

**SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION**

S.F. No. 431

(SENATE AUTHORS: EATON and Marty)

DATE	D-PG	OFFICIAL STATUS
01/29/2015	172	Introduction and first reading Referred to Health, Human Services and Housing

A bill for an act

relating to human services; repealing the 60-month limit on MFIP assistance; appropriating money; repealing Minnesota Statutes 2014, sections 256J.415; 256J.42, subdivisions 1, 3, 4, 5, 6; 256J.425.

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

Section 1. **APPROPRIATION.**

\$..... in fiscal year 2016 and \$..... in fiscal year 2017 are appropriated from the general fund to the commissioner of human services for purposes of section 3.

Sec. 2. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall amend Minnesota Statutes to remove references to the 60-month MFIP time limit or any derivatives of the MFIP time limit on assistance and remove references to the sections repealed in section 3. The revisor of statutes shall make changes necessary to correct punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 3. **REPEALER.**

Minnesota Statutes 2014, sections 256J.415; 256J.42, subdivisions 1, 3, 4, 5, and 6; and 256J.425, are repealed.

256J.415 NOTICE OF 12 MONTHS OF TANF ASSISTANCE REMAINING.

(a) The county agency shall mail a notice to each assistance unit when the assistance unit has 12 months of TANF assistance remaining and each month thereafter until the 60-month limit has expired. The notice must be developed by the commissioner of human services and must contain information about the 60-month limit, the number of months the participant has remaining, the hardship extension policy, and any other information that the commissioner deems pertinent to an assistance unit nearing the 60-month limit.

(b) For applicants who have less than 12 months remaining in the 60-month time limit because the unit previously received TANF assistance in Minnesota or another state, the county agency shall notify the applicant of the number of months of TANF remaining when the application is approved and begin the process required in paragraph (a).

256J.42 60-MONTH TIME LIMIT; EXEMPTIONS.

Subdivision 1. **Time limit.** (a) Except as otherwise provided for in this section, an assistance unit in which any adult caregiver has received 60 months of cash assistance funded in whole or in part by the TANF block grant in this or any other state or United States territory, or from a tribal TANF program, MFIP, the AFDC program formerly codified in sections 256.72 to 256.87, or the family general assistance program formerly codified in sections 256D.01 to 256D.23, funded in whole or in part by state appropriations, is ineligible to receive MFIP. Any cash assistance funded with TANF dollars in this or any other state or United States territory, or from a tribal TANF program, or MFIP assistance funded in whole or in part by state appropriations, that was received by the unit on or after the date TANF was implemented, including any assistance received in states or United States territories of prior residence, counts toward the 60-month limitation. Months during which any cash assistance is received by an assistance unit with a mandatory member who is disqualified for wrongfully obtaining public assistance under section 256.98, subdivision 8, counts toward the time limit for the disqualified member. The 60-month limit applies to a minor caregiver except under subdivision 5. The 60-month time period does not need to be consecutive months for this provision to apply.

(b) The months before July 1998 in which individuals received assistance as part of the field trials as an MFIP, MFIP-R, or MFIP or MFIP-R comparison group family are not included in the 60-month time limit.

Subd. 3. **Adults living in Indian country.** In determining the number of months for which an adult has received assistance under MFIP, the county agency must disregard any month during which the adult lived in Indian country if during the month at least 50 percent of the adults living in Indian country were not employed.

Subd. 4. **Exempt cash assistance.** Any cash assistance received by an assistance unit in a month when a caregiver complied with a safety plan, an alternative employment plan, or an employment plan under section 256J.521, subdivision 3, does not count toward the 60-month limitation on assistance.

Subd. 5. **Exemption for certain families.** (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the caregiver is age 60 or older.

(b) From July 1, 1997, until the date MFIP is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with Minnesota Statutes 1996, section 256.73, subdivision 5a, and Minnesota Statutes 1998, section 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

(c) Any diversionary assistance or emergency assistance received prior to July 1, 2003, does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with an employment plan that includes an education option under section 256J.54 does not count toward the 60-month limit.

(e) Payments provided to meet short-term emergency needs under section 256J.626 and diversionary work program benefits provided under section 256J.95 do not count toward the 60-month time limit.

Subd. 6. **Case review.** (a) Within 180 days, but not less than 60 days, before the end of the participant's 60th month on assistance, the county agency or job counselor must review the

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participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face.

(b) During the face-to-face meeting, a county agency or the job counselor must:

(1) inform the participant how many months of counted assistance the participant has accrued and when the participant is expected to reach the 60th month;

(2) explain the hardship extension criteria under section 256J.425 and what the participant should do if the participant thinks a hardship extension applies;

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

(4) inform the participant of the right to appeal the case closure under section 256J.40.

(c) If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5.

(d) Before a participant's case is closed under this section, the county must ensure that:

(1) the case has been reviewed by the job counselor's supervisor or the review team designated by the county to determine if the criteria for a hardship extension, if requested, were applied appropriately; and

(2) the county agency or the job counselor attempted to meet with the participant face-to-face.

256J.425 HARDSHIP EXTENSIONS.

Subdivision 1. **Eligibility.** (a) To be eligible for a hardship extension, a participant in an assistance unit subject to the time limit under section 256J.42, subdivision 1, must be in compliance in the participant's 60th counted month. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned. In order to maintain eligibility for any of the hardship extension categories a participant shall develop and comply with either an employment plan or a family stabilization services plan, whichever is appropriate.

(b) If one participant in a two-parent assistance unit is determined to be ineligible for a hardship extension, the county shall give the assistance unit the option of disqualifying the ineligible participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit.

(c) Prior to denying an extension, the county must review the sanction status and determine whether the sanction is appropriate or if good cause exists under section 256J.57. If the sanction was inappropriately applied or the participant is granted a good cause exception before the end of month 60, the participant shall be considered for an extension.

Subd. 1a. **Review.** If a county grants a hardship extension under this section, a county agency shall review the case every six or 12 months, whichever is appropriate based on the participant's circumstances and the extension category. More frequent reviews shall be required if eligibility for an extension is based on a condition that is subject to change in less than six months.

Subd. 2. **Ill or incapacitated.** (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit belongs to any of the following groups:

(1) participants who are suffering from an illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and severely limits the person's ability to obtain or maintain suitable employment. These participants must follow the treatment recommendations of the qualified professional certifying the illness, injury, or incapacity;

(2) participants whose presence in the home is required as a caregiver because of the illness, injury, 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 a person to provide assistance in the home has been certified by a qualified professional and is expected to continue for more than 30 days; or

(3) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0651, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this category are presumed to be prevented from obtaining or maintaining suitable employment.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3).

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

(1) a person who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as developmentally disabled or mentally ill, and the condition severely limits the person's ability to obtain or maintain suitable employment;

(2) a person who:

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

(ii) has an IQ below 80 who has been assessed by a vocational specialist or a county agency to be employable, but the condition severely limits the person's ability to obtain or maintain suitable employment. The determination of IQ level must be made by a qualified professional. In the case of a non-English-speaking person: (A) the determination must be made by a qualified professional with experience conducting culturally appropriate assessments, whenever possible; (B) the county may accept reports that identify an IQ range as opposed to a specific score; (C) these reports must include a statement of confidence in the results;

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

(b) For purposes of this chapter, "severely limits the person's ability to obtain or maintain suitable employment" means:

(1) that a qualified professional has determined that the person's condition prevents the person from working 20 or more hours per week; or

(2) for a person who meets the requirements of paragraph (a), clause (2), item (ii), or clause (3), a qualified professional has determined the person's condition:

(i) significantly restricts the range of employment that the person is able to perform; or

(ii) significantly interferes with the person's ability to obtain or maintain suitable employment for 20 or more hours per week.

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), 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.

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

(e) 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) 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) 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) 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.

Subd. 4a. **Hardship extension pending documentation.** If the documentation needed to determine if a participant is eligible for a hardship extension under subdivision 2 or 3 is not available by the 60th month, the county agency may extend the participant pending receipt of the documentation if the county believes the participant is likely to qualify for a hardship extension and the participant is cooperating with efforts to obtain the documentation. If the participant is found to be not eligible for an extension, the participant may be responsible for an overpayment.

Subd. 5. **Accrual of certain exempt months.** (a) Participants who are not eligible for assistance under a hardship extension under this section shall be eligible for a hardship extension for a period of time equal to the number of months that were counted toward the 60-month time limit while the participant was a caregiver with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0651, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c), and who was subject to the requirements in section 256J.561, subdivision 2.

(b) A participant who received MFIP assistance that counted toward the 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5.

(c) After the accrued months have been exhausted, the county agency must determine if the assistance unit is eligible for an extension under another extension category in subdivision 2, 3, or 4.

(d) At the time of the case review, a county agency must explain to the participant the basis for receiving a hardship extension based on the accrual of exempt months. The participant must provide documentation necessary to enable the county agency to determine whether the participant is eligible to receive a hardship extension based on the accrual of exempt months or authorize a county agency to verify the information.

(e) While receiving extended MFIP assistance under this subdivision, a participant is subject to the MFIP policies that apply to participants during the first 60 months of MFIP, unless the participant is a member of a two-parent family in which one parent is extended under subdivision 3 or 4. For two-parent families in which one parent is extended under subdivision 3 or 4, the sanction provisions in subdivision 6 shall apply.

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Subd. 6. Sanctions for extended cases. (a) If one or both participants in an assistance unit receiving assistance under subdivision 3 or 4 are not in compliance with the employment and training service requirements in sections 256J.521 to 256J.57, the sanctions under this subdivision apply. For a first occurrence of noncompliance, an assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (2). For a fourth occurrence of noncompliance, the assistance unit is disqualified from MFIP. If a participant is determined to be out of compliance, the participant may claim a good cause exception under section 256J.57.

(b) 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) When a parent in an extended two-parent assistance unit who has not used 60 months of assistance is out of compliance with the employment and training service requirements in sections 256J.521 to 256J.57, sanctions must be applied as specified in clauses (1) and (2).

(1) If the assistance unit is receiving assistance under subdivision 3 or 4, the assistance unit is subject to the sanction policy in this subdivision.

(2) If the assistance unit is receiving assistance under subdivision 2, the assistance unit is subject to the sanction policy in section 256J.46.

(d) If a two-parent assistance unit is extended under subdivision 3 or 4, and a parent who has not reached the 60-month time limit is out of compliance with the employment and training services requirements in sections 256J.521 to 256J.57 when the case is extended, the sanction in the 61st month is considered the first sanction for the purposes of applying the sanctions in this subdivision, except that the sanction amount shall be 30 percent.

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 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. 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);

(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.

Subd. 8. County extension request. A county may make a request to the commissioner of human services, and the commissioner may grant, an extension for a category of participants that are not extended under this section, provided the new category of participants is consistent with the existing extension policy in which an extension is provided to participants whose MFIP requirements conflict with other statutory requirements or obligations. By January 15 of each year, the commissioner must report to the chairs and ranking minority members of the senate and

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house of representatives committees having jurisdiction over health and human services the extensions that were granted under this section during the previous calendar year. The legislature must act in order for the extensions to continue. If the legislature fails to act by the end of the legislative session in which the extensions were reported, the extensions granted under this section during the previous calendar year expire on June 30 of that year.