

case shall the amount of the penalty, if assessed, be less than \$25. Penalties due under this subdivision may be waived where good cause for late filing is found by the commissioner.

(d) Any employer who files the wage detail report required by section 268.121, but knowingly fails to include any of the required information or knowingly enters erroneous information, shall be subject to a penalty of \$25 for each individual for whom the information is missing or erroneous.

(e) Any employing unit which fails to make and submit to the commissioner any report, other than a contribution report or wage detail report, as and when required by rule, shall be subject to a penalty in the sum of \$50 payable to the department for the contingent account.

(f) The penalties provided for in paragraphs (a), (c), (d), and (e) are in addition to interest and any other penalties imposed by sections 268.03 to 268.24 and shall be collected as provided by section 268.161.

Sec. 27. **REPEALER.**

Minnesota Statutes 1986, section 268.04, subdivisions 29 and 30, are repealed.

Sec. 28. **EFFECTIVE DATE.**

Sections 4, 5, 6, 7, 9, 17, 22, 23, 25, and 26 are effective the day following final enactment. Sections 19 and 20 are effective July 1, 1987. Sections 1, 2, 3, 8, 10, 11, 12, 13, except paragraph (a), clause (4), 14, 15, 16, 18, 21, 24, and 27 are effective January 1, 1988. Section 13, paragraph (a), clause (4), is effective July 1, 1989.

Approved June 2, 1987

CHAPTER 363—H.F.No. 894

An act relating to human services; creating a new chapter establishing a single, unitary process for the determination of residence and financial responsibility for all human service programs; amending Minnesota Statutes 1986, section 253B.23, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 256G; repealing Minnesota Statutes 1986, sections 256.73, subdivision 4; 256.76, subdivision 2; 256.79; 256B.02, subdivisions 1, 2, and 3; 256D.18; 256D.37, subdivision 3; and 256E.08, subdivision 7.

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

Section 1. **[256G.01] APPLICATION; CITATION; COVERAGE.**

Subdivision 1. APPLICABILITY. This chapter governs the Minnesota human services system. The system includes the department of human services,

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county welfare boards, county welfare agencies, human service boards, community mental health center boards, state hospitals, state nursing homes, and persons, agencies, institutions, organizations, and other entities under contract to any of those agencies to the extent specified in the contract.

Subd. 2. CITATION. This chapter may be cited as the "Minnesota unitary residence and financial responsibility act."

Subd. 3. PROGRAM COVERAGE. This chapter applies to all programs administered by the commissioner in which residence is the determining factor in establishing financial responsibility. These include, but are not limited to: aid to families with dependent children; medical assistance; general assistance; general assistance medical care; Minnesota supplemental aid; commitment proceedings, including voluntary admissions; poor relief funded wholly through local agencies; and social services, including title XX, IV-E and other components of the community social services act, sections 256E.01 to 256E.12.

Sec. 2. [256G.02] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to this chapter.

Subd. 2. BOARD AND LODGING FACILITY. "Board and lodging facility" means a facility that serves as an alternative to institutionalization and provides a program of on-site care or supervision to persons who cannot live independently in the community because of age or physical, mental, or emotional disability.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of human services.

Subd. 4. COUNTY OF FINANCIAL RESPONSIBILITY. (a) "County of financial responsibility" has the meanings in paragraphs (b) to (h).

(b) For an applicant who resides in the state and is not in a facility described in subdivision 5, it means the county in which the applicant resides at the time of application.

(c) For an applicant who resides in a facility described in subdivision 5, it means the county in which the applicant last resided in nonexcluded status immediately before entering the facility.

(d) For an applicant who has not resided in this state for any time other than the excluded time, it means the county in which the applicant resides at the time of making application.

(e) For medical assistance purposes only, and for an infant who has resided only in an excluded time facility, it means the county that would have been responsible for the infant if eligibility had been established, based on that of the birth mother, at the time of application.

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(f) Notwithstanding paragraphs (b) to (d), the county of financial responsibility for medical assistance recipients is the county from which a recipient is receiving a maintenance grant or money payment under the program of aid to families with dependent children or Minnesota supplemental aid.

(g) Notwithstanding paragraphs (b) to (f), the county of financial responsibility for social services for a person receiving aid to families with dependent children, general assistance, general assistance medical care, medical assistance, or Minnesota supplemental aid is the county from which that person is receiving the aid or assistance. If more than one named program is open concurrently, financial responsibility for social services attaches to the program that has the earliest date of application and has been open without interruption.

(h) Notwithstanding paragraphs (b) to (g), the county of financial responsibility for semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660, is the county of residence in nonexcluded status immediately before the placement into or request for those services.

Subd. 5. DEPARTMENT. "Department" means the department of human services.

Subd. 6. EXCLUDED TIME. "Excluded time" means any period an applicant spends in a hospital, sanatorium, nursing home, shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245.782, subdivision 6; or in a maternity home, battered women's shelter, or correctional facility. "Excluded time" also means that time during which an applicant participates in a long-term sheltered workshop as defined in section 129A.01, paragraph (e), or is receiving personal care assistant services pursuant to section 256B.02, subdivision 8, clause (17).

Subd. 7. LOCAL AGENCY. "Local agency" means the agency designated by the county board of commissioners, human services boards, county welfare boards in the several counties of the state or multicounty welfare boards or departments where those have been established in accordance with law.

Subd. 8. RESIDE. "Reside" means to have an established place of abode in one state or county and not to have an established place of abode in another state or county.

Sec. 3. [256G.03] ESTABLISHING RESIDENCE.

Subdivision 1. STATE RESIDENCE. For purposes of this chapter, "state residence" is coincidental with residence in a Minnesota county. The establishment of county residence serves as proof of residence in Minnesota.

Subd. 2. NO DURATIONAL TEST. For purposes of this chapter, no waiting period is required before securing county or state residence. A person cannot, however, gain residence while physically present in an excluded time facility unless otherwise specified in this chapter or in a federal regulation controlling a federally funded human service program.

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Sec. 4. [256G.04] DETERMINATION OF RESIDENCE.

Subdivision 1. TIME OF DETERMINATION. For purposes of establishing financial responsibility, residence must be determined as of the date a local agency receives a signed request or signed application. This subdivision extends to cases in which the applicant may move to another county after the date of application but before the grant or service is actually approved.

Subd. 2. MOVING OUT OF STATE. A person retains county and state residence so long as the person's absence from Minnesota is viewed as a temporary absence within the context of the affected program.

Direct entry into a facility in another state does not end Minnesota residence for purposes of this chapter. Financial responsibility does not continue, however, unless placement was initiated by a human service agency or another governmental entity that has statutory authority to bind the human service agency and is based on a formal, written plan of treatment, or unless federal regulations require payment for an out-of-state resident.

Sec. 5. [256G.05] RESPONSIBILITY FOR EMERGENCIES.

Subdivision 1. RESIDENCE NOT A TEST. In situations involving emergencies verified by a local agency, financial responsibility for aid to families with dependent children, general assistance, and Minnesota supplemental aid rests with the county in which an otherwise eligible person is physically present when the application is filed. The county of residence is not obligated to reimburse. Financial responsibility is limited to 30 days unless otherwise specified in the context of the affected program.

Subd. 2. NON-MINNESOTA RESIDENTS. State residence is not required for receiving emergency assistance in the general assistance and Minnesota supplemental aid programs only. The receipt of emergency assistance must not be used as a factor in determining county or state residence.

Sec. 6. [256G.06] DETOXIFICATION SERVICES.

The county of financial responsibility for detoxification services is the county where the client is physically present when the need for services is identified. If that need is identified while the client is a resident of a chemical dependency facility, the provisions of section 2, subdivision 3, paragraphs (b), (c), and (e) apply.

Sec. 7. [256G.07] MOVING TO ANOTHER COUNTY.

Subdivision 1. EFFECT OF MOVING. A person who has applied for and is receiving assistance under a program governed by this chapter, in any county in this state, and who moves to another county in this state, is entitled to continue to receive that assistance from the county from which that person has moved until that person has resided in nonexcluded status for two full calendar months in the county to which that person has moved.

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For purposes of general assistance and general assistance medical care, this time period is, however, one full calendar month.

Subd. 2. TRANSFER OF RECORDS. Before the person has resided in nonexcluded status for two calendar months, or one calendar month in the case of general assistance or general assistance medical care, in the county to which that person has moved, the local agency of the county from which the person has moved shall transfer all necessary records relating to that person to the local agency of the county to which the person has moved.

Subd. 3. CONTINUATION OF CASE. When the case is terminated for 30 days or less before the recipient reapplies, that case remains the financial responsibility of the county from which the recipient moved until the residence requirement in subdivision 1 is met.

Subd. 4. MULTIPLE FINANCIAL RESPONSIBILITY. When more than one county becomes financially responsible for a case involving a single assistance unit, under a program covered by this chapter, that case must be immediately reconsidered by the affected local agencies. Beginning with the first day of the calendar month after that reconsideration, financial responsibility for the entire assistance unit belongs to the county that was initially responsible for the program with the earliest date of application.

Subd. 5. SOCIAL SERVICE PROVISION. The types and level of social services to be provided in any case governed by this chapter are those otherwise provided in the county in which the person is physically residing at the time those services are provided.

Sec. 8. [256G.08] REIMBURSEMENT RESPONSIBILITY FOR COMMITMENTS.

Subdivision 1. COMMITMENTS. In cases of voluntary admission or commitment to state or other institutions, the committing county shall initially pay for all costs. This includes the expenses of the taking into custody, confinement, examination, commitment, conveyance to the place of detention, and rehearing.

Subd. 2. RESPONSIBILITY FOR NONRESIDENTS. If a person committed or voluntarily admitted to a state institution has no residence in this state, financial responsibility belongs to the county of commitment.

Subd. 3. INITIATING COUNTY RESPONSIBLE. The initial responsible county retains responsibility when adequate facts are not submitted to provide a sufficient legal basis for the transfer of responsibility.

Sec. 9. [256G.09] DETERMINING FINANCIAL RESPONSIBILITY.

Subdivision 1. GENERAL PROCEDURES. If upon investigation the local agency decides that the application or commitment was not filed in the county of financial responsibility as defined by this chapter, but that the applicant is

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otherwise eligible for assistance, it shall send a copy of the application or commitment claim, together with the record of any investigation it has made, to the county it believes is financially responsible. The copy and record must be sent within 60 days of the date the application was approved or the claim was paid. The first local agency shall provide assistance to the applicant until financial responsibility is transferred under this section.

The county receiving the transmittal has 30 days to accept or reject financial responsibility. A failure to respond within 30 days establishes financial responsibility by the receiving county.

Subd. 2. FINANCIAL DISPUTES. (a) If the county receiving the transmittal does not believe it is financially responsible, it should provide to the department and the initially responsible county a statement of all facts and documents necessary for the department to make the requested determination of financial responsibility. The submission must clearly state the program area in dispute and must state the specific basis upon which the submitting county is denying financial responsibility.

(b) The initially responsible county then has 15 calendar days to submit its position and any supporting evidence to the department. The absence of a submission by the initially responsible county does not limit the right of the department to issue a binding opinion based on the evidence actually submitted.

(c) A case must not be submitted until the local agency taking the application or making the commitment has made an initial determination about eligibility and financial responsibility, and services or assistance has been initiated. This paragraph does not prohibit the submission of closed cases that otherwise meet the applicable statute of limitations.

Subd. 3. DEPARTMENT OBLIGATIONS. The department shall then promptly decide any question of financial responsibility as outlined in this chapter and make an order referring the application to the local agency of the proper county for further action. Further action may include reimbursement by that county of assistance that another county has provided to the applicant under this subdivision. The department shall decide disputes within 60 days of the last county evidentiary submission and shall issue an immediate opinion.

The department may make any investigation it considers proper before making its decision. It may prescribe rules it considers necessary to carry out this subdivision. The order of the department binds the local agency involved and the applicant or recipient. That agency shall comply with the order unless reversed on appeal as provided in section 256.045, subdivision 7. The agency shall comply with the order pending the appeal.

Subd. 4. APPEALS. A local agency that is aggrieved by the order of the department may appeal the opinion to the district court of the county responsible for furnishing assistance or services by serving a written copy of a notice of appeal on the commissioner and any adverse party of record within 30 days

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after the date the department issued the opinion, and by filing the original notice and proof of service with the clerk of district court. Service may be made personally or by mail. Service by mail is complete upon mailing.

The commissioner may elect to become a party to the proceedings in district court. The court may consider the matter in or out of chambers and shall take no new or additional evidence.

Subd. 5. PAYMENT PENDING APPEAL. After the department issues an opinion in any submission under this section, the service or assistance covered by the submission must be provided or paid pending or during an appeal to the district court.

Sec. 10. [256G.10] DERIVATIVE SETTLEMENT ELIMINATED.

Except as described in section 2, subdivision 4, paragraph (d), residence under this chapter must be determined independently for each applicant. The residence of the parent or guardian does not determine the residence of the child or ward. Physical or legal custody has no bearing on residence determinations. This section does not, however, apply to situations involving another state or limit the application of an interstate compact.

Sec. 11. [256G.11] NO RETROACTIVE EFFECT.

This chapter is not retroactive and does not require redetermination of financial responsibility for cases existing on the effective date of this section. This chapter applies only to applications and redeterminations of eligibility taken or routinely made after that effective date.

Notwithstanding this section, however, existing social service cases tie to cases for those programs outlined in section 2, subdivision 4, paragraph (g), for which an application is taken or a redetermination is made after the effective date of this section.

Sec. 12. [256G.12] STATUTE OF LIMITATIONS.

Subdivision 1. LIMITATION. A submission to the department for a determination of financial responsibility must be made within three years from the date of application for the program in question.

Subd. 2. REIMBURSEMENT. The obligation of the county ultimately found to be financially responsible extends only to the period immediately following the date the submission was received by the department. In the case of social service programs only, no reimbursement is required until the financially responsible county has an opportunity to review and act on the plan of treatment according to the applicable social service rules.

Subd. 3. EXCEPTION. Subdivision 2 does not apply to timely and routine submissions for determination of financial responsibility under section 9.

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Sec. 13. Minnesota Statutes 1986, section 253B.23, subdivision 1, is amended to read:

Subdivision 1. **COSTS OF HEARINGS.** (a) In each proceeding under this chapter the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each examiner a reasonable sum for services and for travel; to persons conveying the patient to the place of detention, disbursements for the travel; board, and lodging of the patient and of themselves and their authorized assistants; and to the patient's counsel, when appointed by the court, a reasonable sum for travel and for the time spent in court or in preparing for the hearing. Upon the court's order, the county auditor shall issue a warrant on the county treasurer for payment of the amounts allowed.

(b) ~~When the residence of the patient is found to be in another county, the committing court shall transmit to the county auditor a statement of the expenses of the taking into custody, confinement, examination, commitment, conveyance to the place of detention, and rehearing. The auditor shall transmit the statement to the auditor of the county of the patient's residence. The claim shall be paid as other claims against that county. If the auditor to whom this claim is transmitted denies the claim, the auditor shall transmit it, together with any objections to the commissioner. The commissioner shall determine the question of residence and certify findings to each auditor. If the claim is not paid within 30 days after certification, an action may be maintained on it in the district court of the claimant county.~~

(c) Whenever venue of a proceeding has been transferred under this chapter, the costs of the proceedings shall be reimbursed to the county of the patient's residence by the state.

Sec. 14. **REPEALER.**

Minnesota Statutes 1986, sections 256.73, subdivision 4; 256.76, subdivision 2; 256.79; 256B.02, subdivisions 1, 2, and 3; 256D.18; 256D.37, subdivision 3; and 256E.08, subdivision 7, are repealed.

Sec. 15. **EFFECTIVE DATE.**

Sections 1 to 14 are effective January 1, 1988.

Approved June 2, 1987

CHAPTER 364—H.F.No. 904

An act relating to human services; requiring notification to spouse of nursing home resident; amending Minnesota Statutes 1986, section 256B.48, by adding a subdivision.

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

Changes or additions are indicated by underline, deletions by ~~strikeout~~.