

A bill for an act relating to human services; prohibiting unpaid work in Minnesota Family Investment Program; repealing the Minnesota Family Investment Program family cap and rental subsidy as unearned income provision; amending Minnesota Statutes 2006, sections 256J.24, subdivision 5; 256J.425, subdivisions 3, 4, 7; 256J.46, subdivision 1; 256J.53, subdivision 1; 256J.95, subdivision 15; Minnesota Statutes 2007 Supplement, section 256J.49, subdivision 13; repealing Minnesota Statutes 2006, sections 256J.24, subdivision 6; 256J.37, subdivision 3a.

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

Section 1. Minnesota Statutes 2006, section 256J.24, subdivision 5, is amended to read:

Subd. 5. **MFIP transitional standard.** (a) The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, 2004.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	\$379:	\$250	\$129
2	\$675:	\$437	\$238
3	\$876:	\$532	\$344
4	\$1,036:	\$621	\$415
5	\$1,180:	\$697	\$483
6	\$1,350:	\$773	\$577
7	\$1,472:	\$850	\$622
8	\$1,623:	\$916	\$707
9	\$1,772:	\$980	\$792
10	\$1,915:	\$1,035	\$880

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2.1 over 10 add \$142: \$53 \$89
2.2 per additional member.

2.3 (b) The commissioner shall increase the transitional standard by ten percent
2.4 beginning July 1, 2008, to be distributed in the cash portion of the grant.

2.5 (c) The commissioner shall annually publish in the State Register the transitional
2.6 standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food
2.7 portions.

2.8 Sec. 2. Minnesota Statutes 2006, section 256J.425, subdivision 3, is amended to read:

2.9 Subd. 3. **Hard-to-employ participants.** An assistance unit subject to the time
2.10 limit in section 256J.42, subdivision 1, is eligible to receive months of assistance under
2.11 a hardship extension if the participant who reached the time limit belongs to any of the
2.12 following groups:

2.13 (1) a person who is diagnosed by a licensed physician, psychological practitioner,
2.14 or other qualified professional, as developmentally disabled or mentally ill, and that
2.15 condition prevents the person from obtaining or retaining unsubsidized employment;

2.16 (2) a person who:

2.17 (i) has been assessed by a vocational specialist or the county agency to be
2.18 unemployable for purposes of this subdivision; or

2.19 (ii) has an IQ below 80 who has been assessed by a vocational specialist or a county
2.20 agency to be employable, but not at a level that makes the participant eligible for an
2.21 extension under subdivision 4. The determination of IQ level must be made by a qualified
2.22 professional. In the case of a non-English-speaking person: (A) the determination must
2.23 be made by a qualified professional with experience conducting culturally appropriate
2.24 assessments, whenever possible; (B) the county may accept reports that identify an
2.25 IQ range as opposed to a specific score; (C) these reports must include a statement of
2.26 confidence in the results;

2.27 (3) a person who is determined by a qualified professional to be learning disabled,
2.28 and the disability severely limits the person's ability to obtain, perform, or maintain
2.29 suitable employment. For purposes of the initial approval of a learning disability
2.30 extension, the determination must have been made or confirmed within the previous 12
2.31 months. In the case of a non-English-speaking person: (i) the determination must be made
2.32 by a qualified professional with experience conducting culturally appropriate assessments,
2.33 whenever possible; and (ii) these reports must include a statement of confidence in the
2.34 results. If a rehabilitation plan for a participant extended as learning disabled is developed
2.35 or approved by the county agency, the plan must be incorporated into the employment

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plan. However, a rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.521; ~~or~~

(4) a person who has been granted a family violence waiver, and who is complying with an employment plan under section 256J.521, subdivision 3; or

(5) a participant governed by section 256J.561, subdivision 2, paragraph (d), and who is complying with an employment plan tailored to recognize the special circumstances of the caregivers and family, including limitations due to illness or disability, and caregiving needs.

Sec. 3. Minnesota Statutes 2006, section 256J.425, subdivision 4, is amended to read:

Subd. 4. **Employed participants.** (a) An assistance unit subject to the time limit under section 256J.42, subdivision 1, is eligible to receive assistance under a hardship extension if the participant who reached the time limit belongs to:

(1) a one-parent assistance unit in which the participant is participating in work activities for at least 30 hours per week, ~~of which an average of at least 25 hours per week every month are spent participating in employment;~~

(2) a two-parent assistance unit in which the participants are participating in work activities for at least 55 hours per week, ~~of which an average of at least 45 hours per week every month are spent participating in employment;~~ or

(3) an assistance unit in which a participant is participating in employment for fewer hours than those specified in clause (1) or (2), and the participant submits verification from a qualified professional, in a form acceptable to the commissioner, stating that the number of hours the participant may work is limited due to illness or disability, as long as the participant is participating in employment for at least the number of hours specified by the qualified professional. The participant must be following the treatment recommendations of the qualified professional providing the verification. The commissioner shall develop a form to be completed and signed by the qualified professional, documenting the diagnosis and any additional information necessary to document the functional limitations of the participant that limit work hours. If the participant is part of a two-parent assistance unit, the other parent must be treated as a one-parent assistance unit for purposes of meeting the work requirements under this subdivision.

~~(b) For purposes of this section, employment means:~~

~~(1) unsubsidized employment under section 256J.49, subdivision 13, clause (1);~~

~~(2) subsidized employment under section 256J.49, subdivision 13, clause (2);~~

~~(3) on-the-job training under section 256J.49, subdivision 13, clause (2);~~

~~(4) an apprenticeship under section 256J.49, subdivision 13, clause (1);~~

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~~(5) supported work under section 256J.49, subdivision 13, clause (2);~~
~~(6) a combination of clauses (1) to (5); or~~
~~(7) child care under section 256J.49, subdivision 13, clause (7), if it is in combination with paid employment.~~

~~(e)~~ If a participant is complying with a child protection plan under chapter 260C, the number of hours required under the child protection plan count toward the number of hours required under this subdivision.

~~(d)~~ (c) The county shall provide the opportunity for subsidized employment to participants needing that type of employment within available appropriations.

~~(e)~~ (d) To be eligible for a hardship extension for employed participants under this subdivision, a participant must be in compliance for at least ten out of the 12 months the participant received MFIP immediately preceding the participant's 61st month on assistance. If ten or fewer months of eligibility for TANF assistance remain at the time the participant from another state applies for assistance, the participant must be in compliance every month.

~~(f)~~ (e) The employment plan developed under section 256J.521, subdivision 2, for participants under this subdivision must contain at least the minimum number of hours specified in paragraph (a) for the purpose of meeting the requirements for an extension under this subdivision. The job counselor and the participant must sign the employment plan to indicate agreement between the job counselor and the participant on the contents of the plan.

~~(g)~~ (f) Participants who fail to meet the requirements in paragraph (a), without good cause under section 256J.57, shall be sanctioned or permanently disqualified under subdivision 6. Good cause may only be granted for that portion of the month for which the good cause reason applies. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification.

~~(h)~~ (g) If the noncompliance with an employment plan is due to the involuntary loss of employment, the participant is exempt from the hourly employment requirement under this subdivision for one month. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification. This exemption is available to each participant two times in a 12-month period.

Sec. 4. Minnesota Statutes 2006, section 256J.425, subdivision 7, is amended to read:

Subd. 7. **Status of disqualified participants.** (a) An assistance unit that is disqualified under subdivision 6, paragraph (a), may be approved for MFIP if the

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participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(b) An assistance unit that is disqualified under subdivision 6, paragraph (a), and that reapplies under paragraph (a) is subject to sanction under section 256J.46, subdivision 1, paragraph (c), clause (1), for a first occurrence of noncompliance. A subsequent occurrence of noncompliance results in a permanent disqualification.

(c) If one participant in a two-parent assistance unit receiving assistance under a hardship extension under subdivision 3 or 4 is determined to be out of compliance with the employment and training services requirements under sections 256J.521 to 256J.57, the county shall give the assistance unit the option of disqualifying the noncompliant participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit for the purposes of meeting the work requirements under subdivision 4 and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a. An applicant who is disqualified from receiving assistance under this paragraph may reapply under paragraph (a). If a participant is disqualified from MFIP under this subdivision a second time, the participant is permanently disqualified from MFIP.

(d) Prior to a disqualification under this subdivision, a county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. If a face-to-face meeting is not conducted, the county agency must send the participant a notice of adverse action as provided in section 256J.31. During the face-to-face meeting, the county agency must:

(1) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause ~~(9)~~ (8);

(2) determine whether the participant qualifies for a good cause exception under section 256J.57;

(3) inform the participant of the family violence waiver criteria and make appropriate referrals if the waiver is requested;

(4) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(5) identify other resources that may be available to the participant to meet the needs of the family; and

(6) inform the participant of the right to appeal under section 256J.40.

Sec. 5. Minnesota Statutes 2006, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. **Participants not complying with program requirements.** (a)

A participant who fails without good cause under section 256J.57 to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision. Prior to the imposition of a sanction, a county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(b) A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.515 to 256J.57 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

(c) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in an assistance unit, the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need for an assistance unit of the same size with the residual grant paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second, third, fourth, fifth, or sixth occurrence of noncompliance by a participant in an assistance unit, the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP grant for which the assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size before the residual grant is paid to the assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant in a one-parent assistance unit returns to compliance. In a two-parent assistance unit, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs

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and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance. If an assistance unit is sanctioned under this clause, the participant's case file must be reviewed to determine if the employment plan is still appropriate.

(d) For a seventh occurrence of noncompliance by a participant in an assistance unit, or when the participants in a two-parent assistance unit have a total of seven occurrences of noncompliance, the county agency shall close the MFIP assistance unit's financial assistance case, both the cash and food portions, and redetermine the family's continued eligibility for food support payments. The MFIP case must remain closed for a minimum of one full month. Before the case is closed, the county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must send the participant a written notice that includes the information required under clause (1).

(1) During the face-to-face meeting, the county agency must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause ~~(9)~~ (8);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether the participant qualifies for an exemption under section 256J.56 or the work activities in the employment plan are appropriate based on the criteria in section 256J.521, subdivision 2 or 3;

(iv) determine whether the participant qualifies for the family violence waiver;

(v) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(vi) identify other resources that may be available to the participant to meet the needs of the family; and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) If the lack of an identified activity or service can explain the noncompliance, the county must work with the participant to provide the identified activity.

(3) The grant must be restored to the full amount for which the assistance unit is eligible retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption under section 256J.56, a

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family violence waiver, or for a good cause exemption under section 256J.741, subdivision 10, or 256J.57.

(e) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after July 1, 2003, shall be considered. If the participant is in 30 percent sanction in the month this section takes effect, that month counts as the first occurrence for purposes of applying the sanctions under this section, but the sanction shall remain at 30 percent for that month.

(f) An assistance unit whose case is closed under paragraph (d) or (g), may reapply for MFIP and shall be eligible if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(g) An assistance unit whose case has been closed for noncompliance, that reapplies under paragraph (f), is subject to sanction under paragraph (c), clause (2), for a first occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result in case closure under paragraph (d).

Sec. 6. Minnesota Statutes 2007 Supplement, section 256J.49, subdivision 13, is amended to read:

Subd. 13. **Work activity.** "Work activity" means any activity in a participant's approved employment plan that leads to employment. For purposes of the MFIP program, this includes activities that meet the definition of work activity under the participation requirements of TANF. Work activity includes:

(1) unsubsidized employment, including work study and paid apprenticeships or internships;

(2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69, on-the-job training as specified in section 256J.66, the self-employment investment demonstration program (SEID) as specified in section 256J.65, paid work experience, and supported work when a wage subsidy is provided;

~~(3) unpaid work experience, including community service, volunteer work, the community work experience program as specified in section 256J.67, unpaid apprenticeships or internships, and supported work when a wage subsidy is not provided. Unpaid work experience is only an option if the participant has been unable to obtain or maintain paid employment in the competitive labor market, and no paid work experience programs are available to the participant. Unless a participant consents to participating in unpaid work experience, the participant's employment plan may only include unpaid~~

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~~work experience if including the unpaid work experience in the plan will meet the following criteria:~~

~~(i) the unpaid work experience will provide the participant specific skills or experience that cannot be obtained through other work activity options where the participant resides or is willing to reside; and~~

~~(ii) the skills or experience gained through the unpaid work experience will result in higher wages for the participant than the participant could earn without the unpaid work experience;~~

~~(4) job search including job readiness assistance, job clubs, job placement, job-related counseling, and job retention services;~~

~~(5) (4) job readiness education, including English as a second language (ESL) or functional work literacy classes as limited by the provisions of section 256J.531, subdivision 2, general educational development (GED) course work, high school completion, and adult basic education as limited by the provisions of section 256J.531, subdivision 1;~~

~~(6) (5) job skills training directly related to employment, including education and training that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;~~

~~(7) (6) providing child care services to a participant who is working in a community service program;~~

~~(8) (7) activities included in the employment plan that is developed under section 256J.521, subdivision 3; and~~

~~(9) (8) preemployment activities including chemical and mental health assessments, treatment, and services; learning disabilities services; child protective services; family stabilization services; or other programs designed to enhance employability.~~

Sec. 7. Minnesota Statutes 2006, section 256J.53, subdivision 1, is amended to read:

Subdivision 1. **Length of program.** In order for a postsecondary education or training program to be an approved work activity as defined in section 256J.49, subdivision 13, clause ~~(6) (5)~~, it must be a program lasting 24 months or less, and the participant must meet the requirements of subdivisions 2, 3, and 5.

Sec. 8. Minnesota Statutes 2006, section 256J.95, subdivision 15, is amended to read:

Subd. 15. **Limitations on certain work activities.** (a) Except as specified in paragraphs (b) to (d), employment activities listed in section 256J.49, subdivision 13, are allowable under the diversionary work program.

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10.1 (b) Work activities under section 256J.49, subdivision 13, clause ~~(5)~~ (4), shall be
10.2 allowable only when in combination with approved work activities under section 256J.49,
10.3 subdivision 13, clauses (1) to (4), and shall be limited to no more than one-half of the
10.4 hours required in the employment plan.

10.5 (c) In order for an English as a second language (ESL) class to be an approved
10.6 work activity, a participant must:

10.7 (1) be below a spoken language proficiency level of SPL6 or its equivalent, as
10.8 measured by a nationally recognized test; and

10.9 (2) not have been enrolled in ESL for more than 24 months while previously
10.10 participating in MFIP or DWP. A participant who has been enrolled in ESL for 20 or more
10.11 months may be approved for ESL until the participant has received 24 total months.

10.12 (d) Work activities under section 256J.49, subdivision 13, clause ~~(6)~~ (5), shall be
10.13 allowable only when the training or education program will be completed within the
10.14 four-month DWP period. Training or education programs that will not be completed
10.15 within the four-month DWP period shall not be approved.

10.16 Sec. 9. **REPEALER.**

10.17 Minnesota Statutes 2006, sections 256J.24, subdivision 6; and 256J.37, subdivision
10.18 3a, are repealed.

256J.24 FAMILY COMPOSITION; ASSISTANCE STANDARDS; EXIT LEVEL.

Subd. 6. **Family cap.** (a) MFIP assistance units shall not receive an increase in the cash portion of the transitional standard as a result of the birth of a child, unless one of the conditions under paragraph (b) is met. The child shall be considered a member of the assistance unit according to subdivisions 1 to 3, but shall be excluded in determining family size for purposes of determining the amount of the cash portion of the transitional standard under subdivision 5. The child shall be included in determining family size for purposes of determining the food portion of the transitional standard. The transitional standard under this subdivision shall be the total of the cash and food portions as specified in this paragraph. The family wage level under this subdivision shall be based on the family size used to determine the food portion of the transitional standard.

(b) A child shall be included in determining family size for purposes of determining the amount of the cash portion of the MFIP transitional standard when at least one of the following conditions is met:

(1) for families receiving MFIP assistance on July 1, 2003, the child is born to the adult parent before May 1, 2004;

(2) for families who apply for the diversionary work program under section 256J.95 or MFIP assistance on or after July 1, 2003, the child is born to the adult parent within ten months of the date the family is eligible for assistance;

(3) the child was conceived as a result of a sexual assault or incest, provided that the incident has been reported to a law enforcement agency;

(4) the child's mother is a minor caregiver as defined in section 256J.08, subdivision 59, and the child, or multiple children, are the mother's first birth; or

(5) any child previously excluded in determining family size under paragraph (a) shall be included if the adult parent or parents have not received benefits from the diversionary work program under section 256J.95 or MFIP assistance in the previous ten months. An adult parent or parents who reapply and have received benefits from the diversionary work program or MFIP assistance in the past ten months shall be under the ten-month grace period of their previous application under clause (2).

(c) Income and resources of a child excluded under this subdivision, except child support received or distributed on behalf of this child, must be considered using the same policies as for other children when determining the grant amount of the assistance unit.

(d) The caregiver must assign support and cooperate with the child support enforcement agency to establish paternity and collect child support on behalf of the excluded child. Failure to cooperate results in the sanction specified in section 256J.46, subdivisions 2 and 2a. Current support paid on behalf of the excluded child shall be distributed according to section 256.741, subdivision 15.

(e) County agencies must inform applicants of the provisions under this subdivision at the time of each application and at recertification.

(f) Children excluded under this provision shall be deemed MFIP recipients for purposes of child care under chapter 119B.

256J.37 TREATMENT OF INCOME AND LUMP SUMS.

Subd. 3a. **Rental subsidies; unearned income.** (a) Effective July 1, 2003, the county agency shall count \$50 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$50. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment; or

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

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(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.