

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1443

03/04/2015 Authored by Mack, Zerwas, Liebling, Loeffler, Backer and others

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

03/26/2015 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; simplifying the treatment of income for public
1.3 assistance programs; simplifying requirements for reporting income and changes
1.4 and for correcting overpayments and underpayments; amending Minnesota
1.5 Statutes 2014, sections 119B.011, subdivision 15; 119B.025, subdivision 1;
1.6 119B.035, subdivision 4; 119B.09, subdivision 4; 256D.01, subdivision 1a;
1.7 256D.02, subdivision 8, by adding subdivisions; 256D.06, subdivision 1;
1.8 256D.405, subdivision 3; 256I.03, subdivision 7, by adding a subdivision;
1.9 256I.04, subdivision 1; 256I.06, subdivision 6; 256J.08, subdivisions 26,
1.10 86; 256J.30, subdivisions 1, 9; 256J.35; 256J.40; 256J.95, subdivision 19;
1.11 256P.001; 256P.01, subdivision 3, by adding subdivisions; 256P.02, by adding
1.12 a subdivision; 256P.03, subdivision 1; 256P.04, subdivisions 1, 4; 256P.05,
1.13 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter
1.14 256P; repealing Minnesota Statutes 2014, sections 256D.0513; 256D.06,
1.15 subdivision 8; 256D.09, subdivision 6; 256D.49; 256J.38; Minnesota Rules,
1.16 part 3400.0170, subparts 5, 6, 12, 13.

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

1.18 Section 1. Minnesota Statutes 2014, section 119B.011, subdivision 15, is amended to
1.19 read:

1.20 Subd. 15. **Income.** "Income" means earned ~~or unearned~~ income received by all
1.21 ~~family members, including~~ as defined under section 256P.01, subdivision 3, unearned
1.22 income as defined under section 256P.01, subdivision 8, and public assistance cash benefits
1.23 ~~and, including the Minnesota family investment program, diversionary work program,~~
1.24 work benefit, Minnesota supplemental aid, general assistance, refugee cash assistance,
1.25 at-home infant child care subsidy payments, unless specifically excluded and child support
1.26 and maintenance distributed to the family under section 256.741, subdivision 15. The
1.27 following are ~~excluded~~ deducted from income: funds used to pay for health insurance
1.28 premiums for family members, ~~Supplemental Security Income, scholarships, work-study~~
1.29 ~~income, and grants that cover costs or reimbursement for tuition, fees, books, and~~

2.1 ~~educational supplies; student loans for tuition, fees, books, supplies, and living expenses;~~
2.2 ~~state and federal earned income tax credits; assistance specifically excluded as income by~~
2.3 ~~law; in-kind income such as food support, energy assistance, foster care assistance, medical~~
2.4 ~~assistance, child care assistance, and housing subsidies; earned income of full-time or~~
2.5 ~~part-time students up to the age of 19, who have not earned a high school diploma or GED~~
2.6 ~~high school equivalency diploma including earnings from summer employment; grant~~
2.7 ~~awards under the family subsidy program; nonrecurring lump-sum income only to the~~
2.8 ~~extent that it is earmarked and used for the purpose for which it is paid; and any income~~
2.9 ~~assigned to the public authority according to section 256.741 and child or spousal support~~
2.10 ~~paid to or on behalf of a person or persons who live outside of the household. Income~~
2.11 ~~sources not included in this subdivision and section 256P.06, subdivision 3, are not counted.~~

2.12 Sec. 2. Minnesota Statutes 2014, section 119B.025, subdivision 1, is amended to read:

2.13 Subdivision 1. **Factors which must be verified.** (a) The county shall verify the
2.14 following at all initial child care applications using the universal application:

2.15 (1) identity of adults;

2.16 (2) presence of the minor child in the home, if questionable;

2.17 (3) relationship of minor child to the parent, stepparent, legal guardian, eligible
2.18 relative caretaker, or the spouses of any of the foregoing;

2.19 (4) age;

2.20 (5) immigration status, if related to eligibility;

2.21 (6) Social Security number, if given;

2.22 (7) income;

2.23 (8) spousal support and child support payments made to persons outside the
2.24 household;

2.25 (9) residence; and

2.26 (10) inconsistent information, if related to eligibility.

2.27 (b) If a family did not use the universal application or child care addendum to apply
2.28 for child care assistance, the family must complete the universal application or child care
2.29 addendum at its next eligibility redetermination and the county must verify the factors
2.30 listed in paragraph (a) as part of that redetermination. Once a family has completed a
2.31 universal application or child care addendum, the county shall use the redetermination
2.32 form described in paragraph (c) for that family's subsequent redeterminations. Eligibility
2.33 must be redetermined at least every six months. A family is considered to have met the
2.34 eligibility redetermination requirement if a complete redetermination form and all required
2.35 verifications are received within 30 days after the date the form was due. Assistance shall

3.1 be payable retroactively from the redetermination due date. For a family where at least
3.2 one parent is under the age of 21, does not have a high school or general equivalency
3.3 diploma, and is a student in a school district or another similar program that provides or
3.4 arranges for child care, as well as parenting, social services, career and employment
3.5 supports, and academic support to achieve high school graduation, the redetermination of
3.6 eligibility shall be deferred beyond six months, but not to exceed 12 months, to the end of
3.7 the student's school year. If a family reports a change in an eligibility factor before the
3.8 family's next regularly scheduled redetermination, the county must recalculate eligibility
3.9 without requiring verification of any eligibility factor that did not change. Changes must
3.10 be reported as required by section 256P.07. A change in income occurs on the day the
3.11 participant received the first payment reflecting the change in income.

3.12 (c) The commissioner shall develop a redetermination form to redetermine eligibility
3.13 and a change report form to report changes that minimize paperwork for the county and
3.14 the participant.

3.15 Sec. 3. Minnesota Statutes 2014, section 119B.035, subdivision 4, is amended to read:

3.16 Subd. 4. **Assistance.** (a) A family is limited to a lifetime total of 12 months of
3.17 assistance under subdivision 2. The maximum rate of assistance is equal to 68 percent
3.18 of the rate established under section 119B.13 for care of infants in licensed family child
3.19 care in the applicant's county of residence.

3.20 (b) A participating family must report income and other family changes as specified in
3.21 sections 256P.06 and 256P.07, and the county's plan under section 119B.08, subdivision 3.

3.22 (c) Persons who are admitted to the at-home infant child care program retain their
3.23 position in any basic sliding fee program. Persons leaving the at-home infant child care
3.24 program reenter the basic sliding fee program at the position they would have occupied.

3.25 (d) Assistance under this section does not establish an employer-employee
3.26 relationship between any member of the assisted family and the county or state.

3.27 Sec. 4. Minnesota Statutes 2014, section 119B.09, subdivision 4, is amended to read:

3.28 Subd. 4. **Eligibility; annual income; calculation.** Annual income of the applicant
3.29 family is the current monthly income of the family multiplied by 12 or the income for
3.30 the 12-month period immediately preceding the date of application, or income calculated
3.31 by the method which provides the most accurate assessment of income available to the
3.32 family. Self-employment income must be calculated based on gross receipts less operating
3.33 expenses. Income must be recalculated when the family's income changes, but no less often
3.34 than every six months. For a family where at least one parent is under the age of 21, does

4.1 not have a high school or general equivalency diploma, and is a student in a school district
4.2 or another similar program that provides or arranges for child care, as well as parenting,
4.3 social services, career and employment supports, and academic support to achieve high
4.4 school graduation, income must be recalculated when the family's income changes, but
4.5 otherwise shall be deferred beyond six months, but not to exceed 12 months, to the end of
4.6 the student's school year. Nonrecurring lump sums must be annualized over 12 months.
4.7 Income must be verified with documentary evidence. If the applicant does not have
4.8 sufficient evidence of income, verification must be obtained from the source of the income.

4.9 Sec. 5. Minnesota Statutes 2014, section 256D.01, subdivision 1a, is amended to read:

4.10 Subd. 1a. **Standards.** (a) A principal objective in providing general assistance is
4.11 to provide for single adults, childless couples, or children as defined in section 256D.02,
4.12 subdivision 6, ineligible for federal programs who are unable to provide for themselves.
4.13 The minimum standard of assistance determines the total amount of the general assistance
4.14 grant without separate standards for shelter, utilities, or other needs.

4.15 (b) The commissioner shall set the standard of assistance for an assistance unit
4.16 consisting of an adult recipient who is childless and unmarried or living apart from
4.17 children and spouse and who does not live with a parent or parents or a legal custodian.
4.18 When the other standards specified in this subdivision increase, this standard must also be
4.19 increased by the same percentage.

4.20 (c) For an assistance unit consisting of a single adult who lives with a parent or
4.21 parents, the general assistance standard of assistance is the amount that the aid to families
4.22 with dependent children standard of assistance, in effect on July 16, 1996, would increase
4.23 if the recipient were added as an additional minor child to an assistance unit consisting
4.24 of the recipient's parent and all of that parent's family members, except that the standard
4.25 may not exceed the standard for a general assistance recipient living alone. Benefits
4.26 received by a responsible relative of the assistance unit under the Supplemental Security
4.27 Income program, a workers' compensation program, the Minnesota supplemental aid
4.28 program, or any other program based on the responsible relative's disability, and any
4.29 benefits received by a responsible relative of the assistance unit under the Social Security
4.30 retirement program, may not be counted in the determination of eligibility or benefit
4.31 level for the assistance unit. Except as provided below, the assistance unit is ineligible
4.32 for general assistance if the available resources or the countable income of the assistance
4.33 unit and the parent or parents with whom the assistance unit lives are such that a family
4.34 consisting of the assistance unit's parent or parents, the parent or parents' other family
4.35 members and the assistance unit as the only or additional minor child would be financially

5.1 ineligible for general assistance. For the purposes of calculating the countable income
5.2 of the assistance unit's parent or parents, the calculation methods, ~~income deductions,~~
5.3 ~~exclusions, and disregards used when calculating the countable income for a single adult~~
5.4 ~~or childless couple must be used~~ follow the provisions under section 256P.06.

5.5 (d) For an assistance unit consisting of a childless couple, the standards of assistance
5.6 are the same as the first and second adult standards of the aid to families with dependent
5.7 children program in effect on July 16, 1996. If one member of the couple is not included
5.8 in the general assistance grant, the standard of assistance for the other is the second adult
5.9 standard of the aid to families with dependent children program as of July 16, 1996.

5.10 Sec. 6. Minnesota Statutes 2014, section 256D.02, is amended by adding a subdivision
5.11 to read:

5.12 Subd. 1a. **Assistance unit.** "Assistance unit" means an individual or an eligible
5.13 married couple who live together who are applying for or receiving benefits under this
5.14 chapter.

5.15 Sec. 7. Minnesota Statutes 2014, section 256D.02, is amended by adding a subdivision
5.16 to read:

5.17 Subd. 1b. **Cash assistance benefit.** "Cash assistance benefit" means any payment
5.18 received as a disability benefit, including veterans or workers' compensation; old age,
5.19 survivors, and disability insurance; railroad retirement benefits; unemployment benefits;
5.20 and benefits under any federally aided categorical assistance program, Supplemental
5.21 Security Income, or other assistance program.

5.22 Sec. 8. Minnesota Statutes 2014, section 256D.02, subdivision 8, is amended to read:

5.23 Subd. 8. **Income.** "Income" means any form of income, including remuneration
5.24 for services performed as an employee and earned income from rental income and
5.25 self-employment earnings as described under section 256P.05 earned income as defined
5.26 under section 256P.01, subdivision 3, and unearned income as defined under section
5.27 256P.01, subdivision 8.

5.28 ~~Income includes any payments received as an annuity, retirement, or disability~~
5.29 ~~benefit, including veteran's or workers' compensation; old age, survivors, and disability~~
5.30 ~~insurance; railroad retirement benefits; unemployment benefits; and benefits under any~~
5.31 ~~federally aided categorical assistance program, supplementary security income, or other~~
5.32 ~~assistance program; rents, dividends, interest and royalties; and support and maintenance~~
5.33 ~~payments. Such payments may not be considered as available to meet the needs of any~~

6.1 ~~person other than the person for whose benefit they are received, unless that person is~~
6.2 ~~a family member or a spouse and the income is not excluded under section 256D.01,~~
6.3 ~~subdivision 1a. Goods and services provided in lieu of cash payment shall be excluded~~
6.4 ~~from the definition of income, except that payments made for room, board, tuition or~~
6.5 ~~fees by a parent, on behalf of a child enrolled as a full-time student in a postsecondary~~
6.6 ~~institution, and payments made on behalf of an applicant or participant which the applicant~~
6.7 ~~or participant could legally demand to receive personally in cash, must be included as~~
6.8 ~~income. Benefits of an applicant or participant, such as those administered by the Social~~
6.9 ~~Security Administration, that are paid to a representative payee, and are spent on behalf of~~
6.10 ~~the applicant or participant, are considered available income of the applicant or participant.~~

6.11 Sec. 9. Minnesota Statutes 2014, section 256D.06, subdivision 1, is amended to read:

6.12 Subdivision 1. **Eligibility; amount of assistance.** General assistance shall be
6.13 granted in an amount that when added to the ~~nonexempt~~ countable income as determined
6.14 to be actually available to the assistance unit under section 256P.06, the total amount
6.15 equals the applicable standard of assistance for general assistance. In determining
6.16 eligibility for and the amount of assistance for an individual or married couple, the agency
6.17 shall apply the earned income disregard as determined in section 256P.03.

6.18 Sec. 10. Minnesota Statutes 2014, section 256D.405, subdivision 3, is amended to read:

6.19 Subd. 3. **Reports.** Participants must report changes in circumstances according to
6.20 section 256P.07 that affect eligibility or assistance payment amounts within ten days of the
6.21 change. Participants who do not receive SSI because of excess income must complete a
6.22 monthly report form if they have earned income, if they have income deemed to them
6.23 from a financially responsible relative with whom the participant resides, or if they have
6.24 income deemed to them by a sponsor. If the report form is not received before the end of
6.25 the month in which it is due, the county agency must terminate assistance. The termination
6.26 shall be effective on the first day of the month following the month in which the report
6.27 was due. If a complete report is received within the month the assistance was terminated,
6.28 the assistance unit is considered to have continued its application for assistance, effective
6.29 the first day of the month the assistance was terminated.

6.30 Sec. 11. Minnesota Statutes 2014, section 256I.03, is amended by adding a subdivision
6.31 to read:

6.32 Subd. 1b. **Assistance unit.** "Assistance unit" means an individual who is applying
6.33 for or receiving benefits under this chapter.

7.1 Sec. 12. Minnesota Statutes 2014, section 256I.03, subdivision 7, is amended to read:

7.2 Subd. 7. **Countable income.** "Countable income" means all income received by an
7.3 applicant or recipient as described under section 256P.06, less any applicable exclusions
7.4 or disregards. For a recipient of any cash benefit from the SSI program, countable income
7.5 means the SSI benefit limit in effect at the time the person is in a GRH, less the medical
7.6 assistance personal needs allowance. If the SSI limit has been reduced for a person due to
7.7 events occurring prior to the persons entering the GRH setting, countable income means
7.8 actual income less any applicable exclusions and disregards.

7.9 Sec. 13. Minnesota Statutes 2014, section 256I.04, subdivision 1, is amended to read:

7.10 Subdivision 1. **Individual eligibility requirements.** An individual is eligible for
7.11 and entitled to a group residential housing payment to be made on the individual's behalf
7.12 if the agency has approved the individual's residence in a group residential housing setting
7.13 and the individual meets the requirements in paragraph (a) or (b).

7.14 (a) The individual is aged, blind, or is over 18 years of age and disabled as
7.15 determined under the criteria used by the title II program of the Social Security Act, and
7.16 meets the resource restrictions and standards of section 256P.02, and the individual's
7.17 countable income after deducting the (1) exclusions and disregards of the SSI program,
7.18 (2) the medical assistance personal needs allowance under section 256B.35, and (3) an
7.19 amount equal to the income actually made available to a community spouse by an elderly
7.20 waiver participant under the provisions of sections 256B.0575, paragraph (a), clause
7.21 (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the agency's
7.22 agreement with the provider of group residential housing in which the individual resides.

7.23 (b) The individual meets a category of eligibility under section 256D.05, subdivision
7.24 1, paragraph (a), and the individual's resources are less than the standards specified by
7.25 section 256P.02, and the individual's countable income as determined under ~~sections~~
7.26 ~~256D.01 to 256D.21~~ section 256P.06, less the medical assistance personal needs allowance
7.27 under section 256B.35 is less than the monthly rate specified in the agency's agreement
7.28 with the provider of group residential housing in which the individual resides.

7.29 Sec. 14. Minnesota Statutes 2014, section 256I.06, subdivision 6, is amended to read:

7.30 Subd. 6. **Reports.** Recipients must report changes in circumstances according
7.31 to section 256P.07 that affect eligibility or group residential housing payment amounts
7.32 within ten days of the change. Recipients with countable earned income must complete
7.33 a monthly household report form. If the report form is not received before the end of
7.34 the month in which it is due, the county agency must terminate eligibility for group

8.1 residential housing payments. The termination shall be effective on the first day of the
8.2 month following the month in which the report was due. If a complete report is received
8.3 within the month eligibility was terminated, the individual is considered to have continued
8.4 an application for group residential housing payment effective the first day of the month
8.5 the eligibility was terminated.

8.6 Sec. 15. Minnesota Statutes 2014, section 256J.08, subdivision 26, is amended to read:

8.7 Subd. 26. **Earned income.** ~~"Earned income" means cash or in-kind income earned~~
8.8 ~~through the receipt of wages, salary, commissions, profit from employment activities, net~~
8.9 ~~profit from self-employment activities, payments made by an employer for regularly~~
8.10 ~~accrued vacation or sick leave, and any other profit from activity earned through effort or~~
8.11 ~~labor. The income must be in return for, or as a result of, legal activity has the meaning~~
8.12 ~~given in section 256P.01, subdivision 3.~~

8.13 Sec. 16. Minnesota Statutes 2014, section 256J.08, subdivision 86, is amended to read:

8.14 Subd. 86. **Unearned income.** ~~"Unearned income" means income received by~~
8.15 ~~a person that does not meet the definition of earned income. Unearned income includes~~
8.16 ~~income from a contract for deed, interest, dividends, unemployment benefits, disability~~
8.17 ~~insurance payments, veterans benefits, pension payments, return on capital investment,~~
8.18 ~~insurance payments or settlements, severance payments, child support and maintenance~~
8.19 ~~payments, and payments for illness or disability whether the premium payments are~~
8.20 ~~made in whole or in part by an employer or participant has the meaning given in section~~
8.21 ~~256P.01, subdivision 8.~~

8.22 Sec. 17. Minnesota Statutes 2014, section 256J.30, subdivision 1, is amended to read:

8.23 Subdivision 1. **Applicant reporting requirements.** An applicant must provide
8.24 information on an application form and supplemental forms about the applicant's
8.25 ~~circumstances which affect MFIP eligibility or the assistance payment. An applicant must~~
8.26 ~~report changes identified in subdivision 9 while the application is pending. When an~~
8.27 ~~applicant does not accurately report information on an application, both an overpayment~~
8.28 ~~and a referral for a fraud investigation may result. When an applicant does not provide~~
8.29 ~~information or documentation, the receipt of the assistance payment may be delayed or the~~
8.30 ~~application may be denied depending on the type of information required and its effect on~~
8.31 ~~eligibility according to section 256P.07.~~

8.32 Sec. 18. Minnesota Statutes 2014, section 256J.30, subdivision 9, is amended to read:

9.1 Subd. 9. **Changes that must be reported.** A caregiver must report ~~the changes or~~
 9.2 ~~anticipated changes specified in clauses (1) to (15) within ten days of the date they occur,~~
 9.3 ~~at the time of the periodic recertification of eligibility under section 256P.04, subdivisions~~
 9.4 ~~8 and 9, or within eight calendar days of a reporting period as in subdivision 5, whichever~~
 9.5 ~~occurs first. A caregiver must report other changes at the time of the periodic recertification~~
 9.6 ~~of eligibility under section 256P.04, subdivisions 8 and 9, or at the end of a reporting period~~
 9.7 ~~under subdivision 5, as applicable. A caregiver must make these reports in writing to the~~
 9.8 ~~agency. When an agency could have reduced or terminated assistance for one or more~~
 9.9 ~~payment months if a delay in reporting a change specified under clauses (1) to (14) had~~
 9.10 ~~not occurred, the agency must determine whether a timely notice under section 256J.31,~~
 9.11 ~~subdivision 4, could have been issued on the day that the change occurred. When a timely~~
 9.12 ~~notice could have been issued, each month's overpayment subsequent to that notice must be~~
 9.13 ~~considered a client error overpayment under section 256J.38. Calculation of overpayments~~
 9.14 ~~for late reporting under clause (15) is specified in section 256J.09, subdivision 9. Changes~~
 9.15 ~~in circumstances which must be reported within ten days must also be reported on the~~
 9.16 ~~MFIP household report form for the reporting period in which those changes occurred.~~
 9.17 ~~Within ten days, a caregiver must report:~~ changes as specified under section 256P.07.

- 9.18 (1) a change in initial employment;
- 9.19 (2) a change in initial receipt of unearned income;
- 9.20 (3) a recurring change in unearned income;
- 9.21 (4) a nonrecurring change of unearned income that exceeds \$30;
- 9.22 (5) the receipt of a lump sum;
- 9.23 (6) an increase in assets that may cause the assistance unit to exceed asset limits;
- 9.24 (7) a change in the physical or mental status of an incapacitated member of the
 9.25 assistance unit if the physical or mental status is the basis for reducing the hourly
 9.26 participation requirements under section 256J.55, subdivision 1, or the type of activities
 9.27 included in an employment plan under section 256J.521, subdivision 2;
- 9.28 (8) a change in employment status;
- 9.29 (9) the marriage or divorce of an assistance unit member;
- 9.30 (10) the death of a parent, minor child, or financially responsible person;
- 9.31 (11) a change in address or living quarters of the assistance unit;
- 9.32 (12) the sale, purchase, or other transfer of property;
- 9.33 (13) a change in school attendance of a caregiver under age 20 or an employed child;
- 9.34 (14) filing a lawsuit, a workers' compensation claim, or a monetary claim against a
 9.35 third party; and

10.1 ~~(15) a change in household composition, including births, returns to and departures~~
10.2 ~~from the home of assistance unit members and financially responsible persons, or a change~~
10.3 ~~in the custody of a minor child.~~

10.4 Sec. 19. Minnesota Statutes 2014, section 256J.35, is amended to read:

10.5 **256J.35 AMOUNT OF ASSISTANCE PAYMENT.**

10.6 Except as provided in paragraphs (a) to (d), the amount of an assistance payment is
10.7 equal to the difference between the MFIP standard of need or the Minnesota family wage
10.8 level in section 256J.24 and countable income.

10.9 (a) Beginning July 1, 2015, MFIP assistance units are eligible for an MFIP housing
10.10 assistance grant of \$110 per month, unless:

10.11 (1) the housing assistance unit is currently receiving public and assisted rental
10.12 subsidies provided through the Department of Housing and Urban Development (HUD)
10.13 and is subject to section 256J.37, subdivision 3a; or

10.14 (2) the assistance unit is a child-only case under section 256J.88.

10.15 (b) When MFIP eligibility exists for the month of application, the amount of the
10.16 assistance payment for the month of application must be prorated from the date of
10.17 application or the date all other eligibility factors are met for that applicant, whichever is
10.18 later. This provision applies when an applicant loses at least one day of MFIP eligibility.

10.19 (c) MFIP overpayments to an assistance unit must be recouped according to section
10.20 ~~256J.38, subdivision 4~~ 256P.08, subdivision 6.

10.21 (d) An initial assistance payment must not be made to an applicant who is not
10.22 eligible on the date payment is made.

10.23 Sec. 20. Minnesota Statutes 2014, section 256J.40, is amended to read:

10.24 **256J.40 FAIR HEARINGS.**

10.25 Caregivers receiving a notice of intent to sanction or a notice of adverse action that
10.26 includes a sanction, reduction in benefits, suspension of benefits, denial of benefits, or
10.27 termination of benefits may request a fair hearing. A request for a fair hearing must be
10.28 submitted in writing to the county agency or to the commissioner and must be mailed
10.29 within 30 days after a participant or former participant receives written notice of the
10.30 agency's action or within 90 days when a participant or former participant shows good
10.31 cause for not submitting the request within 30 days. A former participant who receives a
10.32 notice of adverse action due to an overpayment may appeal the adverse action according
10.33 to the requirements in this section. Issues that may be appealed are:

10.34 (1) the amount of the assistance payment;

- 11.1 (2) a suspension, reduction, denial, or termination of assistance;
- 11.2 (3) the basis for an overpayment, the calculated amount of an overpayment, and
- 11.3 the level of recoupment;
- 11.4 (4) the eligibility for an assistance payment; and
- 11.5 (5) the use of protective or vendor payments under section 256J.39, subdivision 2,
- 11.6 clauses (1) to (3).

11.7 Except for benefits issued under section 256J.95, a county agency must not reduce,

11.8 suspend, or terminate payment when an aggrieved participant requests a fair hearing

11.9 prior to the effective date of the adverse action or within ten days of the mailing of the

11.10 notice of adverse action, whichever is later, unless the participant requests in writing not

11.11 to receive continued assistance pending a hearing decision. An appeal request cannot

11.12 extend benefits for the diversionary work program under section 256J.95 beyond the

11.13 four-month time limit. Assistance issued pending a fair hearing is subject to recovery

11.14 under section ~~256J.38~~ 256P.08 when as a result of the fair hearing decision the participant

11.15 is determined ineligible for assistance or the amount of the assistance received. A county

11.16 agency may increase or reduce an assistance payment while an appeal is pending when the

11.17 circumstances of the participant change and are not related to the issue on appeal. The

11.18 commissioner's order is binding on a county agency. No additional notice is required to

11.19 enforce the commissioner's order.

11.20 A county agency shall reimburse appellants for reasonable and necessary expenses

11.21 of attendance at the hearing, such as child care and transportation costs and for the

11.22 transportation expenses of the appellant's witnesses and representatives to and from the

11.23 hearing. Reasonable and necessary expenses do not include legal fees. Fair hearings

11.24 must be conducted at a reasonable time and date by an impartial human services judge

11.25 employed by the department. The hearing may be conducted by telephone or at a site that

11.26 is readily accessible to persons with disabilities.

11.27 The appellant may introduce new or additional evidence relevant to the issues on

11.28 appeal. Recommendations of the human services judge and decisions of the commissioner

11.29 must be based on evidence in the hearing record and are not limited to a review of the

11.30 county agency action.

11.31 Sec. 21. Minnesota Statutes 2014, section 256J.95, subdivision 19, is amended to read:

11.32 Subd. 19. **DWP overpayments and underpayments.** DWP benefits are subject

11.33 to overpayments and underpayments. Anytime an overpayment or an underpayment is

11.34 determined for DWP, the correction shall be calculated using prospective budgeting.

11.35 Corrections shall be determined based on the policy in section 256J.34, subdivision 1,

12.1 paragraphs (a), (b), and (c). ATM errors must be recovered as specified in section ~~256J.38,~~
12.2 ~~subdivision 5~~ 256P.08, subdivision 7. Cross program recoupment of overpayments cannot
12.3 be assigned to or from DWP.

12.4 Sec. 22. Minnesota Statutes 2014, section 256P.001, is amended to read:

12.5 **256P.001 APPLICABILITY.**

12.6 General assistance and Minnesota supplemental aid under chapter 256D, child care
12.7 assistance programs under chapter 119B, and programs governed by chapter 256I or 256J
12.8 are subject to the requirements of this chapter, unless otherwise specified or exempted.

12.9 Sec. 23. Minnesota Statutes 2014, section 256P.01, is amended by adding a subdivision
12.10 to read:

12.11 Subd. 2a. **Assistance unit.** "Assistance unit" is defined by program area under
12.12 sections 119B.011, subdivision 13; 256D.02, subdivision 1a; 256D.35, subdivision 3a;
12.13 256I.03, subdivision 1b; and 256J.08, subdivision 7.

12.14 Sec. 24. Minnesota Statutes 2014, section 256P.01, subdivision 3, is amended to read:

12.15 Subd. 3. **Earned income.** "Earned income" means cash or in-kind income earned
12.16 through the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from
12.17 employment activities, net profit from self-employment activities, payments made by
12.18 an employer for regularly accrued vacation or sick leave, ~~and any~~ severance pay based
12.19 on accrued leave time, payments from training programs at a rate at or greater than the
12.20 state's minimum wage, royalties, honoraria, or other profit from activity earned through
12.21 effort that results from the client's work, service, effort, or labor. The income must be in
12.22 return for, or as a result of, legal activity.

12.23 Sec. 25. Minnesota Statutes 2014, section 256P.01, is amended by adding a subdivision
12.24 to read:

12.25 Subd. 8. **Unearned income.** "Unearned income" has the meaning given in section
12.26 256P.06, subdivision 3, clause (2).

12.27 Sec. 26. Minnesota Statutes 2014, section 256P.02, is amended by adding a subdivision
12.28 to read:

12.29 Subd. 1a. **Exemption.** Participants who qualify for child care assistance programs
12.30 under chapter 119B are exempt from this section.

13.1 **EFFECTIVE DATE.** This section is effective June 1, 2016.

13.2 Sec. 27. Minnesota Statutes 2014, section 256P.03, subdivision 1, is amended to read:

13.3 Subdivision 1. **Exempted programs.** Participants who qualify for child care
 13.4 assistance programs under chapter 119B, Minnesota supplemental aid under chapter
 13.5 256D₂ and for group residential housing under chapter 256I on the basis of eligibility for
 13.6 Supplemental Security Income are exempt from this section.

13.7 **EFFECTIVE DATE.** This section is effective October 1, 2015.

13.8 Sec. 28. Minnesota Statutes 2014, section 256P.04, subdivision 1, is amended to read:

13.9 Subdivision 1. **Exemption.** Participants who receive Minnesota supplemental aid
 13.10 and who maintain Supplemental Security Income eligibility under chapters 256D and 256I
 13.11 are exempt from the reporting requirements of this section, except that the policies and
 13.12 procedures for transfers of assets are those used by the medical assistance program under
 13.13 section 256B.0595. Participants who receive child care assistance under chapter 119B are
 13.14 exempt from the reporting requirements of this section.

13.15 Sec. 29. Minnesota Statutes 2014, section 256P.04, subdivision 4, is amended to read:

13.16 Subd. 4. **Factors to be verified.** (a) The agency shall verify the following at
 13.17 application:

13.18 (1) identity of adults;

13.19 (2) age, if necessary to determine eligibility;

13.20 (3) immigration status;

13.21 (4) income;

13.22 (5) spousal support and child support payments made to persons outside the
 13.23 household;

13.24 (6) vehicles;

13.25 (7) checking and savings accounts;

13.26 (8) inconsistent information, if related to eligibility;

13.27 (9) residence; ~~and~~

13.28 (10) Social Security number; and

13.29 (11) use of nonrecurring income under section 256P.06, subdivision 3, clause (2),
 13.30 item (ix), for the intended purpose in which it was given and received.

13.31 (b) Applicants who are qualified noncitizens and victims of domestic violence as
 13.32 defined under section 256J.08, subdivision 73, clause (7), are not required to verify the
 13.33 information in paragraph (a), clause (10). When a Social Security number is not provided

14.1 to the agency for verification, this requirement is satisfied when each member of the
 14.2 assistance unit cooperates with the procedures for verification of Social Security numbers,
 14.3 issuance of duplicate cards, and issuance of new numbers which have been established
 14.4 jointly between the Social Security Administration and the commissioner.

14.5 Sec. 30. Minnesota Statutes 2014, section 256P.05, subdivision 1, is amended to read:

14.6 Subdivision 1. **Exempted programs.** Participants who qualify for child care
 14.7 assistance programs under chapter 119B, Minnesota supplemental aid under chapter
 14.8 256D₂ and for group residential housing under chapter 256I on the basis of eligibility for
 14.9 Supplemental Security Income are exempt from this section.

14.10 Sec. 31. **[256P.06] INCOME CALCULATIONS.**

14.11 Subdivision 1. **Reporting of income.** To determine eligibility, the county agency
 14.12 must evaluate income received by members of the assistance unit, or by other persons
 14.13 whose income is considered available to the assistance unit, and only count income that
 14.14 is available to the assistance unit. Income is available if the individual has legal access
 14.15 to the income.

14.16 Subd. 2. **Exempted individuals.** The following members of an assistance unit
 14.17 under chapters 119B and 256J are exempt from having their earned income count towards
 14.18 the income of an assistance unit:

- 14.19 (1) children under six years old;
 14.20 (2) caregivers under 20 years of age enrolled at least half-time in school; and
 14.21 (3) minors enrolled in school full time.

14.22 Subd. 3. **Income inclusions.** The following must be included in determining the
 14.23 income of an assistance unit:

- 14.24 (1) earned income; and
 14.25 (2) unearned income, which includes:
 14.26 (i) interest and dividends from investments and savings;
 14.27 (ii) capital gains as defined by the Internal Revenue Service from any sale of real
 14.28 property;
 14.29 (iii) proceeds from rent and contract for deed payments in excess of the principal
 14.30 and interest portion owed on property;
 14.31 (iv) income from trusts, excluding special needs and supplemental needs trusts;
 14.32 (v) interest income from loans made by the participant or household;
 14.33 (vi) cash prizes and winnings;
 14.34 (vii) unemployment insurance income;

- 15.1 (viii) retirement, survivors, and disability insurance payments;
 15.2 (ix) nonrecurring income over \$60 per quarter unless earmarked and used for the
 15.3 purpose for which it is intended. Income and use of this income is subject to verification
 15.4 requirements under section 256P.04;
 15.5 (x) retirement benefits;
 15.6 (xi) cash assistance benefits, as defined by each program in chapters 119B, 256D,
 15.7 256I, and 256J;
 15.8 (xii) tribal per capita payments unless excluded by federal and state law;
 15.9 (xiii) income and payments from service and rehabilitation programs that meet
 15.10 or exceed the state's minimum wage rate;
 15.11 (xiv) income from members of the United States armed forces unless excluded from
 15.12 income taxes according to federal or state law; and
 15.13 (xv) child and spousal support.

15.14 Sec. 32. **[256P.07] REPORTING OF INCOME AND CHANGES.**

15.15 Subdivision 1. **Exempted programs.** Participants who qualify for Minnesota
 15.16 supplemental aid under chapter 256D and for group residential housing under chapter 256I
 15.17 on the basis of eligibility for Supplemental Security Income are exempt from this section.

15.18 Subd. 2. **Reporting requirements.** An applicant or participant must provide
 15.19 information on an application and any subsequent reporting forms about the assistance
 15.20 unit's circumstances that affect eligibility or benefits. An applicant or assistance unit must
 15.21 report changes identified in subdivision 3. When information is not accurately reported,
 15.22 both an overpayment and a referral for a fraud investigation may result. When information
 15.23 or documentation is not provided, the receipt of any benefit may be delayed or denied,
 15.24 depending on the type of information required and its effect on eligibility.

15.25 Subd. 3. **Changes that must be reported.** An assistance unit must report the
 15.26 changes or anticipated changes specified in clauses (1) to (12) within ten days of the date
 15.27 they occur, at the time of recertification of eligibility under section 256P.04, subdivisions
 15.28 8 and 9, or within eight calendar days of a reporting period, whichever occurs first. An
 15.29 assistance unit must report other changes at the time of recertification of eligibility under
 15.30 section 256P.04, subdivisions 8 and 9, or at the end of a reporting period, as applicable.
 15.31 When an agency could have reduced or terminated assistance for one or more payment
 15.32 months if a delay in reporting a change specified under clauses (1) to (12) had not
 15.33 occurred, the agency must determine whether a timely notice could have been issued
 15.34 on the day that the change occurred. When a timely notice could have been issued,
 15.35 each month's overpayment subsequent to that notice must be considered a client error

16.1 overpayment under section 119B.11, subdivision 2a; 256D.09, subdivision 6; 256D.49,
16.2 subdivision 3; 256J.38; or 256P.08. Changes in circumstances that must be reported within
16.3 ten days must also be reported for the reporting period in which those changes occurred.

16.4 Within ten days, an assistance unit must report a:

- 16.5 (1) change in earned income of \$100 per month or greater;
- 16.6 (2) change in unearned income of \$50 per month or greater;
- 16.7 (3) change in employment status and hours;
- 16.8 (4) change in address or residence;
- 16.9 (5) change in household composition with the exception of programs under chapter
16.10 256I;
- 16.11 (6) receipt of a lump-sum payment;
- 16.12 (7) increase in assets if over \$9,000 with the exception of programs under chapter
16.13 119B;
- 16.14 (8) change in citizenship or immigration status;
- 16.15 (9) change in family status with the exception of programs under chapter 256I;
- 16.16 (10) change in disability status of a unit member;
- 16.17 (11) new rent subsidy or a change in rent subsidy; and
- 16.18 (12) sale, purchase, or transfer of real property.

16.19 Subd. 4. **MFIP-specific reporting.** In addition to subdivision 3, an assistance unit
16.20 under chapter 256J, within ten days of the change, must report:

- 16.21 (1) a pregnancy not resulting in birth when there are no other minor children;
- 16.22 (2) a change in a noncustodial parent's address; and
- 16.23 (3) a change in school attendance of a parent under 20 years of age or of an
16.24 employed child.

16.25 Subd. 5. **DWP-specific reporting.** In addition to subdivisions 3 and 4, an assistance
16.26 unit participating in the diversionary work program under section 256J.95 must report
16.27 on an application:

- 16.28 (1) shelter expenses; and
- 16.29 (2) utility expenses.

16.30 Subd. 6. **Child care assistance programs-specific reporting.** In addition to
16.31 subdivision 3, an assistance unit under chapter 119B, within ten days of the change, must
16.32 report a:

- 16.33 (1) change in a parentally responsible individual's visitation schedule or custody
16.34 arrangement for any child receiving child care assistance program benefits; and
- 16.35 (2) change in authorized activity status.

17.1 Subd. 7. **MSA-specific reporting.** In addition to subdivision 3, an assistance
17.2 unit participating in the Minnesota supplemental aid program under section 256D.44,
17.3 subdivision 5, paragraph (f), within ten days of the change, must report shelter expenses.

17.4 Sec. 33. **[256P.08] CORRECTION OF OVERPAYMENTS AND**
17.5 **UNDERPAYMENTS.**

17.6 Subdivision 1. **Exempted programs.** Participants who qualify for child care
17.7 assistance programs under chapter 119B or group residential housing under chapter 256I
17.8 are exempt from this section.

17.9 Subd. 2. **Scope of overpayment.** (a) When a participant or former participant
17.10 receives an overpayment due to agency, client, or ATM error, or due to assistance received
17.11 while an appeal is pending and the participant or former participant is determined
17.12 ineligible for assistance or for less assistance than was received, except as provided for
17.13 interim assistance in section 256D.06, subdivision 5, the county agency must recoup or
17.14 recover the overpayment using the following methods:

17.15 (1) reconstruct each affected budget month and corresponding payment month;
17.16 (2) use the policies and procedures that were in effect for the payment month; and
17.17 (3) do not allow employment disregards in the calculation of the overpayment when
17.18 the unit has not reported within two calendar months following the end of the month in
17.19 which the income was received.

17.20 (b) Establishment of an overpayment is limited to 12 months prior to the month of
17.21 discovery due to agency error. Establishment of an overpayment is limited to six years
17.22 prior to the month of discovery due to client error or an intentional program violation
17.23 determined under section 256.046.

17.24 Subd. 3. **Notice of overpayment.** When a county agency discovers that a participant
17.25 or former participant has received an overpayment for one or more months, the county
17.26 agency must notify the participant or former participant of the overpayment in writing.
17.27 A notice of overpayment must specify the reason for the overpayment, the authority for
17.28 citing the overpayment, the time period in which the overpayment occurred, the amount of
17.29 the overpayment, and the participant's or former participant's right to appeal. No limit
17.30 applies to the period in which the county agency is required to recoup or recover an
17.31 overpayment according to subdivisions 5 and 6.

17.32 Subd. 4. **Recovering GA and MSA overpayments.** (a) If an amount of assistance
17.33 is paid to an assistance unit in excess of the payment due, it shall be recoverable by the
17.34 agency. The agency shall give written notice to the participant of its intention to recover
17.35 the overpayment.

18.1 (b) If the individual is no longer receiving assistance, the agency may request
18.2 voluntary repayment or pursue civil recovery.

18.3 (c) If the individual is receiving assistance, except as provided for interim assistance
18.4 in section 256D.06, subdivision 5, when an overpayment occurs the agency shall recover
18.5 the overpayment by withholding an amount equal to:

18.6 (1) three percent of the assistance unit's standard of need for all MSA assistance
18.7 units, and nonfraud cases for GA; and

18.8 (2) ten percent where fraud has occurred in GA cases; or

18.9 (3) the amount of the monthly GA or MSA payment, whichever is less.

18.10 (d) In cases when there is both an overpayment and underpayment, the county
18.11 agency shall offset one against the other in correcting the payment.

18.12 (e) Overpayments may also be voluntarily repaid, in part or in full, by the individual,
18.13 in addition to the assistance reductions provided in this subdivision, to include further
18.14 voluntary reductions in the grant level agreed to in writing by the individual, until the
18.15 total amount of the overpayment is repaid.

18.16 (f) The county agency shall make reasonable efforts to recover overpayments to
18.17 individuals no longer on assistance. The agency need not attempt to recover overpayments
18.18 of less than \$35 paid to an individual no longer on assistance if the individual does not
18.19 receive assistance again within three years, unless the individual has been convicted of
18.20 violating section 256.98.

18.21 (g) Establishment of an overpayment is limited to 12 months prior to the month of
18.22 discovery due to agency error and six years prior to the month of discovery due to client
18.23 error or an intentional program violation determined under section 256.046.

18.24 (h) Residents of licensed residential facilities shall not have overpayments recovered
18.25 from their personal needs allowance.

18.26 (i) Overpayments by another maintenance benefit program shall not be recovered
18.27 from the GA or MSA grant.

18.28 **Subd. 5. Recovering MFIP overpayments.** A county agency must initiate efforts to
18.29 recover overpayments paid to a former participant or caregiver. Caregivers, both parental
18.30 and nonparental, and minor caregivers of an assistance unit at the time an overpayment
18.31 occurs, whether receiving assistance or not, are jointly and individually liable for repayment
18.32 of the overpayment. The county agency must request repayment from the former
18.33 participants and caregivers. When an agreement for repayment is not completed within six
18.34 months of the date of discovery or when there is a default on an agreement for repayment
18.35 after six months, the county agency must initiate recovery consistent with chapter 270A or
18.36 section 541.05. When a person has been convicted of fraud under section 256.98, recovery

19.1 must be sought regardless of the amount of overpayment. When an overpayment is less
19.2 than \$35, and is not the result of a fraud conviction under section 256.98, the county agency
19.3 must not seek recovery under this subdivision. The county agency must retain information
19.4 about all overpayments regardless of the amount. When an adult, adult caregiver, or minor
19.5 caregiver reapplies for assistance, the overpayment must be recouped under subdivision 6.

19.6 Subd. 6. **Recouping overpayments from MFIP participants.** A participant may
19.7 voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this
19.8 subdivision, until the total amount of the overpayment is repaid. When an overpayment
19.9 occurs due to fraud, the county agency must recover from the overpaid assistance unit,
19.10 including child-only cases, ten percent of the applicable standard or the amount of the
19.11 monthly assistance payment, whichever is less. When a nonfraud overpayment occurs,
19.12 the county agency must recover from the overpaid assistance unit, including child-only
19.13 cases, three percent of the MFIP standard of need or the amount of the monthly assistance
19.14 payment, whichever is less.

19.15 Subd. 7. **Recovering automatic teller machine errors.** For recipients receiving
19.16 benefits by electronic benefit transfer, if the overpayment is a result of an ATM dispensing
19.17 funds in error to the recipient, the agency may recover the ATM error by immediately
19.18 withdrawing funds from the recipient's electronic benefit transfer account, up to the
19.19 amount of the error.

19.20 Subd. 8. **Scope of underpayments.** A county agency must issue a corrective
19.21 payment for underpayments made to a participant or to a person who would be a
19.22 participant if an agency or client error causing the underpayment had not occurred.
19.23 Corrective payments are limited to 12 months prior to the month of discovery. The county
19.24 agency must issue the corrective payment according to subdivision 10.

19.25 Subd. 9. **Identifying the underpayment.** An underpayment may be identified by
19.26 a county agency, participant, former participant, or person who would be a participant
19.27 except for agency or client error.

19.28 Subd. 10. **Issuing corrective payments.** A county agency must correct an
19.29 underpayment within seven calendar days after the underpayment has been identified,
19.30 by adding the corrective payment amount to the monthly assistance payment of the
19.31 participant, issuing a separate payment to a participant or former participant, or reducing
19.32 an existing overpayment balance. When an underpayment occurs in a payment month and
19.33 is not identified until the next payment month or later, the county agency must first subtract
19.34 the underpayment from any overpayment balance before issuing the corrective payment.
19.35 The county agency must not apply an underpayment in a current payment month against an
19.36 overpayment balance. When an underpayment in the current payment month is identified,

20.1 the corrective payment must be issued within seven calendar days after the underpayment
20.2 is identified. The county agency must correct underpayments using the following methods:

20.3 (1) reconstruct each affected budget month and corresponding payment month; and

20.4 (2) use the policies and procedures that were in effect for the payment month.

20.5 Corrective payments must be excluded when determining the applicant's or participant's
20.6 income and resources for the month of payment.

20.7 Subd. 11. **Appeals.** A participant may appeal an underpayment, an overpayment,
20.8 and a reduction in an assistance payment made to recoup the overpayment under
20.9 subdivisions 4 and 6. The participant's appeal of each issue must be timely under section
20.10 256.045. When an appeal based on the notice issued under subdivision 3 is not timely, the
20.11 fact or the amount of that overpayment must not be considered as a part of a later appeal,
20.12 including an appeal of a reduction in an assistance payment to recoup that overpayment.

20.13 Sec. 34. **REPEALER.**

20.14 (a) Minnesota Statutes 2014, sections 256D.0513; 256D.06, subdivision 8; 256D.09,
20.15 subdivision 6; 256D.49; and 256J.38, are repealed.

20.16 (b) Minnesota Rules, part 3400.0170, subparts 5, 6, 12, and 13, are repealed.

256D.0513 BUDGETING LUMP SUMS.

Effective January 1, 1998, nonrecurring lump-sum income received by a recipient of general assistance must be budgeted in the normal retrospective cycle.

256D.06 AMOUNT OF ASSISTANCE.

Subd. 8. **Recovery of ATM errors.** For recipients receiving benefits via electronic benefit transfer, if the recipient is overpaid as a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

256D.09 PAYMENT; ASSESSMENT; OVERPAYMENT.

Subd. 6. **Recovery of overpayments.** (a) If an amount of general assistance or family general 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) Except as provided for interim assistance in section 256D.06, subdivision 5, 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 in nonfraud cases and ten percent where fraud has occurred, or the amount of the monthly payment, whichever is less, for all overpayments.

(c) In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(d) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the aid reductions provided in this subdivision, to include further voluntary reductions in the grant level agreed to in writing by the individual, until the total amount of the overpayment is repaid.

(e) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance under standards adopted in rule by the commissioner 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 violating section 256.98.

(f) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to agency error and six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

256D.49 PAYMENT CORRECTION.

Subdivision 1. **When.** When the county agency finds that the recipient has received less than or more than the correct payment of Minnesota supplemental aid benefits, the county agency shall issue a corrective payment or initiate recovery under subdivision 3, as appropriate.

Subd. 2. **Underpayment of monthly grants.** When the county agency determines that an underpayment of the recipient's monthly payment has occurred, it shall, during that same month, issue a corrective payment. Corrective payments must be excluded when determining the applicant's or recipient's income and resources for the month of payment.

Subd. 3. **Overpayment of monthly grants and recovery of ATM errors.** (a) When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less.

(b) Establishment of an overpayment is limited to 12 months from the date of discovery due to agency error. Establishment of an overpayment is limited to six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

(c) For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency

APPENDIX

Repealed Minnesota Statutes: H1443-1

may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

(d) Residents of licensed residential facilities shall not have overpayments recovered from their personal needs allowance.

256J.38 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.

Subdivision 1. **Scope of overpayment.** (a) When a participant or former participant receives an overpayment due to agency, client, or ATM error, or due to assistance received while an appeal is pending and the participant or former participant is determined ineligible for assistance or for less assistance than was received, the county agency must recoup or recover the overpayment using the following methods:

- (1) reconstruct each affected budget month and corresponding payment month;
- (2) use the policies and procedures that were in effect for the payment month; and
- (3) do not allow employment disregards in section 256J.21, subdivision 3 or 4, in the calculation of the overpayment when the unit has not reported within two calendar months following the end of the month in which the income was received.

(b) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to agency error. Establishment of an overpayment is limited to six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

Subd. 2. **Notice of overpayment.** When a county agency discovers that a participant or former participant has received an overpayment for one or more months, the county agency must notify the participant or former participant of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the participant's or former participant's right to appeal. No limit applies to the period in which the county agency is required to recoup or recover an overpayment according to subdivisions 3 and 4.

Subd. 3. **Recovering overpayments.** A county agency must initiate efforts to recover overpayments paid to a former participant or caregiver. Caregivers, both parental and nonparental, and minor caregivers of an assistance unit at the time an overpayment occurs, whether receiving assistance or not, are jointly and individually liable for repayment of the overpayment. The county agency must request repayment from the former participants and caregivers. When an agreement for repayment is not completed within six months of the date of discovery or when there is a default on an agreement for repayment after six months, the county agency must initiate recovery consistent with chapter 270A, or section 541.05. When a person has been convicted of fraud under section 256.98, recovery must be sought regardless of the amount of overpayment. When an overpayment is less than \$35, and is not the result of a fraud conviction under section 256.98, the county agency must not seek recovery under this subdivision. The county agency must retain information about all overpayments regardless of the amount. When an adult, adult caregiver, or minor caregiver reapplies for assistance, the overpayment must be recouped under subdivision 4.

Subd. 4. **Recouping overpayments from participants.** A participant may voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this subdivision, until the total amount of the overpayment is repaid. When an overpayment occurs due to fraud, the county agency must recover from the overpaid assistance unit, including child only cases, ten percent of the applicable standard or the amount of the monthly assistance payment, whichever is less. When a nonfraud overpayment occurs, the county agency must recover from the overpaid assistance unit, including child only cases, three percent of the MFIP standard of need or the amount of the monthly assistance payment, whichever is less.

Subd. 5. **Recovering automatic teller machine errors.** For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an ATM dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Subd. 6. **Scope of underpayments.** A county agency must issue a corrective payment for underpayments made to a participant or to a person who would be a participant if an agency or client error causing the underpayment had not occurred. Corrective payments are limited to 12 months prior to the month of discovery. The county agency must issue the corrective payment according to subdivision 8.

Subd. 7. **Identifying the underpayment.** An underpayment may be identified by a county agency, by a participant, by a former participant, or by a person who would be a participant except for agency or client error.

APPENDIX

Repealed Minnesota Statutes: H1443-1

Subd. 8. **Issuing corrective payments.** A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment of the participant or by issuing a separate payment to a participant or former participant, or by reducing an existing overpayment balance. When an underpayment occurs in a payment month and is not identified until the next payment month or later, the county agency must first subtract the underpayment from any overpayment balance before issuing the corrective payment. The county agency must not apply an underpayment in a current payment month against an overpayment balance. When an underpayment in the current payment month is identified, the corrective payment must be issued within seven calendar days after the underpayment is identified.

Subd. 9. **Appeals.** A participant may appeal an underpayment, an overpayment, and a reduction in an assistance payment made to recoup the overpayment under subdivision 4. The participant's appeal of each issue must be timely under section 256.045. When an appeal based on the notice issued under subdivision 2 is not timely, the fact or the amount of that overpayment must not be considered as a part of a later appeal, including an appeal of a reduction in an assistance payment to recoup that overpayment.

3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subp. 5. **Earned income of wage and salary employees.** Earned income means earned income from employment before mandatory and voluntary payroll deductions. Earned income includes, but is not limited to, salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, payment for jury duty, and profits from other activity earned by an individual's effort or labor. Earned income includes uniform, mileage, and meal allowances if federal income tax is deducted from the allowance. Earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash. Earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time. When housing is provided as part of the total work compensation, the fair market value of such housing shall be considered as if it were paid in cash.

3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subp. 6. **Excluded income.** The administering agency shall exclude items A to H from annual income:

- A. scholarships, work-study income, and grants that cover costs or reimburse for tuition, fees, books, and educational supplies;
- B. student loans for tuition, fees, books, supplies, and living expenses;
- C. state and federal earned income tax credits, in-kind noncash public assistance income such as food stamps or food support, energy assistance, foster care assistance, child care assistance, medical assistance, and housing subsidies;
- D. earned income of full-time or part-time students up to the age of 19 who have not earned a high school diploma or GED high school equivalency diploma, including earnings from summer employment;
- E. grant awards under the family subsidy program;
- F. nonrecurring lump sum income that is earmarked and used for the purpose for which it is paid;
- G. supplemental security income; and
- H. income assigned to the public authority under Minnesota Statutes, section 256.741.

3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subp. 12. **Determination of unearned income.** Unearned income includes, but is not limited to, the cash portion of MFIP or DWP; adoption assistance; relative custody assistance received under Minnesota Statutes, section 257.85; interest; dividends; unemployment compensation; disability insurance payments; veteran benefits; pension payments; child support and spousal support received or anticipated to be received by a family including child support and maintenance distributed to the family under Minnesota Statutes, section 256.741, subdivision 15; insurance payments or settlements; retirement; survivor's and disability insurance (RSDI) payment; and severance payments. Expenditures necessary to secure payment of unearned income are deducted from unearned income. Payments for illness or disability, except for those payments described as earned income in subpart 5, are considered unearned income whether the premium payments are made wholly or in part by an employer or by a recipient.

3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subp. 13. **Treatment of lump-sum payments.** Lump-sum payments received by a family must be considered earned income under subparts 7 to 11 or unearned income according to subpart 12. Nonrecurring lump sums that are earmarked and used for the purpose for which they are paid are not to be included in the determination of income. All other lump sums are to be annualized over 12 months. The sale of property including, but not limited to, a residence is not considered income up to the amount of the original purchase price plus improvements.