

**SENATE  
STATE OF MINNESOTA  
NINETY-FIRST SESSION**

**S.F. No. 447**

(SENATE AUTHORS: BENSON, Hoffman, Abeler, Chamberlain and Koran)

DATE  
01/24/2019

D-PG  
158

Introduction and first reading  
Referred to Family Care and Aging

OFFICIAL STATUS

- 1.1 A bill for an act
- 1.2 relating to human services; clarifying counted income for eligibility determinations
- 1.3 for public assistance and child care programs; amending Minnesota Statutes 2018,
- 1.4 sections 119B.09, subdivision 4; 256B.02, by adding a subdivision; 256B.056,
- 1.5 subdivisions 3, 4; 256J.08, subdivision 47; 256J.21, subdivision 2; 256L.01,
- 1.6 subdivision 5; 256P.04, subdivision 4; 256P.06, subdivision 3.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2018, section 119B.09, subdivision 4, is amended to read:
- 1.9 Subd. 4. **Eligibility; annual income; calculation.** (a) Annual income of the applicant
- 1.10 family is the current monthly income of the family multiplied by 12 or the income for the
- 1.11 12-month period immediately preceding the date of application, or income calculated by
- 1.12 the method which provides the most accurate assessment of income available to the family.
- 1.13 (b) Self-employment income must be calculated based on gross receipts less operating
- 1.14 expenses authorized by the Internal Revenue Service.
- 1.15 (c) Income changes are processed under section 119B.025, subdivision 4. Included lump
- 1.16 sums counted as income under section 256P.06, subdivision 3, must be annualized over 12
- 1.17 months. Income must be verified with documentary evidence. Income includes all deposits
- 1.18 into accounts owned or controlled by the applicant, including amounts spent on personal
- 1.19 expenses including rent, mortgage, automobile-related expenses, utilities, and food, and
- 1.20 amounts received as salary or draws from business accounts. Income does not include a
- 1.21 deposit specifically identified by the applicant as a loan or gift, for which the applicant
- 1.22 provides the source, date, amount, and repayment terms. If the applicant does not have
- 1.23 sufficient evidence of income, verification must be obtained from the source of the income.

2.1 Sec. 2. Minnesota Statutes 2018, section 256B.02, is amended by adding a subdivision to  
2.2 read:

2.3 Subd. 20. **Income.** Income is calculated using the adjusted gross income methodology  
2.4 under the Affordable Care Act. Income includes funds in personal or business accounts  
2.5 used to pay personal expenses including rent, mortgage, automobile-related expenses,  
2.6 utilities, food, and other personal expenses not directly related to the business, unless the  
2.7 funds are directly attributable to an exception to the income requirement specifically  
2.8 identified by the applicant.

2.9 Sec. 3. Minnesota Statutes 2018, section 256B.056, subdivision 3, is amended to read:

2.10 Subd. 3. **Asset limitations for certain individuals.** (a) To be eligible for medical  
2.11 assistance, a person must not individually own more than \$3,000 in assets, or if a member  
2.12 of a household with two family members, husband and wife, or parent and child, the  
2.13 household must not own more than \$6,000 in assets, plus \$200 for each additional legal  
2.14 dependent. In addition to these maximum amounts, an eligible individual or family may  
2.15 accrue interest on these amounts, but they must be reduced to the maximum at the time of  
2.16 an eligibility redetermination. The accumulation of the clothing and personal needs allowance  
2.17 according to section 256B.35 must also be reduced to the maximum at the time of the  
2.18 eligibility redetermination. The value of assets that are not considered in determining  
2.19 eligibility for medical assistance is the value of those assets excluded under the Supplemental  
2.20 Security Income program for aged, blind, and disabled persons, with the following  
2.21 exceptions:

2.22 (1) household goods and personal effects are not considered;

2.23 (2) capital and operating assets of a trade or business that the local agency determines  
2.24 are necessary to the person's ability to earn an income are not considered; A bank account  
2.25 that contains personal income or assets, or is used to pay personal expenses, is not a capital  
2.26 or operating asset of a trade or business;

2.27 (3) motor vehicles are excluded to the same extent excluded by the Supplemental Security  
2.28 Income program;

2.29 (4) assets designated as burial expenses are excluded to the same extent excluded by the  
2.30 Supplemental Security Income program. Burial expenses funded by annuity contracts or  
2.31 life insurance policies must irrevocably designate the individual's estate as contingent  
2.32 beneficiary to the extent proceeds are not used for payment of selected burial expenses;

(5) for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (d);

(6) when a person enrolled in medical assistance under section 256B.057, subdivision 9, is age 65 or older and has been enrolled during each of the 24 consecutive months before the person's 65th birthday, the assets owned by the person and the person's spouse must be disregarded, up to the limits of section 256B.057, subdivision 9, paragraph (d), when determining eligibility for medical assistance under section 256B.055, subdivision 7. The income of a spouse of a person enrolled in medical assistance under section 256B.057, subdivision 9, during each of the 24 consecutive months before the person's 65th birthday must be disregarded when determining eligibility for medical assistance under section 256B.055, subdivision 7. Persons eligible under this clause are not subject to the provisions in section 256B.059; and

(7) effective July 1, 2009, certain assets owned by American Indians are excluded as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(b) No asset limit shall apply to persons eligible under section 256B.055, subdivision 15.

Sec. 4. Minnesota Statutes 2018, section 256B.056, subdivision 4, is amended to read:

Subd. 4. **Income.** (a) To be eligible for medical assistance, a person eligible under section 256B.055, subdivisions 7, 7a, and 12, may have income up to 100 percent of the federal poverty guidelines. Effective January 1, 2000, and each successive January, recipients of Supplemental Security Income may have an income up to the Supplemental Security Income standard in effect on that date.

(b) Effective January 1, 2014, to be eligible for medical assistance, under section 256B.055, subdivision 3a, a parent or caretaker relative may have an income up to 133 percent of the federal poverty guidelines for the household size.

(c) To be eligible for medical assistance under section 256B.055, subdivision 15, a person may have an income up to 133 percent of federal poverty guidelines for the household size.

(d) To be eligible for medical assistance under section 256B.055, subdivision 16, a child age 19 to 20 may have an income up to 133 percent of the federal poverty guidelines for the household size.

(e) To be eligible for medical assistance under section 256B.055, subdivision 3a, a child under age 19 may have income up to 275 percent of the federal poverty guidelines for the household size or an equivalent standard when converted using modified adjusted gross income methodology as required under the Affordable Care Act. Children who are enrolled in medical assistance as of December 31, 2013, and are determined ineligible for medical assistance because of the elimination of income disregards under modified adjusted gross income methodology as defined in subdivision 1a remain eligible for medical assistance under the Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, until the date of their next regularly scheduled eligibility redetermination as required in subdivision 7a.

(f) In computing income to determine eligibility of persons under paragraphs (a) to (e) who are not residents of long-term care facilities, the commissioner shall: (1) disregard increases in income as required by Public Laws 94-566, section 503; 99-272; and 99-509. For persons eligible under paragraph (a), veteran aid and attendance benefits and Veterans Administration unusual medical expense payments are considered income to the recipient; and (2) include all assets available to the applicant that are considered income according to the Internal Revenue Service. Income includes all deposits into accounts owned or controlled by the applicant, including amounts spent on personal expenses including rent, mortgage, automobile-related expenses, utilities, and food, and amounts received as salary or draws from business accounts and not otherwise excluded by federal or state laws. Income does not include a deposit specifically identified by the applicant as a loan or gift, for which the applicant provides the source, date, amount, and repayment terms.

Sec. 5. Minnesota Statutes 2018, section 256J.08, subdivision 47, is amended to read:

Subd. 47. **Income.** "Income" means cash or in-kind benefit, whether earned or unearned, received by or available to an applicant or participant that is not property under section 256P.02. An applicant must document that the property is not available to the applicant.

Sec. 6. Minnesota Statutes 2018, section 256J.21, subdivision 2, is amended to read:

Subd. 2. **Income exclusions.** The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9555.5050 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0654, payments for family foster care for children under section 260C.4411 or chapter 256N, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment; provides documentation of the source of the loan, dates, amount of the loan, and terms of repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) federal or state tax rebates;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services. In-kind income does not include in-kind payments of living expenses;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) payments for short-term emergency needs under section 256J.626, subdivision 2;

(16) funeral and cemetery payments as provided by section 256.935;

(17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;

(18) any form of energy assistance payment made through Public Law 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;

(19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient;

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) adoption or kinship assistance payments under chapter 256N or 259A and Minnesota permanency demonstration title IV-E waiver payments;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with developmental disabilities, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;

(24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;

(25) rent rebates;

(26) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;

(27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;

(28) MFIP child care payments under section 119B.05;

(29) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;

(30) income a participant receives related to shared living expenses;

(31) reverse mortgages;

(32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

(33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

(34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

(35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;

(43) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash;

(46) the principal portion of a contract for deed payment;

(47) cash payments to individuals enrolled for full-time service as a volunteer under AmeriCorps programs including AmeriCorps VISTA, AmeriCorps State, AmeriCorps National, and AmeriCorps NCCC;

(48) housing assistance grants under section 256J.35, paragraph (a); and

(49) child support payments of up to \$100 for an assistance unit with one child and up to \$200 for an assistance unit with two or more children.

Sec. 7. Minnesota Statutes 2018, section 256L.01, subdivision 5, is amended to read:

Subd. 5. **Income.** "Income" has the meaning given for modified adjusted gross income, as defined in Code of Federal Regulations, title 26, section 1.36B-1, and means a household's current income, or if income fluctuates month to month, the income for the 12-month eligibility period. Income includes amounts deposited into checking and savings accounts for personal expenses including rent, mortgage, automobile-related expenses, utilities, and food.

Sec. 8. Minnesota Statutes 2018, section 256P.04, subdivision 4, is amended to read:

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

(1) identity of adults;

(2) age, if necessary to determine eligibility;

- 9.1 (3) immigration status;
- 9.2 (4) income;
- 9.3 (5) spousal support and child support payments made to persons outside the household;
- 9.4 (6) vehicles;
- 9.5 (7) checking and savings accounts; Verification of checking and savings accounts must
- 9.6 include the source of deposits into accounts; identification of any loans, including the date,
- 9.7 source, the amount, and terms of repayment; identification of deposits for personal expenses
- 9.8 including rent, mortgage, automobile-related expenses, utilities, and food;
- 9.9 (8) inconsistent information, if related to eligibility;
- 9.10 (9) residence;
- 9.11 (10) Social Security number; ~~and~~
- 9.12 (11) use of nonrecurring income under section 256P.06, subdivision 3, clause (2), item
- 9.13 (ix), for the intended purpose for which it was given and received; ~~;~~
- 9.14 (12) loans. Verification of loans must include the source, the full amount, and repayment
- 9.15 terms; and
- 9.16 (13) direct or indirect gifts of money.

9.17 (b) Applicants who are qualified noncitizens and victims of domestic violence as defined

9.18 under section 256J.08, subdivision 73, clause (7), are not required to verify the information

9.19 in paragraph (a), clause (10). When a Social Security number is not provided to the agency

9.20 for verification, this requirement is satisfied when each member of the assistance unit

9.21 cooperates with the procedures for verification of Social Security numbers, issuance of

9.22 duplicate cards, and issuance of new numbers which have been established jointly between

9.23 the Social Security Administration and the commissioner.

9.24 Sec. 9. Minnesota Statutes 2018, section 256P.06, subdivision 3, is amended to read:

9.25 Subd. 3. **Income inclusions.** The following must be included in determining the income

9.26 of an assistance unit:

9.27 (1) earned income;

9.28 (i) calculated according to Minnesota Rules, part 3400.0170, subpart 7, for earned income

9.29 from self-employment, except if the participant is drawing a salary, taking a draw from the

9.30 business, or using the business account to pay personal expenses including rent, mortgage,

10.1 automobile-related expenses, utilities, or food, not directly related to the business, the salary  
10.2 or payment must be treated as earned income; and

10.3 (ii) excluding expenses listed in Minnesota Rules, part 3400.0170, subpart 8, items A  
10.4 to I and M to P; and

10.5 (2) unearned income, which includes:

10.6 (i) interest and dividends from investments and savings;

10.7 (ii) capital gains as defined by the Internal Revenue Service from any sale of real property;

10.8 (iii) proceeds from rent and contract for deed payments in excess of the principal and  
10.9 interest portion owed on property;

10.10 (iv) income from trusts, excluding special needs and supplemental needs trusts;

10.11 (v) interest income from loans made by the participant or household;

10.12 (vi) cash prizes and winnings;

10.13 (vii) unemployment insurance income;

10.14 (viii) retirement, survivors, and disability insurance payments;

10.15 (ix) nonrecurring income over \$60 per quarter unless earmarked and used for the purpose  
10.16 for which it is intended. Income and use of this income is subject to verification requirements  
10.17 under section 256P.04;

10.18 (x) retirement benefits;

10.19 (xi) cash assistance benefits, as defined by each program in chapters 119B, 256D, 256I,  
10.20 and 256J;

10.21 (xii) tribal per capita payments unless excluded by federal and state law;

10.22 (xiii) income and payments from service and rehabilitation programs that meet or exceed  
10.23 the state's minimum wage rate;

10.24 (xiv) income from members of the United States armed forces unless excluded from  
10.25 income taxes according to federal or state law;

10.26 (xv) all child support payments for programs under chapters 119B, 256D, and 256I;

10.27 (xvi) the amount of child support received that exceeds \$100 for assistance units with  
10.28 one child and \$200 for assistance units with two or more children for programs under chapter  
10.29 256J; and

10.30 (xvii) spousal support.