 COUNTY AGENCY, DUTIES.**

(1) The county agency shall keep such records, accounts, and statistics in relation to aid to families with dependent children as the state agency shall prescribe.

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency unless paid by the state agency. Payment must be by check or electronic means except in those instances in which the county agency, subject to the rules of the state agency, determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child. There is a presumption of mismanagement of funds whenever a recipient is more than 30 days in arrears on payment of rent, except when the recipient has withheld rent to enforce the recipient's right to withhold the rent in accordance with federal, state, or local housing laws. In cases of mismanagement based solely on failure to pay rent, the county may vendor the rent payments to the landlord. At the request of a recipient, the state or county may make payments directly to vendors of goods and services, but only for goods and services appropriate to maintain the health and safety of the child, as determined by the county.

(3) The state or county may ask the recipient to give written consent authorizing the state or county to provide advance notice to a vendor before vendor payments of rent are reduced or terminated. Whenever possible under state and federal laws and regulations and if the recipient consents, the state or county shall provide at least 30 days notice to vendors before vendor payments of rent are reduced or terminated. If 30 days notice cannot be given, the state or county shall notify the vendor within three working days after the date the state or county becomes aware that vendor payments of rent will be reduced or terminated. When the county notifies a vendor that vendor payments of rent will be reduced or terminated, the county shall include in the notice that it is illegal to discriminate on the grounds that a person is receiving public assistance and the penalties for violation. The county shall also notify the recipient that it is illegal to discriminate on the grounds that a person is receiving public assistance and the procedures for filing a complaint. The county agency may develop procedures,



including using the MAXIS system, to implement vendor notice and may charge vendors a fee not exceeding \$5 to cover notification costs.

(4) A vendor payment arrangement is not a guarantee that a vendor will be paid by the state or county for rent, goods, or services furnished to a recipient, and the state and county are not liable for any damages claimed by a vendor due to failure of the state or county to pay or to notify the vendor on behalf of a recipient, except under a specific written agreement between the state or county and the vendor or when the state or county has provided a voucher guaranteeing payment under certain conditions.

(5) The county shall be paid from state and federal funds available therefor the amount provided for in section 256.82.

(6) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

(7) The affected county may require that assistance paid under the AFDC emergency assistance program in the form of a rental unit damage deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord pursuant to a rental agreement, or to restore the premises to the condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or paid to the recipient's new landlord as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

**History:** 1995 c 178 art 2 s 20

**256.851** [Repealed, 1995 c 207 art 5 s 40]

## **256.87 CONTRIBUTION BY PARENTS.**

*[For text of subs 1 to 3, see M.S.1994]*

**Subd. 5. Child not receiving assistance.** A person or entity having physical custody of a dependent child not receiving assistance under sections 256.031 to 256.0361, or 256.72 to 256.87 has a cause of action for child support against the child's absent parents. Upon a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518. The absent parent's liability may include up to the two years immediately preceding the commencement of the action. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.

*[For text of subs 6 and 7, see M.S.1994]*

**History:** 1995 c 257 art 4 s 2

## **256.8711 EMERGENCY ASSISTANCE; INTENSIVE FAMILY SERVICES.**

**Subdivision 1. Scope of services.** (a) For a family experiencing an emergency as defined in subdivision 2, and for whom the county authorizes services under subdivision 3, intensive family services authorized under this section include both intensive family preservation services and emergency assistance placement services.

(b) For purposes of this section, intensive family preservation services are:

- (1) crisis family-based services;
- (2) counseling family-based services; and
- (3) mental health family-based services.

Intensive family preservation services also include family-based life management skills when it is provided in conjunction with any of the three family-based services or five emergency assistance placement services in this subdivision. The intensive family preservation services in clauses (1), (2), and (3) and life management skills have the meanings given in section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e).

(c) For purposes of this section, emergency assistance placement services include:

- (1) emergency shelter services;
- (2) foster care services;
- (3) group home services;
- (4) child residential treatment services; and
- (5) correctional facility services.

**Subd. 2. Definition of emergency.** For the purposes of this section, an emergency is a situation in which the dependent children are at risk for out-of-home placement due to abuse, neglect, or delinquency; when the children are returning home from placements but need services to prevent another placement; when the parents are unable to provide care; or when the dependent children have been removed from the home by a peace officer, by order of the juvenile court, or pursuant to a voluntary placement agreement, to a publicly funded out-of-home placement.

**Subd. 3. County authorization.** The county agency shall assess current and prospective client families with a dependent under 21 years of age to determine if there is an emergency, as defined in subdivision 2, and to determine if there is a need for intensive family services. Upon such determinations, counties shall authorize intensive family services for up to 12 months for eligible families under this section and under section 256.871, subdivisions 1 and 3. Once authorized, intensive family services shall be used singly or in any combination or duration up to 12 months appropriate to the needs of the child, as determined by the county agency.

**Subd. 3a. Limitations on federal funding.** County agencies shall determine eligibility under Title IV-E of the Social Security Act for every child being considered for emergency assistance placement services. The commissioner and county agencies shall make every effort to use federal funding under Title IV-E of the Social Security Act instead of federal funding under this section, whenever possible. The counties' obligations to continue the base level of expenditures and to expand family preservation services as defined in section 256F.03, subdivision 5, are eliminated, if the federal revenue earned under this section is terminated. If the federal revenue earned under this section is terminated or inadequate, the state has no obligation to pay for these services. In the event that federal limitations or ceilings are imposed on federal emergency assistance funding, the commissioner shall use the funds according to these priorities:

- (1) emergency assistance benefits under section 256.871;
- (2) emergency assistance benefits under the reserve established in subdivision 5;
- (3) intensive family preservation services under this section; and
- (4) emergency assistance placement services under this section.

**Subd. 4. Cost to families.** Family preservation services provided under this section or sections 256F.01 to 256F.07 shall be provided at no cost to the client and without regard to the client's available income or assets. Emergency assistance placement services provided under this section shall not be dependent on the client's available income or assets. However, county agencies shall seek costs of care as required under section 260.251 for emergency assistance placement services.

**Subd. 5. Emergency assistance reserve.** The commissioner shall establish an emergency assistance reserve for families who receive intensive family services under this section. A family is eligible to receive assistance once from the emergency assistance reserve if it received intensive family services under this section within the past 12 months, but has not received emergency assistance under section 256.871 during that period. The emergency assistance reserve shall cover the cost of the federal share of the assistance that would have been available under section 256.871, except for the provision of intensive family services provided under this section. The emergency assistance reserve shall be authorized and paid in the same manner as emergency assistance is provided under section 256.871. Funds set aside for the emergency assistance reserve that are not needed as determined by the commissioner shall be distributed by the terms of subdivision 6, paragraph (a); or 6b, paragraph (a), depending on how the funds were earned.

**Subd. 6. Distribution of new federal revenue earned for intensive family preservation services.** (a) All federal funds not set aside under paragraph (b), and at least 50 percent of all federal funds earned for intensive family preservation services under this section and

earned through assessment activity under subdivision 3, shall be paid to each county based on its earnings and assessment activity, respectively, and shall be used by each county to expand family preservation core services as defined in section 256F.03, subdivision 10, and may be used to expand crisis nursery services. If a county joins a local children's mental health collaborative as authorized by the 1993 legislature, then the federal reimbursement received under this paragraph by the county for providing intensive family preservation services to children served by the local collaborative shall be transferred by the county to the integrated fund. The federal reimbursement transferred to the integrated fund by the county must be used for intensive family preservation services as defined in section 256F.03, subdivision 5, to the target population.

(b) The commissioner shall set aside a portion, not to exceed 50 percent, of the federal funds earned for intensive family preservation services under this section and earned through assessment activity described under subdivision 3. The set aside funds shall be used to develop and expand intensive family preservation services statewide as provided in subdivisions 6a and 7 and establish an emergency assistance reserve as provided in subdivision 5.

**Subd. 6a. Development grants.** Except for the portion needed for the emergency assistance reserve provided in subdivision 5, the commissioner shall distribute the funds set aside under subdivision 6, paragraph (b), through development grants to counties to establish and maintain family preservation core services as defined in section 256F.03, subdivision 10, statewide. The commissioner's priority is to establish a minimum level of family preservation core services statewide. Each county's development grant shall be paid and used as provided in sections 256F.01 to 256F.06.

**Subd. 6b. Distribution of new federal revenue earned for emergency assistance placement services.** (a) All federal funds earned for emergency assistance placement services not set aside under paragraph (b), shall be paid to each county based on its earnings. These payments shall constitute the placement earnings grant of the family preservation fund under sections 256F.01 to 256F.06.

(b) The commissioner may set aside a portion, not to exceed 15 percent, of the federal funds earned for emergency assistance placement services under this section. The set aside funds shall be used for the emergency assistance reserve as provided in subdivision 5.

**Subd. 7. Expansion of services and base level of expenditures.** (a) Counties must continue the base level of expenditures for family preservation core services as defined in section 256F.03, subdivision 10, from any state, county, or federal funding source, which, in the absence of federal funds earned for intensive family preservation services under this section and earned through assessment activity described under subdivision 3, would have been available for these services. The commissioner shall review the county expenditures annually, using reports required under sections 245.482, 256.01, subdivision 2, paragraph (17), and 256E.08, subdivision 8, to ensure that the base level of expenditures for family preservation core services as defined in section 256F.03, subdivision 10, is continued from sources other than the federal funds earned under this section and earned through assessment activity described under subdivision 3.

(b) The commissioner shall, at the request of a county, reduce, suspend, or eliminate either or both of a county's obligations to continue the base level of expenditures and to expand family preservation core services as defined in section 256F.03, subdivision 10, if the commissioner determines that one or more of the following conditions apply to that county:

(1) imposition of levy limits or other levy restrictions that significantly reduce available social service funds;

(2) reduction in the net tax capacity of the taxable property within a county that significantly reduces available social service funds;

(3) reduction in the number of children under age 19 in the county by 25 percent when compared with the number in the base year using the most recent data provided by the state demographer's office;

(4) termination or reduction of the federal revenue earned under this section; or

(5) other changes in state law that significantly impact the receipt or distribution of state and federal funding.

(c) The commissioner may suspend for one year either or both of a county's obligations to continue the base level of expenditures and to expand family preservation core services as defined in section 256F.03, subdivision 10, if the commissioner determines that in the previous year one or more of the following conditions applied to that county:

(1) the unduplicated number of families who received family preservation services under section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e), equals or exceeds the unduplicated number of children who entered placement under sections 257.071 and 393.07, subdivisions 1 and 2, during the year;

(2) the total number of children in placement under sections 257.071 and 393.07, subdivisions 1 and 2, has been reduced by 50 percent from the total number in the base year; or

(3) the average number of children in placement under sections 257.071 and 393.07, subdivisions 1 and 2, on the last day of each month is equal to or less than one child per 1,000 children in the county.

(d) For the purposes of this section, the base year is calendar year 1992. For the purposes of this section, the base level of expenditures is the level of county expenditures in the base year for eligible family preservation services under section 256F.03, subdivision 5, paragraphs (a), (b), (c), and (e).

**Subd. 8. County responsibilities.** (a) Notwithstanding section 256.871, subdivision 6, for intensive family services provided under this section, the county agency shall submit quarterly fiscal reports as required under section 256.01, subdivision 2, clause (17), and provide the nonfederal share.

(b) County expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(c) The commissioner may suspend, reduce, or terminate the federal reimbursement to a county that does not meet the reporting or other requirements of this section.

**Subd. 9. Payments.** Notwithstanding section 256.025, subdivision 2, payments to counties for social service expenditures for intensive family services under this section shall be made only from the federal earnings under this section and earned through assessment activity described under subdivision 3. Counties may use up to ten percent of federal earnings received under subdivision 6, paragraph (a), to cover costs of income maintenance activities related to the operation of this section and sections 256B.094 and 256F.10.

**Subd. 10. Commissioner responsibilities.** The commissioner in consultation with counties shall analyze state funding options to cover costs of counties' base level expenditures and any expansion of the nonfederal share of intensive family preservation services resulting from implementation of this section. The commissioner shall also study problems of implementation, barriers to maximizing federal revenue, and the impact on out-of-home placements of implementation of this section. The commissioner shall report to the legislature on the results of this analysis and study, together with recommendations, by February 15, 1995.

**History:** 1995 c 207 art 4 s 2

## **256.8799 FOOD STAMP OUTREACH PROGRAM.**

**Subdivision 1. Establishment.** The commissioner of human services shall establish, in consultation with the representatives from community action agencies, a statewide outreach program to better inform potential recipients of the existence and availability of food stamps under the food stamp program. As part of the outreach program, the commissioner and community action agencies shall encourage recipients in the use of food stamps at food cooperatives. The commissioner shall explore and pursue federal funding sources, and specifically, apply for funding from the United States Department of Agriculture for the food stamp outreach program.

**Subd. 2. Administration of the program.** A community association representing community action agencies under section 268.53, in consultation with the commissioner shall administer the outreach program, issue the request for proposals, and review and approve the potential grantee's plan. Grantees shall comply with the monitoring and reporting requirements as developed by the commissioner in accordance with subdivision 4, and must also participate in the evaluation process as directed by the commissioner. Grantees must suc-

cessfully complete one year of outreach and demonstrate compliance with all monitoring and reporting requirements in order to be eligible for additional funding.

**Subd. 3. Plan content.** In approving the plan, the association shall evaluate the plan and give highest priority to a plan that:

(1) targets communities in which 50 percent or fewer of the residents with incomes below 125 percent of the poverty level receive food stamps;

(2) demonstrates that the grantee has the experience necessary to administer the program;

(3) demonstrates a cooperative relationship with the local county social service agencies;

(4) provides ways to improve the dissemination of information on the food stamp program as well as other assistance programs through a statewide hotline or other community agencies;

(5) provides direct advocacy consisting of face-to-face assistance with the potential applicants;

(6) improves access to the food stamp program by documenting barriers to participation and advocating for changes in the administrative structure of the program; and

(7) develops strategies for combatting community stereotypes about food stamp recipients and the food stamp program, misinformation about the program, and the stigma associated with using food stamps.

**Subd. 4. Coordinated development.** The commissioner shall consult with representatives from the United States Department of Agriculture, Minnesota Community Action Association, Food First Coalition, Minnesota department of human services, Urban Coalition/University of Minnesota extension services, county social service agencies, local social service agencies, and organizations that have previously administered state-funded food stamp outreach programs to:

(1) develop the reporting requirements for the program;

(2) develop and implement the monitoring of the program;

(3) develop, coordinate, and assist in the evaluation process; and

(4) provide an interim report to the legislature by January 1997, and a final report to the legislature by January 1998, which includes the results of the evaluation and recommendations.

**History:** 1995 c 178 art 2 s 21

## 256.9352 PROGRAM ADMINISTRATION.

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. Financial management.** (a) The commissioner shall manage spending for the MinnesotaCare program in a manner that maintains a minimum reserve equal to five percent of the expected cost of state premium subsidies. The commissioner must make a quarterly assessment of the expected expenditures for the covered services for the remainder of the current biennium and for the following biennium. The estimated expenditure, including minimum reserve requirements, shall be compared to an estimate of the revenues that will be deposited in the health care access fund. Based on this comparison, and after consulting with the chairs of the house ways and means committee and the senate finance committee, and the legislative commission on health care access, the commissioner shall, as necessary, make the adjustments specified in paragraph (b) to ensure that expenditures remain within the limits of available revenues for the remainder of the current biennium and for the following biennium. The commissioner shall not hire additional staff using appropriations from the health care access fund until the commissioner of finance makes a determination that the adjustments implemented under paragraph (b) are sufficient to allow MinnesotaCare expenditures to remain within the limits of available revenues for the remainder of the current biennium and for the following biennium.

(b) The adjustments the commissioner shall use must be implemented in this order: first, stop enrollment of single adults and households without children; second, upon 45

days' notice, stop coverage of single adults and households without children already enrolled in the MinnesotaCare program; third, upon 90 days' notice, decrease the premium subsidy amounts by ten percent for families with gross annual income above 200 percent of the federal poverty guidelines; fourth, upon 90 days' notice, decrease the premium subsidy amounts by ten percent for families with gross annual income at or below 200 percent; and fifth, require applicants to be uninsured for at least six months prior to eligibility in the MinnesotaCare program. If these measures are insufficient to limit the expenditures to the estimated amount of revenue, the commissioner shall further limit enrollment or decrease premium subsidies.

The reserve referred to in this subdivision is appropriated to the commissioner but may only be used upon approval of the commissioner of finance, if estimated costs will exceed the forecasted amount of available revenues after all adjustments authorized under this subdivision have been made.

By February 1, 1995, the department of human services and the department of health shall develop a plan to adjust benefit levels, eligibility guidelines, or other steps necessary to ensure that expenditures for the MinnesotaCare program are contained within the two percent taxes imposed under section 295.52 and the gross premiums tax imposed under section 60A.15, subdivision 1, paragraph (e), for fiscal year 1997.

(c) Notwithstanding paragraphs (a) and (b), the commissioner shall proceed with the enrollment of single adults and households without children in accordance with section 256.9354, subdivision 5, paragraph (a), even if the expenditures do not remain within the limits of available revenues through fiscal year 1997 to allow the departments of human services and health to develop the plan required under paragraph (b).

Subd. 4. [Deleted, 1995 c 233 art 2 s 56]

History: 1995 c 234 art 6 s 3

## 256.9353 COVERED HEALTH SERVICES.

Subdivision 1. **Covered health services.** "Covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services other than preventive services, orthodontic services, nonemergency medical transportation services, personal care assistant and case management services, nursing home or intermediate care facilities services, inpatient mental health services, and chemical dependency services. Out-patient mental health services covered under the MinnesotaCare program are limited to diagnostic assessments, psychological testing, explanation of findings, medication management by a physician, day treatment, partial hospitalization, and individual, family, and group psychotherapy.

No public funds shall be used for coverage of abortion under MinnesotaCare except where the life of the female would be endangered or substantial and irreversible impairment of a major bodily function would result if the fetus were carried to term; or where the pregnancy is the result of rape or incest.

Covered health services shall be expanded as provided in this section.

[For text of subd 2, see M.S.1994]

Subd. 3. **Inpatient hospital services.** (a) Beginning July 1, 1993, covered health services shall include inpatient hospital services, including inpatient hospital mental health services and inpatient hospital and residential chemical dependency treatment, subject to those limitations necessary to coordinate the provision of these services with eligibility under the medical assistance spenddown. The inpatient hospital benefit for adult enrollees is subject to an annual benefit limit of \$10,000.

(b) Enrollees determined by the commissioner to have a basis of eligibility for medical assistance shall apply for and cooperate with the requirements of medical assistance by the last day of the third month following admission to an inpatient hospital. If an enrollee fails to apply for medical assistance within this time period, the enrollee and the enrollee's family shall be disenrolled from the plan and they may not reenroll until 12 calendar months have elapsed. Enrollees and enrollees' families disenrolled for not applying for or not cooperating with medical assistance may not reenroll.

(c) Admissions for inpatient hospital services paid for under section 256.9362, subdivision 3, must be certified as medically necessary in accordance with Minnesota Rules, parts 9505.0500 to 9505.0540, except as provided in clauses (1) and (2):

(1) all admissions must be certified, except those authorized under rules established under section 254A.03, subdivision 3, or approved under Medicare; and

(2) payment under section 256.9362, subdivision 3, shall be reduced by five percent for admissions for which certification is requested more than 30 days after the day of admission. The hospital may not seek payment from the enrollee for the amount of the payment reduction under this clause.

(d) Any enrollee or family member of an enrollee who has previously been permanently disenrolled from MinnesotaCare for not applying for and cooperating with medical assistance shall be eligible to reenroll if 12 calendar months have elapsed since the date of disenrollment.

Subd. 4. [Repealed, 1995 c 234 art 6 s 46]

Subd. 5. [Repealed, 1995 c 234 art 6 s 46]

*[For text of subs 6 and 7, see M.S.1994]*

Subd. 8. **Lien.** When the state agency provides, pays for, or becomes liable for covered health services, the agency shall have a lien for the cost of the covered health services upon any and all causes of action accruing to the enrollee, or to the enrollee's legal representatives, as a result of the occurrence that necessitated the payment for the covered health services. All liens under this section shall be subject to the provisions of section 256.015. For purposes of this subdivision, "state agency" includes authorized agents of the state agency.

**History:** 1995 c 207 art 6 s 12; 1995 c 234 art 6 s 4,5

#### **256.9354 ELIGIBLE PERSONS.**

Subdivision 1. **Children; expansion and continuation of eligibility.** (a) **Children.** Prior to October 1, 1992, "eligible persons" means children who are one year of age or older but less than 18 years of age who have gross family incomes that are equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance without a spenddown under chapter 256B and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes 18 years old.

(b) **Expansion of eligibility.** Eligibility for MinnesotaCare shall be expanded as provided in subdivisions 2 to 5, except children who meet the criteria in this subdivision shall continue to be enrolled pursuant to this subdivision. The enrollment requirements in this paragraph apply to enrollment under subdivisions 1 to 5. Parents who enroll in the MinnesotaCare program must also enroll their children and dependent siblings, if the children and their dependent siblings are eligible. Children and dependent siblings may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members. For purposes of this section, a "dependent sibling" means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent. Proof of school enrollment will be required.

(c) **Continuation of eligibility.** Individuals who initially enroll in the MinnesotaCare program under the eligibility criteria in subdivisions 2 to 5 remain eligible for the MinnesotaCare program, regardless of age, place of residence, or the presence or absence of children in the same household, as long as all other eligibility criteria are met and residence in Minnesota and continuous enrollment in the MinnesotaCare program or medical assistance are maintained. In order for either parent or either spouse in a household to remain enrolled, both must remain enrolled, unless other insurance is available.

*[For text of subs 1a to 3, see M.S.1994]*

**Subd. 4. Families with children; eligibility based on percentage of income paid for health coverage.** Beginning January 1, 1993, "eligible persons" means children, parents, and dependent siblings residing in the same household who are not eligible for medical assistance without a spenddown under chapter 256B. Children who meet the criteria in subdivision 1 or 4a shall continue to be enrolled pursuant to those subdivisions. Persons who are eligible under this subdivision or subdivision 2, 3, or 5 must pay a premium as determined under sections 256.9357 and 256.9358, and children eligible under subdivision 1 must pay the premium required under section 256.9356, subdivision 1. Individuals and families whose income is greater than the limits established under section 256.9358 may not enroll in MinnesotaCare.

**Subd. 4a. Children with lower incomes.** Beginning July 1, 1993, the definition of "eligible persons" is expanded to include children who are one year of age or older but less than 18 years of age who have gross family incomes that are equal to or less than 150 percent of the federal poverty guidelines and who are not eligible for medical assistance without a spenddown under chapter 256B and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes 18 years old. The commissioner shall exclude all earned income of dependent children who:

- (1) are full-time or part-time students;
- (2) are employed for less than 37.5 hours per week; and

(3) earn less than \$10,000 a year in total from all sources of employment, when calculating gross family incomes for applicants who would otherwise be eligible under this subdivision.

**Subd. 5. Addition of single adults and households with no children.** (a) Beginning October 1, 1994, the definition of "eligible persons" is expanded to include all individuals and households with no children who have gross family incomes that are equal to or less than 125 percent of the federal poverty guidelines and who are not eligible for medical assistance without a spenddown under chapter 256B.

(b) After October 1, 1995, the commissioner of human services may expand the definition of "eligible persons" to include all individuals and households with no children who have gross family incomes that are equal to or less than 135 percent of federal poverty guidelines and are not eligible for medical assistance without a spenddown under chapter 256B. This expansion may occur only if the financial management requirements of section 256.9352, subdivision 3, can be met.

(c) The commissioners of health and human services, in consultation with the legislative commission on health care access, shall make preliminary recommendations to the legislature by October 1, 1995, and final recommendations to the legislature by February 1, 1996, on whether a further expansion of the definition of "eligible persons" to include all individuals and households with no children who have gross family incomes that are equal to or less than 150 percent of federal poverty guidelines and are not eligible for medical assistance without a spenddown under chapter 256B would be allowed under the financial management constraints outlined in section 256.9352, subdivision 3.

(d) All eligible persons under paragraphs (a) and (b) are eligible for coverage through the MinnesotaCare program but must pay a premium as determined under sections 256.9357 and 256.9358. Individuals and families whose income is greater than the limits established under section 256.9358 may not enroll in the MinnesotaCare program.

*[For text of subs 6 and 7, see M.S.1994]*

**History:** 1995 c 234 art 6 s 6-9

## **256.9355 APPLICATION PROCEDURES.**

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Commissioner's duties.** The commissioner shall use individuals' social security numbers as identifiers for purposes of administering the plan and conduct data matches to verify income. Applicants shall submit evidence of family income, earned and unearned,



including the most recent income tax return, wage slips, or other documentation that is necessary to verify income eligibility. The commissioner shall perform random audits to verify reported income and eligibility. The commissioner may execute data sharing arrangements with the department of revenue and any other governmental agency in order to perform income verification related to eligibility and premium payment under the MinnesotaCare program.

*[For text of subs 3 and 4, see M.S.1994]*

**History:** 1995 c 234 art 6 s 10

## **256.9356 PREMIUM FEES AND PAYMENTS.**

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Premium payments.** The commissioner shall require MinnesotaCare enrollees eligible under section 256.9354, subdivisions 2 to 5, to pay a premium based on a sliding scale, as established under section 256.9358. The following applicants are exempt from this requirement until July 1, 1993:

(1) applicants who are eligible under section 256.9354, subdivision 1, if the application is received by MinnesotaCare staff on or before September 30, 1992; and

(2) children who enroll in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17.

*[For text of subd 3, see M.S.1994]*

**History:** 1995 c 234 art 8 s 56

## **256.9357 ELIGIBILITY FOR SUBSIDIZED PREMIUMS BASED ON SLIDING SCALE.**

**Subdivision 1. General requirements.** Families and individuals who enroll on or after October 1, 1992, are eligible for subsidized premium payments based on a sliding scale under section 256.9358 only if the family or individual meets the requirements in subdivisions 2 and 3. Children already enrolled in the children's health plan as of September 30, 1992, eligible under section 256.9354, subdivision 1, paragraph (a), children who enroll in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who enroll under section 256.9354, subdivision 4a, are eligible for subsidized premium payments without meeting these requirements, as long as they maintain continuous coverage in the MinnesotaCare plan or medical assistance.

Families and individuals who initially enrolled in MinnesotaCare under section 256.9354, and whose income increases above the limits established in section 256.9358, may continue enrollment and pay the full cost of coverage.

**Subd. 2. Must not have access to employer-subsidized coverage.** (a) To be eligible for subsidized premium payments based on a sliding scale, a family or individual must not have access to subsidized health coverage through an employer, and must not have had access to subsidized health coverage through an employer for the 18 months prior to application for subsidized coverage under the MinnesotaCare program. The requirement that the family or individual must not have had access to employer-subsidized coverage during the previous 18 months does not apply if: (1) employer-subsidized coverage was lost due to the death of an employee or divorce; (2) employer-subsidized coverage was lost because an individual became ineligible for coverage as a child or dependent; or (3) employer-subsidized coverage was lost for reasons that would not disqualify the individual for unemployment benefits under section 268.09 and the family or individual has not had access to employer-subsidized coverage since the loss of coverage. If employer-subsidized coverage was lost for reasons that disqualify an individual for unemployment benefits under section 268.09, children of that individual are exempt from the requirement of no access to employer subsidized coverage for the 18 months prior to application, as long as the children have not had access to employer subsidized coverage since the disqualifying event. The requirement that the family or individual must not have had access to employer-subsidized coverage during

the previous 18 months does apply if employer-subsidized coverage is lost due to an employer terminating health care coverage as an employee benefit.

(b) For purposes of this requirement, subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee, excluding dependent coverage, or a higher percentage as specified by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans as qualified employer subsidies toward the cost of health coverage for employees for purposes of this subdivision.

**Subd. 3. Period uninsured.** To be eligible for subsidized premium payments based on a sliding scale, families and individuals initially enrolled in the MinnesotaCare program under section 256.9354, subdivisions 4 and 5, must have had no health coverage for at least four months prior to application. The commissioner may change this eligibility criterion for sliding scale premiums without complying with rulemaking requirements in order to remain within the limits of available appropriations. The requirement of at least four months of no health coverage prior to application for the MinnesotaCare program does not apply to:

(1) families, children, and individuals who want to apply for the MinnesotaCare program upon termination from the medical assistance program, general assistance medical care program, or coverage under a regional demonstration project for the uninsured funded under section 256B.73, the Hennepin county assured care program, or the Group Health, Inc., community health plan;

(2) families and individuals initially enrolled under section 256.9354, subdivisions 1, paragraph (a), and 2;

(3) children enrolled pursuant to Laws 1992, chapter 549, article 4, section 17; or

(4) individuals currently serving or who have served in the military reserves, and dependents of these individuals, if these individuals: (i) reapply for MinnesotaCare coverage after a period of active military service during which they had been covered by the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); (ii) were covered under MinnesotaCare immediately prior to obtaining coverage under CHAMPUS; and (iii) have maintained continuous coverage.

**History:** 1995 c 234 art 6 s 11-13

## 256.9358 PREMIUMS.

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. Sliding scales after June 30, 1993.** Beginning July 1, 1993, the sliding scales begin with a premium of 1.5 percent of gross family income for individuals with incomes below the limits for the medical assistance program set at 133-1/3 percent of the AFDC payment standard and proceed through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit to a gross monthly income of \$1,600 for an individual, \$2,160 for a household of two, \$2,720 for a household of three, \$3,280 for a household of four, and \$3,840 for a household of five or more persons.

**Subd. 4. Ineligibility.** Families with children whose gross monthly income is above the amount specified in subdivision 3 are not eligible for the plan. Beginning October 1, 1994, an individual or households with no children whose gross income is greater than 125 percent of the federal poverty guidelines are ineligible for the plan.

*[For text of subs 5 and 6, see M.S.1994]*

**Subd. 7. Minimum premium payment.** Beginning with premium payments due on or after July 1, 1995, the commissioner shall require all MinnesotaCare enrollees to pay a minimum premium of \$4 per month.

**History:** 1995 c 234 art 6 s 14-16

## 256.9363 MANAGED CARE.

*[For text of subs 1 to 4, see M.S.1994]*

**Subd. 5. Eligibility for other state programs.** MinnesotaCare enrollees who become eligible for medical assistance or general assistance medical care will remain in the same managed care plan if the managed care plan has a contract for that population. Contracts between the department of human services and managed care plans must include MinnesotaCare, and medical assistance and may, at the option of the commissioner of human services, also include general assistance medical care.

*[For text of subs 6 to 10, see M.S.1994]*

**History:** 1995 c 234 art 6 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 pay the portion of the group plan premium for which the individual is responsible, if the individual is responsible for at least 50 percent of the cost of the premium, or pay the individual plan premium. The commissioner shall not pay for that portion of a premium that is attributable to other family members or dependents.

**Subd. 2. Eligibility requirements.** To be eligible for the program, an applicant must satisfy the following requirements:

(1) the applicant must provide a physician's statement verifying that the applicant is infected with HIV and is, or within three months is likely to become, too ill to work in the applicant's current employment because of HIV-related disease;

(2) the applicant's monthly gross family income must not exceed 300 percent of the federal poverty guidelines, after deducting medical expenses and insurance premiums;

(3) the applicant must not own assets with a combined value of more than \$25,000; and

(4) if applying for payment of group plan premiums, the applicant must be covered by an employer's or former employer's group insurance plan.

**Subd. 3. Cost-effective coverage.** 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 does not exceed the estimated state cost that would otherwise be incurred in the medical assistance or general assistance medical care program. The commissioner shall purchase the most cost-effective coverage available for eligible individuals.

**History:** 1995 c 207 art 6 s 13

### **ELIGIBILITY FOR MINNESOTACARE FOR FAMILIES UNDER HEALTH CARE REFORM WAIVER**

### **256.9366 ELIGIBILITY FOR MINNESOTACARE FOR FAMILIES AND CHILDREN UNDER THE MINNESOTACARE HEALTH CARE REFORM WAIVER.**

**Subdivision 1. Families with children; in general.** Families with children with family income equal to or less than 275 percent of the federal poverty guidelines for the applicable family size shall be determined eligible for MinnesotaCare according to this section, and section 256.9354, subdivisions 2 to 4a, shall no longer apply. All other provisions of sections 256.9351 to 256.9363, including the insurance-related barriers to enrollment under section 256.9357, shall apply unless otherwise specified in sections 256.9366 to 256.9369.

**Subd. 2. Children.** For purposes of sections 256.9366 to 256.9369, a "child" is an individual under 21 years of age, including the unborn child of a pregnant woman, and including an emancipated minor, and the emancipated minor's spouse.

**Subd. 3. Families with children.** For purposes of sections 256.9366 to 256.9369, a "family with children" means a parent or parents and their children, or legal guardians and their wards who are children, and dependent siblings, residing in the same household. The

term includes children and dependent siblings who are temporarily absent from the household in settings such as schools, camps, or visitation with noncustodial parents. For purposes of this section, a "dependent sibling" means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent. Proof of school enrollment will be required.

**Subd. 4. Children in families with income at or less than 150 percent of federal poverty guidelines.** Children who have gross family incomes that are equal to or less than 150 percent of the federal poverty guidelines and who are not otherwise insured for the covered services, are eligible for enrollment under sections 256.9366 to 256.9369. For the purposes of this section, "not otherwise insured for covered services" has the meaning given in Minnesota Rules, part 9506.0020, subpart 3, item B.

**Subd. 5. Residency.** Families and children who are otherwise eligible for enrollment under this section are exempt from the Minnesota residency requirements of section 256.9359, if they meet the residency requirements of the medical assistance program according to chapter 256B.

**Subd. 6. Cooperation with medical assistance.** Pregnant women and children applying for MinnesotaCare under this section are not required to apply for the medical assistance program as a condition of enrollment. Other adults enrolled in MinnesotaCare determined by the commissioner to have a basis of eligibility for medical assistance must cooperate in completing an application for medical assistance by the last day of the third month following admission to an inpatient hospital. If an enrollee fails to complete an application for medical assistance within this time period, the enrollee shall be disenrolled and may not reenroll.

**Subd. 7. Cooperation in establishing paternity and other medical support.** Families and children enrolled in the MinnesotaCare program must cooperate with the department of human services and the local agency in establishing paternity of an enrolled child and in obtaining medical care support and payments for the child and any other person for whom the person can legally assign rights, in accordance with applicable laws and rules governing the medical assistance program. A child shall not be ineligible for or disenrolled from the MinnesotaCare program solely because of the child's parent or caretaker's failure to cooperate in establishing paternity or obtaining medical support.

**History:** 1995 c 234 art 6 s 18

## **256.9367 COVERED SERVICES FOR PREGNANT WOMEN AND CHILDREN UNDER THE MINNESOTACARE HEALTH CARE REFORM WAIVER.**

Children and pregnant women are eligible for coverage of all services that are eligible for reimbursement under the medical assistance program according to chapter 256B. Pregnant women and children are exempt from the provisions of section 256.9353, subdivision 7, regarding copayments.

**History:** 1995 c 234 art 6 s 19

## **256.9368 PREMIUMS.**

**Subdivision 1. Premium determination.** Families and children enrolled according to sections 256.9366 to 256.9369 shall pay a premium determined according to a sliding fee based on the cost of coverage as a percentage of the family's gross family income. Pregnant women and children under age two are exempt from the provisions of section 256.9356, subdivision 3, clause (3), requiring disenrollment for failure to pay premiums. For pregnant women, this exemption continues until the first day of the month following the 60th day postpartum. Women who remain enrolled during pregnancy or the postpartum period, despite nonpayment of premiums, shall be disenrolled on the first of the month following the 60th day postpartum for the penalty period that otherwise applies under section 256.9356.

**Subd. 2. Sliding scale to determine percentage of gross family income.** The commissioner shall establish a sliding fee scale to determine the percentage of gross family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's gross family income during the previous four months. The sliding fee scale begins with a premium of 1.5 percent of gross family income for families with incomes below the limits for the medical assistance

program for families and children and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children to 275 percent of the federal poverty guidelines for the applicable family size. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family reports increased income after enrollment, premiums shall not be adjusted until eligibility renewal.

**Subd. 3. Exceptions to sliding scale.** An annual premium of \$48 is required for all children who are eligible according to section 256.9366, subdivision 4.

**History:** 1995 c 234 art 6 s 20

### **256.9369 PAYMENT RATES; SERVICES FOR FAMILIES AND CHILDREN UNDER THE MINNESOTACARE HEALTH CARE REFORM WAIVER.**

Section 256.9362, subdivision 2, shall not apply to services provided to children who are eligible to receive expanded services according to section 256.9367.

**History:** 1995 c 234 art 6 s 21

### **256.9655 PAYMENTS TO MEDICAL PROVIDERS.**

**Subdivision 1. Duties of commissioner.** The commissioner shall establish procedures to analyze and correct problems associated with medical care claims preparation and processing under the medical assistance, general assistance medical care, and MinnesotaCare programs. At a minimum, the commissioner shall:

(1) designate a full-time position as a liaison between the department of human services and providers;

(2) analyze impediments to timely processing of claims, provide information and consultation to providers, and develop methods to resolve or reduce problems;

(3) provide to each acute care hospital a quarterly listing of claims received and identify claims that have been suspended and the reason the claims were suspended;

(4) provide education and information on reasons for rejecting and suspending claims and identify methods that would avoid multiple submissions of claims; and

(5) for each acute care hospital, identify and prioritize claims that are in jeopardy of exceeding time factors that eliminate payment.

*[For text of subd 2, see M.S.1994]*

**History:** 1995 c 234 art 8 s 56

### **256.9657 PROVIDER SURCHARGES.**

*[For text of subs 1 to 2, see M.S.1994]*

#### **Subd. 3. Health maintenance organization; integrated service network surcharge.**

(a) Effective October 1, 1992, each health maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D and each integrated service network and community integrated service network licensed by the commissioner under chapter 62N shall pay to the commissioner of human services a surcharge equal to six-tenths of one percent of the total premium revenues of the health maintenance organization, integrated service network, or community integrated service network as reported to the commissioner of health according to the schedule in subdivision 4.

(b) For purposes of this subdivision, total premium revenue means:

(1) premium revenue recognized on a prepaid basis from individuals and groups for provision of a specified range of health services over a defined period of time which is normally one month, excluding premiums paid to a health maintenance organization, integrated service network, or community integrated service network from the Federal Employees Health Benefit Program;

(2) premiums from Medicare wrap-around subscribers for health benefits which supplement Medicare coverage;

(3) Medicare revenue, as a result of an arrangement between a health maintenance organization, an integrated service network, or a community integrated service network and the health care financing administration of the federal Department of Health and Human Services, for services to a Medicare beneficiary; and

(4) medical assistance revenue, as a result of an arrangement between a health maintenance organization, integrated service network, or community integrated service network and a Medicaid state agency, for services to a medical assistance beneficiary.

If advance payments are made under clause (1) or (2) to the health maintenance organization, integrated service network, or community integrated service network for more than one reporting period, the portion of the payment that has not yet been earned must be treated as a liability.

(c) When a health maintenance organization or an integrated service network or community integrated service network merges or consolidates with or is acquired by another health maintenance organization, integrated service network, or community integrated service network, the surviving corporation or the new corporation shall be responsible for the annual surcharge originally imposed on each of the entities or corporations subject to the merger, consolidation, or acquisition, regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N.

(d) Effective July 1 of each year, the surviving corporation's or the new corporation's surcharge shall be based on the revenues earned in the second previous calendar year by all of the entities or corporations subject to the merger, consolidation, or acquisition regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N until the total premium revenues of the surviving corporation include the total premium revenues of all the merged entities as reported to the commissioner of health.

(e) When a health maintenance organization, integrated service network, or community integrated service network, which is subject to liability for the surcharge under this chapter, transfers, assigns, sells, leases, or disposes of all or substantially all of its property or assets, liability for the surcharge imposed by this chapter is imposed on the transferee, assignee, or buyer of the health maintenance organization, integrated service network, or community integrated service network.

(f) In the event a health maintenance organization, integrated service network, or community integrated service network converts its licensure to a different type of entity subject to liability for the surcharge under this chapter, but survives in the same or substantially similar form, the surviving entity remains liable for the surcharge regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N.

(g) The surcharge assessed to a health maintenance organization, integrated service network, or community integrated service network ends when the entity ceases providing services for premiums and the cessation is not connected with a merger, consolidation, acquisition, or conversion.

**Subd. 4. Payments into the account.** (a) Payments to the commissioner under subdivisions 1 to 3 must be paid in monthly installments due on the 15th of the month beginning October 15, 1992. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 for fiscal year 1993 must be based on calendar year 1990 revenues. Effective July 1 of each year, beginning in 1993, payments under subdivisions 2 and 3 must be based on revenues earned in the second previous calendar year.

(b) Effective October 1, 1995, and each October 1 thereafter, the payments in subdivisions 2 and 3 must be based on revenues earned in the previous calendar year.

(c) If the commissioner of health does not provide by August 15 of any year data needed to update the base year for the hospital and health maintenance organization surcharges, the commissioner of human services may estimate base year revenue and use that estimate for the purposes of this section until actual data is provided by the commissioner of health.

[For text of subds 6 to 8, see M.S.1994]

**History:** 1995 c 207 art 6 s 14,15

## 256.9685 ESTABLISHMENT OF INPATIENT HOSPITAL PAYMENT SYSTEM.

[For text of subds 1 and 1a, see M.S.1994]

**Subd. 1b. Appeal of reconsideration.** Notwithstanding section 256B.72, the commissioner may recover inpatient hospital payments for services that have been determined to be medically unnecessary after the reconsideration and determinations. A physician or hospital may appeal the result of the reconsideration process by submitting a written request for review to the commissioner within 30 days after receiving notice of the action. The commissioner shall review the medical record and information submitted during the reconsideration process and the medical review agent's basis for the determination that the services were not medically necessary for inpatient hospital services. The commissioner shall issue an order upholding or reversing the decision of the reconsideration process based on the review.

**Subd. 1c. Judicial review.** A hospital or physician aggrieved by an order of the commissioner under subdivision 1b may appeal the order to the district court of the county in which the physician or hospital is located by:

(1) serving a written copy of a notice of appeal upon the commissioner within 30 days after the date the commissioner issued the order; and

(2) filing the original notice of appeal and proof of service with the court administrator of the district court. The appeal shall be treated as a dispositive motion under the Minnesota General Rules of Practice, rule 115. The district court scope of review shall be as set forth in section 14.69.

**Subd. 1d. Transmittal of record.** Within 30 days after being served with the notice of appeal, the commissioner shall transmit to the district court the original or certified copy of the entire record considered by the commissioner in making the final agency decision. The district court shall not consider evidence that was not included in the record before the commissioner.

[For text of subd 2, see M.S.1994]

**History:** 1995 c 207 art 6 s 16-18

## 256.969 PAYMENT RATES.

**Subdivision 1. Hospital cost index.** (a) The hospital cost index shall be the change in the Consumer Price Index—All Items (United States city average) (CPI-U) forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the third quarter of the calendar year prior to the rate year. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply for the biennium ending June 30, 1997. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

[For text of subd 2, see M.S.1994]

**Subd. 2b. Operating payment rates.** In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare

program in effect during the base year. Rates under the general assistance medical care program shall not be rebased to more current data on January 1, 1997. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.

*[For text of subs 2c to 8, see M.S.1994]*

**Subd. 8a. Unusual short length of stay.** Except as provided in subdivision 13, for admissions occurring on or after July 1, 1995, payment shall be determined as follows and shall be included in the base year for rate setting purposes.

(1) For an admission that is categorized to a neonatal diagnostic related group in which the length of stay is less than 50 percent of the average length of stay for the category in the base year and the patient at admission is equal to or greater than the age of one, payments shall be established according to the methods of subdivision 14.

(2) For an admission that is categorized to a diagnostic category that includes neonatal respiratory distress syndrome, the hospital must have a level II or level III nursery and the patient must receive treatment in that unit or payment will be made without regard to the syndrome condition.

**Subd. 9. Disproportionate numbers of low-income patients served.** (a) For admissions occurring on or after October 1, 1992, through December 31, 1992, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. If federal matching funds are not available for all adjustments under this subdivision, the commissioner shall reduce payments on a pro rata basis so that all adjustments qualify for federal match. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class.

(b) For admissions occurring on or after July 1, 1993, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service;



(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For purposes of this subdivision, medical assistance does not include general assistance medical care. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class; and

(3) for a hospital that had medical assistance fee-for-service payment volume during calendar year 1991 in excess of 13 percent of total medical assistance fee-for-service payment volume, a medical assistance disproportionate population adjustment shall be paid in addition to any other disproportionate payment due under this subdivision as follows: \$1,515,000 due on the 15th of each month after noon, beginning July 15, 1995. For a hospital that had medical assistance fee-for-service payment volume during calendar year 1991 in excess of eight percent of total medical assistance fee-for-service payment volume and is affiliated with the University of Minnesota, a medical assistance disproportionate population adjustment shall be paid in addition to any other disproportionate payment due under this subdivision as follows: \$505,000 due on the 15th of each month after noon, beginning July 15, 1995.

(c) The commissioner shall adjust rates paid to a health maintenance organization under contract with the commissioner to reflect rate increases provided in paragraph (b), clauses (1) and (2), on a nondiscounted hospital-specific basis but shall not adjust those rates to reflect payments provided in clause (3).

(d) If federal matching funds are not available for all adjustments under paragraph (b), the commissioner shall reduce payments under paragraph (b), clauses (1) and (2), on a pro rata basis so that all adjustments under paragraph (b) qualify for federal match.

(e) For purposes of this subdivision, medical assistance does not include general assistance medical care.

*[For text of subs 9a and 9b, see M.S.1994]*

**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.

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.

*[For text of subs 11 to 15, see M.S.1994]*

**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.

*[For text of subs 17 to 23, see M.S.1994]*

**Subd. 24.** [Repealed, 1995 c 207 art 6 s 124]

**Subd. 25. Long-term hospital rates.** For admissions occurring on or after April 1, 1995, a long-term hospital as designated by Medicare that does not have admissions in the

base year shall have inpatient rates established at the average of other hospitals with the same designation. For subsequent rate-setting periods in which base years are updated, the hospital's base year shall be the first Medicare cost report filed with the long-term hospital designation and shall remain in effect until it falls within the same period as other hospitals.

**History:** 1995 c 207 art 6 s 19-25

**256.973 HOUSING FOR PERSONS WHO ARE ELDERLY, PERSONS WITH PHYSICAL OR DEVELOPMENTAL DISABILITIES, AND SINGLE-PARENT FAMILIES.**

**Subdivision 1. Home sharing.** The home-sharing grant program authorized by section 462A.05, subdivision 24, is transferred from the Minnesota housing finance agency to the department of human services. The housing finance agency shall administer the current grants that terminate on August 30, 1995. The department of human services shall administer grants funded after August 30, 1995. The department of human services may engage in housing programs, as defined by the agency, to provide grants to housing sponsors who will provide a home-sharing program for low- and moderate-income elderly, persons with physical or developmental disabilities, or single-parent families in urban and rural areas.

**Subd. 2. Matching owners and tenants.** Housing sponsors of home-sharing programs, as defined by the agency, shall match existing homeowners with prospective tenants who will contribute either rent or services to the homeowner, where either the homeowner or the prospective tenant is elderly, a person with physical or developmental disabilities, or the head of a single-parent family. Home-sharing projects will coordinate efforts with appropriate public and private agencies and organizations in their area.

**Subd. 3. Information for participants.** Housing sponsors who receive funding through these programs shall provide homeowners and tenants participating in a home-sharing program with information regarding their rights and obligations as they relate to federal and state tax law including, but not limited to, taxable rental income, homestead credit under chapter 273, and the property tax refund act under chapter 290A.

**Subd. 4. Technical assistance.** The department of human services may provide technical assistance to sponsors of home-sharing programs or may contract or delegate the provision of technical assistance.

**Subd. 5. Using outside agencies.** The department of human services may delegate, use, or employ any federal, state, regional, or local public or private agency or organization, including organizations of physically handicapped persons, upon terms it deems necessary or desirable, to assist in the exercise of any of the powers granted in this section.

**History:** 1995 c 207 art 3 s 16

**256.975 MINNESOTA BOARD ON AGING.**

*[For text of subs 1 to 5, see M.S.1994]*

**Subd. 6. Indian elders position.** The Minnesota board on aging shall create an Indian elders coordinator position, and shall hire staff as appropriations permit for the purposes of coordinating efforts with the National Indian Council on Aging and developing a comprehensive statewide service system for Indian elders. An Indian elder is defined for purposes of this subdivision as an Indian enrolled in a band or tribe who is 55 years or older. The statewide service system must include the following components:

(1) an assessment of the program eligibility, examining the need to change the age-based eligibility criteria to need-based eligibility criteria;

(2) a planning system that would grant or make recommendations for granting federal and state funding for services;

(3) a plan for service focal points, senior centers, or community centers for socialization and service accessibility for Indian elders;

(4) a plan to develop and implement education and public awareness campaigns including awareness programs, sensitivity cultural training, and public education on Indian elder needs;

- (5) a plan for information and referral services including trained advocates and an Indian elder newsletter;
- (6) a plan for a coordinated health care system including health promotion/prevention, in-home service, long-term care service, and health care services;
- (7) a plan for ongoing research involving Indian elders including needs assessment and needs analysis;
- (8) information and referral services for legal advice or legal counsel; and
- (9) a plan to coordinate services with existing organizations including the council of Indian affairs, the Minnesota Indian council of elders, the Minnesota board on aging, and tribal governments.

**History:** 1995 c 207 art 3 s 17

### **256.978 LOCATION OF PARENTS, ACCESS TO RECORDS.**

**Subdivision 1. Request for information.** The commissioner of human services, in order to locate a person to establish paternity, child support, or to enforce a child support obligation in arrears, may request information reasonably necessary to the inquiry from the records of all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers, utility companies, insurance companies, financial institutions, and labor associations doing business in this state shall provide information as provided under subdivision 2 upon written request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support within 30 days of the receipt of the written request made by the public authority. Information requested and used or transmitted by the commissioner pursuant to the authority conferred by this section may be made available only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents. The commissioner may not release the information to an agency or political subdivision of another state unless the agency or political subdivision is directed to maintain the data consistent with its classification in this state. Information obtained under this section may not be released except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

*[For text of subs 2 and 3, see M.S.1994]*

**History:** 1995 c 257 art 3 s 1

### **256.979 CHILD SUPPORT INCENTIVES.**

*[For text of subs 5 to 8, see M.S.1994]*

**Subd. 9. Accrual of support obligations.** The commissioner shall seek the waiver required under this section only if the provision creating the centralized child support payment center does not pass in the 1995 legislative session. If the centralized child support payment center provision does not pass, the commissioner shall seek a waiver from the secretary of the Department of Health and Human Services to enable the agency to accrue child support payments received on behalf of both AFDC and non-AFDC clients until the sum total of the money owed by the state agency to the client is at least \$10. Obligor shall be assessed a processing fee of \$10 to be retained by the county agency in every instance when both of the following conditions exist:

- (1) the obligor pays less than the required monthly support obligation; and
- (2) that reduced payment would result in a child support payment to an AFDC or non-AFDC client of less than \$10 for that month.

**History:** 1995 c 178 art 2 s 22

### **256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.**

**Subdivision 1. Wrongfully obtaining assistance.** A person who obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or repre-

sentation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, assistance to which the person is not entitled or assistance greater than that to which the person is entitled, or who knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the county agency with intent to defeat the purposes of sections 256.12, 256.031 to 256.0361, 256.72 to 256.871, and chapter 256B, or all of these sections is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), (3)(a) and (c), (4), and (5).

*[For text of subs 2 to 7, see M.S.1994]*

**Subd. 8. Disqualification from program.** Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065 in the aid to families with dependent children program, the food stamp program, the Minnesota family investment plan, the general assistance or family general assistance program, the Minnesota supplemental aid program, or the work readiness 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 offense;
- (2) for 12 months after the second offense; and
- (3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and 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. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified.

**History:** 1995 c 207 art 2 s 30,31

## **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 this section, 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: (1) other counties that have welfare fraud control programs already in place based on enhanced funding contracts covering the fraud investigation function; and (2) counties that have the largest AFDC caseloads as of July 1, 1994, and are not currently participating in the fraud prevention investigation pilot project. The pilot project may be expanded provided the expansion is budget neutral to the state.

*[For text of subs 2 and 3, see M.S.1994]*

**Subd. 4. Funding.** (a) 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.

(b) After allowing an opportunity to establish compliance, the commissioner will deny administrative reimbursement if for any three-month period during any grant year, a county agency fails to comply with fraud investigation guidelines, or fails to meet the cost-effec-

tiveness standards developed by the commissioner. This result is contingent on the commissioner providing written notice, including an offer of technical assistance, within 30 days of the end of the third or subsequent month of noncompliance. The county agency shall be required to submit a corrective action plan to the commissioner within 30 days of receipt of a notice of noncompliance. Failure to submit a corrective action plan or, continued deviation from standards of more than ten percent after submission of a corrective action plan, will result in denial of funding for each subsequent month during the grant year or billing the county agency for fraud prevention investigation (FPI) service provided by the commissioner. The denial of funding shall apply to the general settlement received by the county agency on a quarterly basis and shall not reduce the grant amount applicable to the FPI project.

**History:** 1995 c 178 art 2 s 23; 1995 c 207 art 2 s 32

#### **256.9850 IDENTITY VERIFICATION.**

The commissioner of human services shall seek from the Secretary of Health and Human Services all necessary waivers of the requirements of the program of AFDC, to enable the commissioner to establish a statewide program to test the effectiveness of identity verification systems in the electronic benefit transfer systems in the state AFDC program. Identity verification provisions shall be added to the statewide requests for proposal on the expansion of electronic benefit transfer systems in the AFDC program.

**History:** 1995 c 178 art 2 s 24

#### **256.986 COUNTY COORDINATION OF FRAUD CONTROL ACTIVITIES.**

(a) The county agency shall prepare and submit to the commissioner of human services by January 1 of each year a plan to coordinate county duties related to the prevention, investigation, and prosecution of fraud in public assistance programs. Plans may be submitted on a voluntary basis prior to January 1, 1996. Each county must submit its first annual plan prior to January 1, 1997.

(b) Within the limits of appropriations specifically made available for this purpose, the commissioner may make grants to counties submitting plans under paragraph (a) to implement coordination activities.

**History:** 1995 c 178 art 2 s 25

#### **256.9861 FRAUD CONTROL; PROGRAM INTEGRITY REINVESTMENT PROJECT.**

**Subdivision 1. Program established.** Within the limits of available state and federal appropriations, and to the extent required or authorized by applicable federal regulations, the commissioner of human services shall make funding available to county agencies for the establishment of program integrity reinvestment initiatives. The project shall initially be limited to those county agencies participating in federally funded optional fraud control programs as of January 1, 1995.

**Subd. 2. County proposals.** Each included county shall develop and submit annual funding, staffing, and operating grant proposals to the commissioner no later than April 30 of each year. For the first operating year only, the proposal shall be submitted no later than October 30. Each proposal shall provide information on:

- (1) the staffing and funding of the fraud investigation and prosecution operations;
- (2) job descriptions for agency fraud control staff;
- (3) contracts covering outside investigative agencies;
- (4) operational methods to integrate the use of fraud prevention investigation techniques; and
- (5) administrative disqualification hearings and diversions into the existing county fraud control and prosecution procedures.

**Subd. 3. Department responsibilities.** The commissioner shall provide written instructions outlining the contents of the proposals to be submitted under this section. Instructions shall be made available 30 days prior to the date by which proposals under subdivision 2 must be submitted. The commissioner shall establish training programs which shall

be attended by fraud control staff of all involved counties. The commissioner shall also develop the necessary operational guidelines, forms, and reporting mechanisms which shall be used by the involved counties.

**Subd. 4. Standards.** The commissioner shall establish standards governing the performance levels of involved county investigative units based on grant agreements negotiated with the involved county agencies. The standards shall take into consideration and may include investigative caseloads, grant savings levels, the comparison of fraud prevention and prosecution directed investigations, utilization levels of administrative disqualification hearings, the timely reporting and implementation of disqualifications, and the timeliness of reports received from prosecutors.

**Subd. 5. Funding.** (a) Grant funds are intended to help offset the reduction in federal financial participation to 50 percent and may be apportioned to the participating counties whenever feasible, and within the commissioner's discretion, to achieve this goal. State funding shall be made available contingent on counties submitting a plan that is approved by the department of human services. Failure or delay in obtaining that approval shall not, however, eliminate the obligation to maintain fraud control efforts at the January 1, 1995, level. Additional counties may be added to the project to the extent that funds are subsequently made available. Every involved county must meet all federal requirements necessary to obtain federal funding for its welfare fraud control and prevention programs. County agency reimbursement shall be made through the settlement provisions applicable to the AFDC and food stamp programs.

(b) Should a county agency fail to comply with the standards set, or fail to meet cost-effectiveness standards developed by the commissioner for three months during any grant year, the commissioner shall deny reimbursement or administrative costs, after allowing an opportunity to establish compliance.

(c) Any denial of reimbursement under paragraph (b) is contingent on the commissioner providing written notice, including an offer of technical assistance, within 30 days of the end of the third or subsequent months of noncompliance. The county agency shall be required to submit a corrective action plan to the commissioner within 30 days of receipt of a notice of noncompliance. Failure to submit a corrective action plan or continued deviation from standards of more than ten percent after submission of corrective action plan, will result in denial of funding for each such month during the grant year, or billing the county agency for program integrity reinvestment project services provided by the commissioner. The denial of funding shall apply to the general settlement received by the county agency on a quarterly basis and shall not reduce the grant amount applicable to the program integrity reinvestment project.

**History:** 1995 c 207 art 2 s 33

#### **256.9862 ASSISTANCE TRANSACTION CARD FEE.**

**Subdivision 1. Replacement card.** The commissioner of human services may charge a cardholder, defined as a person in whose name the transaction card was issued, a \$2 fee to replace an assistance transaction card. The fees shall be appropriated to the commissioner and used for electronic benefit purposes.

**Subd. 2. Transaction fee.** The commissioner may charge transaction fees in accordance with this subdivision up to a maximum of \$10 in transaction fees per cardholder per month. In a given month, the first four cash withdrawals made by an individual cardholder are free. For subsequent cash withdrawals, \$1 may be charged. No transaction fee can be charged if the card is used to purchase goods or services on a point of sale basis. A transaction fee subsequently set by the federal government may supersede a fee established under this subdivision. The fees shall be appropriated to the commissioner and used for electronic benefit purposes.

**History:** 1995 c 207 art 2 s 34

#### **256.995 SCHOOL-LINKED SERVICES FOR AT-RISK CHILDREN AND YOUTH.**

**Subdivision 1. Program established.** In order to enhance the delivery of needed services to at-risk children and youth and maximize federal funds available for that purpose, the

commissioners of human services and children, families, and learning shall design a statewide program of collaboration between providers of health and social services for children and local school districts, to be financed, to the greatest extent possible, from federal sources. The commissioners of health and public safety shall assist the commissioners of human services and children, families, and learning in designing the program.

*[For text of subs 2 to 4, see M.S.1994]*

**Subd. 5. Waivers.** The commissioner of human services shall collaborate with the commissioners of children, families, and learning, health, and public safety to seek the federal waivers necessary to secure federal funds for implementing the statewide school-based program mandated by this section. Each commissioner shall amend the state plans for programs specified in subdivision 3, to the extent necessary to ensure the availability of federal funds for the school-based program.

**Subd. 6. Pilot projects.** Within 90 days of receiving the necessary federal waivers, the commissioners of human services and children, families, and learning shall implement at least two pilot programs that link health and social services in the schools. One program shall be located in a school district in the seven-county metropolitan area. The other program shall be located in a greater Minnesota school district. The commissioner of human services, in collaboration with the commissioner of children, families, and learning, shall select the pilot programs on a request for proposal basis. The commissioners shall give priority to school districts with some expertise in collocating services for at-risk children and youth. Programs funded under this subdivision must:

(1) involve a plan for collaboration between a school district and at least two local social service or health care agencies to provide services for which federal funds are

*[For text of subd 7, see M.S.1994]*

**History:** 1Sp1995 c 3 art 16 s 13

## **256.996 COOPERATION FOR THE CHILDREN PROGRAM.**

**Subdivision 1. Establishment.** The commissioner of human services, in consultation with a representative from the office of administrative hearings and the office of the attorney general and with input from community groups, shall develop and implement the cooperation for the children program as an effort to promote parental relationships with children. The program must be designed with three distinct components:

(1) addressing the needs of parents for educational services pertaining to issues of child custody and visitation arrangements;

(2) providing a nonjudicial forum to aid in the resolution of custody and visitation issues through facilitation of written agreements; and

(3) providing mediation services to resolve conflicts related to custody and visitation issues, when appropriate.

**Subd. 2. Program design.** (a) The cooperation for the children program must be administered by the office of administrative hearings and, by contract, implemented in selected counties. The program may accept referrals from the district court, the child support administrative process, or self-referral by individuals. The program is voluntary to participants and must be designed to provide services to individuals who are parents by virtue of birth or adoption of a child, individuals adjudicated as parents through a paternity action or through the recognition of parentage process, or individuals who have experienced a marriage dissolution. The program must be designed to screen all referrals for domestic abuse. The program must coordinate with existing agencies, such as court services, to provide program services to parents. If a participating county operates a parenting education program, a nonjudicial conflict resolution program, or a mediation program, the cooperation for the children program must utilize the existing programs to the greatest extent possible in an effort to minimize costs.

(b) The voluntary issue resolution component of the cooperation for the children program must facilitate the parents' discussion of custody and visitation issues in dispute. If there are allegations or indications of domestic abuse, the program shall allow the parents to

attend separate sessions with the program facilitator. If agreement of both parties is reached to the disputed issues through the program and the agreement contains a sufficient factual basis to support a finding that the terms are in the best interests of the children, the agreement may be incorporated into a proposed order by program counsel for submission to an administrative law judge or district court judge for execution as a court order.

(c) The mediation component of the program must utilize certified mediators who are competent in recognizing the dynamics of domestic abuse and sensitive to the cultural issues of the participants. To provide services through the cooperation for the children program, mediators must be approved by the court in the participating county. Relationships that involve allegations or indications of domestic abuse are not appropriate for mediation services through the cooperation for the children program.

(d) In cases where no agreement is voluntarily reached through the program, both parents must be provided with forms sufficient to allow them access to the district court to seek formal adjudication of the dispute.

**Subd. 3. Demonstration.** The commissioner shall contract with the office of administrative hearings and any county to administer and operate a demonstration project of the cooperation for the children program.

**Subd. 4. Evaluation.** By January 15, 1997, and every two years after that, the office of administrative hearings shall submit a report to the legislature that identifies the following information relevant to the implementation of this section:

- (1) the number of citizens offered and provided services by the program;
- (2) the circumstances in which the program provided services, whether in paternity adjudications, situations involving recognition of parentage executions, dissolutions, or post-decree matters;
- (3) the reduction in court actions, if any, resulting from the use of the program;
- (4) the effect of the program, if any, on the average time period between case filing and final resolution in family law cases filed in court in a participating county; and
- (5) the cost of implementation and operation of the program in the participating counties.

**History:** 1995 c 257 art 1 s 14

## **256.997 CHILD SUPPORT OBLIGOR COMMUNITY SERVICE WORK EXPERIENCE PROGRAM.**

**Subdivision 1. Authorization.** The commissioner of human services may contract with a county that operates a community work experience program or a judicial district department of corrections that operates a community work experience program to include child support obligors who are physically able to work and fail to pay child support as participants in the community work experience program.

**Subd. 2. Limitations.** (a) Except as provided in paragraph (f), a person ordered to participate in a work program under section 518.617 shall do so if services are available.

(b) A person may not be required to participate for more than 32 hours per week in the program under this section.

(c) A person may not be required to participate for more than six weeks for each finding of contempt.

(d) If a person is required by a governmental entity to participate in another work or training program, the person may not be required to participate in a program under this section in a week for more than 32 hours minus the number of hours the person is required to participate in the other work or training program in that week.

(e) If a person is employed, the person may not be required to participate in a program under this section in a week for more than 80 percent of the difference between 40 hours and the number of hours actually worked in the unsubsidized job during that week, to a maximum of 32 hours.

(f) A person who works an average of 32 hours or more per week in an unsubsidized job is not required to participate in a program under this section.



**Subd. 3. Notice to court.** If a person does not complete six weeks of participation in a program under this section, the county operating the program shall inform the court administrator, by affidavit, of that noncompletion.

**Subd. 4. Injury protection for work experience participants.** (a) This subdivision applies to payment of any claims resulting from an alleged injury or death of a child support obligor participating in a community work experience program established and operated by a county or a judicial district department of corrections under this section.

(b) Claims that are subject to this section must be investigated by the county agency responsible for supervising the work to determine whether the claimed injury occurred, whether the claimed medical expenses are reasonable, and whether the loss is covered by the claimant's insurance. If insurance coverage is established, the county agency shall submit the claim to the appropriate insurance entity for payment. The investigating county agency shall submit all valid claims, in the amount net of any insurance payments, to the commissioner of human services.

(c) The commissioner of human services shall submit all claims for impairment compensation to the commissioner of labor and industry. The commissioner of labor and industry shall review all submitted claims and recommend to the commissioner of human services an amount of compensation comparable to what would be provided under the impairment compensation schedule of section 176.101, subdivision 3b.

(d) The commissioner of human services shall approve a claim of \$1,000 or less for payment if appropriated funds are available, if the county agency responsible for supervising the work has made the determinations required by this section, and if the work program was operated in compliance with the safety provisions of this section. The commissioner shall pay the portion of an approved claim of \$1,000 or less that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims of \$1,000 or less paid during the preceding calendar year and shall be reimbursed by legislative appropriation for any claims that exceed the original appropriation provided to the commissioner to operate this program. Unspent money from this appropriation carries over to the second year of the biennium, and any unspent money remaining at the end of the second year must be returned to the general fund. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims in excess of \$1,000 and a list of claims of \$1,000 or less that were submitted to but not paid by the commissioner of human services, together with any recommendations of appropriate compensation. These claims shall be heard and determined by the appropriate committees of the senate and house of representatives and, if approved, paid under the legislative claims procedure.

(e) Compensation paid under this section is limited to reimbursement for reasonable medical expenses and impairment compensation for disability in like amounts as allowed in section 176.101, subdivision 3b. Compensation for injuries resulting in death shall include reasonable medical expenses and burial expenses in addition to payment to the participant's estate in an amount not to exceed the limits set forth in section 466.04. Compensation may not be paid under this section for pain and suffering, lost wages, or other benefits provided in chapter 176. Payments made under this section must be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

(f) The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant may not seek damages from any state or county insurance policy or self-insurance program.

(g) A claim is not valid for purposes of this subdivision if the local agency responsible for supervising the work cannot verify to the commissioner of human services:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this subdivision; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards.

A claim that is not valid because of failure to verify safety training or compliance with safety standards may not be paid by the commissioner of human services or through the legislative claims process and must be heard, decided, and paid, if appropriate, by the local government unit responsible for supervising the work of the claimant.

**Subd. 5. Transportation expenses.** A county shall reimburse a person for reasonable transportation costs incurred because of participation in a program under this section, up to a maximum of \$25 per month.

**Subd. 6. Payment to county.** The commissioner shall pay a county \$200 for each person who participates in the program under this section in that county. The county is responsible for any additional costs of the program.

**History:** 1995 c 257 art 1 s 15

### 256.998 WORK REPORTING SYSTEM.

**Subdivision 1. Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Date of hiring" means the earlier of: (1) the first day for which an employee is owed compensation by an employer; or (2) the first day that an employee reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by an employee.

(d) "Employee" means a person who resides or works in Minnesota and performs services for compensation, in whatever form, for an employer. Employee does not include persons hired for domestic service in the private home of the employer, as defined in the federal tax code.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more employees for payment, and includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

**Subd. 2. Work reporting system established.** The commissioner of human services shall establish a centralized work reporting system for the purpose of receiving and maintaining information from employers on newly hired or rehired employees. The commissioner of human services shall take reasonable steps to inform the state's employers of the requirements of this section and the acceptable processes by which employers can comply with the requirements of this section.

**Subd. 3. Duty to report.** Employers doing business in this state shall report to the commissioner of human services the hiring of any employee who resides or works in this state to whom the employer anticipates paying earnings. Employers shall submit reports required under this subdivision within 15 calendar days of the date of hiring of the employee.

Employers are not required to report the hiring of any person who will be employed for less than two months' duration; and will have gross earnings less than \$250 per month.

**Subd. 4. Means to report.** Employers may report by delivering, mailing, or telefaxing a copy of the employee's federal W-4 form or W-9 form or any other document that contains the required information, submitting electronic media in a compatible format, toll-free telecommunication, or other means authorized by the commissioner of human services that will result in timely reporting.

**Subd. 5. Report contents.** Reports required under this section must contain:

(1) the employee's name, address, social security number, and date of birth when available, which can be handwritten or otherwise added to the W-4 form, W-9 form, or other document submitted; and

(2) the employer's name, address, and federal identification number.

**Subd. 6. Sanctions.** If an employer fails to report under this section, the commissioner of human services, by certified mail, shall send the employer a written notice of noncom-

pliance requesting that the employer comply with the reporting requirements of this section. The notice of noncompliance must explain the reporting procedure under this section and advise the employer of the penalty for noncompliance. An employer who has received a notice of noncompliance and later incurs a second violation is subject to a civil penalty of \$50 for each intentionally unreported employee. An employer who has received a notice of noncompliance and later incurs a third or subsequent violation is subject to a civil penalty of \$500 for each intentionally unreported employee. These penalties may be imposed and collected by the commissioner of human services.

**Subd. 7. Access to data.** The commissioner of human services shall retain the information reported to the work reporting system for a period of six months. Data in the work reporting system may be disclosed to the public authority responsible for child support enforcement, federal agencies, and state and local agencies of other states for the purposes of enforcing state and federal laws governing child support.

**Subd. 8. Authority to contract.** The commissioner may contract for services to carry out this section.

**Subd. 9. Independent contractors.** The state and all political subdivisions of the state, when acting in the capacity of an employer, shall report the hiring of any person as an independent contractor to the centralized work reporting system in the same manner as the hiring of an employee is reported.

The attorney general and the commissioner of human services shall work with representatives of the employment community and industries that utilize independent contractors in the regular course of business to develop a plan to include the reporting of independent contractors by all employers to the centralized work reporting system by July 1, 1996. The attorney general and the commissioner of human services shall present the resulting plan in the form of proposed legislation to the legislature by February 1, 1996.

**History:** 1995 c 257 art 1 s 16

**NOTE:** This section, as added by Laws 1995, chapter 257, article 1, section 16, is effective July 1, 1996. See Laws 1995, chapter 257, article 1, section 37.