

or under contract of purchase from any person or corporation or from the state of Minnesota.

Subd. 3. ORGANIZATIONAL MEETING. If the result of an election held under this section is in the affirmative the county shall arrange for the holding of the first organizational meeting not more than 30 days after the election in the township to be organized.

Subd. 4. CONDUCT OF ELECTION; COSTS. The county auditor shall have the ballots printed for an election under this section, and shall otherwise make preparation for the election including having a notice published in the official newspaper of the county once a week for two successive weeks stating the date of the election and the question to be voted on. The last publication shall be no later than ten days before the election. The cost of the election shall be borne by the county.

Approved May 14, 1987

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#### CHAPTER 148—H.F.No. 1524

*An act relating to human services; setting forth appeal procedure for recipients of case management services; amending Minnesota Statutes 1986, sections 256.045, subdivisions 1, 3, 4, 5, 6, 7, and 10, and by adding a subdivision; repealing Minnesota Statutes 1986, section 256.045, subdivision 2.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 256.045, subdivision 1, is amended to read:

Subdivision 1. **POWERS OF THE STATE AGENCY.** The commissioner of human services may appoint one or more state welfare human services referees to conduct hearings and recommend orders in accordance with ~~subdivision 3 subdivisions 3, 4a, and 5.~~ The commissioner may appoint one or more local welfare referees to conduct hearings and issue rulings pursuant to subdivision 2; in counties requesting local welfare hearings. Welfare 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.

Sec. 2. Minnesota Statutes 1986, section 256.045, subdivision 3, is amended to read:

Subd. 3. **STATE AGENCY HEARINGS.** ~~In counties in which the commissioner of human services has not appointed a local welfare referee, Any person applying for, receiving or having received any of the forms of public assistance described in subdivision 2~~ public assistance or a program of social services

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granted by a local agency pursuant to sections 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient or relative shows good cause why the request was not submitted within the 30 day time limit. ~~A local agency or party aggrieved by a ruling of a local welfare referee may appeal the ruling to the state agency by filing a notice of appeal with the state agency within 30 days after receiving the ruling of the local welfare referee.~~ A state welfare human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. ~~In appeals from rulings of local welfare referees, the hearing may be limited, upon stipulation of the parties, to a review of the record of the local welfare referee.~~

Sec. 3. Minnesota Statutes 1986, section 256.045, subdivision 4, is amended to read:

Subd. 4. **CONDUCT OF HEARINGS.** All hearings held pursuant to subdivision ~~2 or 3~~ 3 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. The hearing shall not be held earlier than five days after filing of the required notice with the local or state agency. ~~The local welfare referee or state welfare~~ 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 at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient shall have the opportunity to examine the contents of the case file and all documents and records to be used by the local agency at the hearing at a reasonable time before the date of the hearing and during the hearing. 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.

Sec. 4. Minnesota Statutes 1986, section 256.045, is amended by adding a subdivision to read:

Subd. 4a. CASE MANAGEMENT APPEALS. Any recipient of case management services pursuant to section 256B.092, subdivisions 1 to 1b who contests the local 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, reduc-

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tion, denial, or termination of services, must submit a written request for review to the local agency. The local agency shall inform the commissioner of the receipt of a request for review when it is submitted and shall schedule a conciliation conference. The local agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the conciliation conference. The commissioner shall designate a representative to be present at the conciliation conference to assist in the resolution of the dispute without the need for a hearing. Within 30 days, the local agency shall conduct the conciliation conference and inform the recipient in writing of the action the local 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 procedures for reconsideration of an individual service plan or an individual habilitation plan pursuant to Minnesota Rules, parts 9525.0075, subpart 5 and 9525.0105, subpart 6. 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 local 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 local agency to take those actions necessary to comply with applicable laws or rules.

Sec. 5. Minnesota Statutes 1986, section 256.045, subdivision 5, is amended to read:

**Subd. 5. ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.** The commissioner of human services may accept the recommended order of a state ~~welfare~~ human services referee and issue the order to the local agency and the applicant, recipient, or former recipient. The commissioner on refusing to accept the recommended order of the state ~~welfare~~ human services referee, shall notify the local agency and the applicant, recipient, or former recipient 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 local agency and the applicant, recipient, or former recipient. Any order of the commissioner issued in accordance with this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7.

Sec. 6. Minnesota Statutes 1986, section 256.045, subdivision 6, is amended to read:

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Subd. 6. **ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS.** The commissioner of human services may initiate a review of any action or decision of a local agency and direct that the matter be presented to a state ~~welfare~~ human services referee for a hearing held pursuant to subdivision 3 or 4a. In all matters dealing with ~~public welfare~~ human services committed by law to the discretion of the local agency, the commissioner's judgment may be substituted for that of the local agency. The commissioner may order an independent examination when appropriate. Any party to a hearing held pursuant to subdivision 2 or 3 or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing.

Sec. 7. Minnesota Statutes 1986, section 256.045, subdivision 7, is amended to read:

Subd. 7. **JUDICIAL REVIEW.** Any party who is aggrieved by an order of the commissioner of human services may appeal the order to the district court of the county responsible for furnishing assistance 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, 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. The commissioner may elect to become a party to the proceedings in the district court. 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 ~~state welfare~~ human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal.

Sec. 8. Minnesota Statutes 1986, section 256.045, subdivision 10, is amended to read:

Subd. 10. **PAYMENTS PENDING APPEAL.** If the commissioner of human services, ~~local welfare referee,~~ or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court.

Sec. 9. **REPEALER.**

Minnesota Statutes 1986, section 256.045, subdivision 2, is repealed.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 9 are effective 30 days after final enactment.

Approved May 14, 1987

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