

CHAPTER 3300

DEPARTMENT OF JOBS AND TRAINING

TRAINING; COMMUNITY SUPPORT SERVICES

3300.0050	FEES FOR REHABILITATION SERVICES.	3300.2150	CERTIFICATION REQUIREMENTS AND TYPES OF CERTIFICATES.
	YOUTH EMPLOYMENT	3300.2250	CERTIFICATION PROCEDURE.
3300.0100	DEFINITION OF TERMS.	3300.2350	STANDARDS FOR STATE FUNDING.
3300.0200	PURPOSE AND STATUTORY AUTHORITY.	3300.2450	OPERATIONAL POLICIES FOR FUNDING STANDARDS.
3300.0300	ALLOCATION OF FUNDS.	3300.2550	ALLOCATION OF FUNDS.
3300.0400	CONTRACTING.	3300.2650	WITHDRAWAL OF ALLOCATED STATE FUNDS.
3300.0500	OPERATION PROCEDURES.	3300.2750	ELIGIBLE APPLICANTS FOR STATE FUNDING.
3300.0601	SUPPORT SERVICES.	3300.2850	NET PROGRAM COSTS.
3300.0700	REALLOCATION PROCEDURES.	3300.2950	STATE FUNDING APPLICATION CONTENT.
	WEATHERIZATION ASSISTANCE FOR LOW-INCOME PEOPLE	3300.3050	APPEAL PROCEDURE.
3300.0800	PURPOSE.		INDEPENDENT LIVING CENTERS
3300.0900	ADMINISTRATION OF GRANTS.	3300.3100	SCOPE AND PURPOSE.
3300.1000	DEFINITIONS.	3300.3150	DEFINITIONS.
3300.1100	ALLOCATION OF FUNDS.	3300.3200	CERTIFICATION REQUIREMENTS.
3300.1200	GRANT APPLICATIONS.	3300.3250	CERTIFICATION PROCEDURE.
3300.1300	ALLOWABLE EXPENDITURES.	3300.3260	TERMINATION OF CERTIFICATION AND PRELIMINARY NOTICE.
3300.1400	UNALLOWABLE EXPENDITURES.	3300.3270	APPEAL.
3300.1500	OVERSIGHT RESPONSIBILITY.		OPPORTUNITIES INDUSTRIALIZATION CENTERS
3300.1600	RECORD KEEPING.	3300.3300	OPPORTUNITIES INDUSTRIALIZATION CENTERS; JOB TRAINING.
3300.1700	MONTHLY REPORTS.		
3300.1800	GRANTING PROCESS.		
3300.1900	VARIANCES.		
	REHABILITATION FACILITIES		
3300.1950	SCOPE AND PURPOSE.		
3300.2050	DEFINITIONS.		

3300.0050 FEES FOR REHABILITATION SERVICES.

The Division of Rehabilitation Services in the Department of Jobs and Training will charge \$50 per hour for rehabilitation services described in Minnesota Statutes, section 176.102, subdivision 9, clause (b). The authority for charging the hourly rate is contained in Minnesota Statutes, section 129A.03, paragraphs (b), (c), and (m). The rehabilitation services are the following:

- A. jobs analysis;
- B. labor market surveys;
- C. vocational counseling;
- D. job development;
- E. testing;
- F. on-the-job training;
- G. placement;
- H. training in job seeking skills;
- I. analysis of transferable skills;
- J. follow-up;
- K. referrals; and
- L. monitoring of medical and training services.

Statutory Authority: *MS s 129A.03 cl (b),(c),(m)*

History: *10 SR 2622*

YOUTH EMPLOYMENT

3300.0100 DEFINITION OF TERMS.

Subpart 1. **Scope.** The following terms used in parts 3300.0100 to 3300.0700 shall have the meanings given them.

Subp. 2. **Act.** "Act" means the Youth Employment Act of 1977, Minnesota Statutes, sections 268.31 to 268.36.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 4. **Contract.** "Contract" means an agreement entered into between a political subdivision, school district, or a nonprofit organization and the commissioner for the operation of a youth employment and training program under the act.

Subp. 5. **Department.** "Department" means the Minnesota Department of Jobs and Training.

Subp. 6. [Repealed, 9 SR 2526]

Subp. 7. **Contractor.** "Contractor" means an organization which employs a person under the program established by the act.

Subp. 8. [Repealed, 9 SR 2526]

Subp. 9. **Support services.** "Support services" means services which are necessary to enable an eligible individual to participate in employment and training funded under the act. Support services include transportation, child care, meals, temporary shelter, reasonable and necessary safety equipment, required uniforms, and other normal expenses associated with employment and training funded under the act.

Subp. 10. **Transitional services.** "Transitional services" means services which help eligible youth complete school, upgrade basic skills, and prepare for additional schooling or permanent employment. Transitional services include counseling, case management, basic skills training and remedial education, life skills training, mentoring and tutoring services, and work readiness skills training.

Statutory Authority: *MS s 268.021; 268.33*

History: *9 SR 2526; 10 SR 2512; 13 SR 932; 15 SR 618*

3300.0200 PURPOSE AND STATUTORY AUTHORITY.

Parts 3300.0100 to 3300.0700 govern the administration of the Youth Employment Opportunities program as authorized by the Youth Employment Act of 1977, Minnesota Statutes, sections 268.31 to 268.36. The purpose of the Minnesota Youth Program is:

A. to provide eligible youth with exposure to the world of work;

B. to encourage school completion or enrollment in alternative school programs;

and

C. to enhance the basic educational skills of youth.

Statutory Authority: *MS s 268.021; 268.33*

History: *11 SR 2077; 13 SR 932*

3300.0300 ALLOCATION OF FUNDS.

Subpart 1. **Allocations to counties.** The commissioner shall allocate funds available under the act as follows:

A. Fifty percent of the funds available under the act shall be allocated to counties on the basis of each county's share of the estimated youth population of the state which is from the ages of 14 years up to but not including 22 years.

B. Fifty percent of the funds available under the act shall be allocated to counties according to each county's share of the estimated youth population of the state which is from the ages of 14 years up to but not including 22 years, adjusted for:

(1) historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July, and August for the most recent three year period for which such data is available;

(2) the county's poverty ratio based upon the percent of children from five to 17 years of age living in families below the poverty line as evidenced by the most recent United States Census figures as adjusted by reference to more recent population surveys, provided that reference to more recent population surveys shall be made only if such data is available for all counties in the state; and

(3) the migration of postsecondary school students between counties, where they are counted by the census in March and April, to their home counties where the program is active during the June to September period.

C. The mathematical statement of the allocation to counties is given below:

$$A_i^c = 0.5(F) \frac{Y P_i^c}{\sum_{i=1}^{87} Y P_i^c}$$

$$+ 0.5(F) \frac{(Y P_i^c) (U_i^c) (P_i^c) (C_i^c)}{\sum_{i=1}^{87} [(Y P_i^c) (U_i^c) (P_i^c) (C_i^c)]}$$

$$\text{and } C_i^c = \left[1 - \frac{1.5(SC_i^c)}{Y P C_i^c} \right]$$

where:

- (1) A_i^c = total dollar allocation to the i^{th} county;
- (2) F = total funds available for allocation;
- (3) $Y P_i^c$ = youth population 14 to 21 years of age in the i^{th} county, determined by interpolation for the current year from projections of the state demographer;
- (4) U_i^c = most recent three-year average of official labor force unemployment for the months of June, July, and August for the i^{th} county;
- (5) P_i^c = percent of all families with income below the poverty level and with related children five to 17 years of age as evidenced by the most recent United States census or more recent population surveys as referenced in subpart 2, item B;
- (6) C_i^c = the adjustment factor due to the timing of the census in March and April to account for residency flows of postsecondary school enrolled students between their home county and that of school location;
- (7) SC_i^c = count of number of students 20 and 21 years of age enrolled in school in the i^{th} county as evidenced in the most recent United States census; and
- (8) $Y P C_i^c$ = youth population 14 to 21 years of age of the i^{th} county as evidenced in the most recent United States census.

Subp. 2. **Allocation to cities and Indian reservations.** After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

A. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total population of the county as evidenced by the most recent United States Bureau of Census estimates. Allocations to Indian reservations will be based on the same procedure as that of cities. Reservation population and counties of location will be based on the most recent United States Bureau of Indian Affairs and/or United States Bureau of Census Information.

B. The remainder of the county allocation, that part which is not allocated to cities and Indian reservations under item A, shall be allocated to the county as a whole.

Statutory Authority: *MS s 268.021; 268.33*

History: *9 SR 2526; 10 SR 2512; 11 SR 2077*

3300.0400 CONTRACTING.

The commissioner may enter into contracts for operation of the program with organizations enumerated in part 3300.0100, subpart 4. Selection of contractors will be determined by the commissioner. Consideration will be given to contractors with experience in administering youth employment and training programs and to those who have demonstrated efforts to coordinate state and federal youth programs locally.

Statutory Authority: *MS s 268.021; 268.33*

History: *9 SR 2526; 10 SR 2512; 11 SR 2077; 13 SR 932*

3300.0500 OPERATION PROCEDURES.

Subpart 1. Regular program. Youths who are at least 14 years of age but less than 22 years of age at the time of application are eligible for program participation. Ninety percent of the youths hired must be from families which meet the definition for economically disadvantaged under the federal Job Training Partnership Act. Hereinafter, this portion of the program is referred to as the "regular program."

Subp. 2. [Repealed, 13 SR 932]

Subp. 2a. Transitional services. Contractors may provide or arrange for transitional services to help eligible youth complete school, upgrade basic skills, and prepare for additional schooling or permanent employment.

Subp. 3. Eligible youth. Recruitment of eligible youths shall be a cooperative effort between the department and the local contractors selected to deliver the program.

Subp. 4. Minimum wage. Eligible youths not designated as shall be paid the federal or state minimum wage for a period not to exceed 40 hours per calendar week and for not more than 480 hours per calendar year.

Subp. 5. Supervisors. A contractor may designate eligible youth as supervisors for youths in its employ under the act. Youths designated as supervisors shall be paid the federal or state minimum wage plus a rate per hour to be established by the local contractor.

Subp. 6. Employment of eligible youth. Contractors may begin employing eligible youths upon signing the contract. Contractors have the option to employ youth during the nonsummer months with the approval of the department.

Statutory Authority: *MS s 268.021; 268.0122; 268.33*

History: *9 SR 2526; 11 SR 2077; 13 SR 932; 15 SR 618; 16 SR 1996*

3300.0600 [Repealed, 9 SR 2526]**3300.0601 SUPPORT SERVICES.**

Contractors may provide or arrange for support services as defined in part 3300.0100, subpart 9, to eligible youth, using funds allocated under this act. The cost of the support services must not exceed 15 percent of the contract. Contractors shall not be required to provide support services to eligible youth when funds received under the act have been exhausted.

Statutory Authority: *MS s 268.021; 268.33*

History: *10 SR 2512; 11 SR 2077; 13 SR 932; 15 SR 618*

3300.0700 REALLOCATION PROCEDURES.

Funds may be reallocated within a county or between a county and a city or between counties under the following circumstances:

A. the city or county originally allocated the funds according to the formula in part 3300.0300 refuses the funds; or

B. the city or county originally allocated the funds gives its permission for those funds to be used in another city or county.

In addition, the contractors may reallocate up to the equivalent of one full-time slot or position not to exceed \$1,500 between any subdivision above for the purpose of simplified administration of the program.

During the period of the contract, the department may shift funds from one contractor to another with the mutual consent of both contractors.

Statutory Authority: *MS s 268.021; 268.33*

History: *9 SR 2526; 13 SR 932*

WEATHERIZATION ASSISTANCE FOR LOW-INCOME PEOPLE**3300.0800 PURPOSE.**

The purpose of parts 3300.0800 to 3300.1900 is to develop and implement a state weatherization assistance program under the authority of Minnesota Statutes, section 268.37 in the dwellings of low-income persons in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

Statutory Authority: *MS s 268.37 subd 3*

3300.0900 ADMINISTRATION OF GRANTS.

Grants awarded under parts 3300.0800 to 3300.1900 shall be administered in accordance with the following:

A. Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, issued as Office of Management and Budget Circular A-102 Revised and found in the Federal Register, volume 42, pages 45828-45891 (1977);

B. Grants and Agreements With Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, issued as Office of Management and Budget Circular A-110 and found in the Federal Register, volume 41, pages 32016-32037 (1976);

C. Audit of Federal Operations and Programs, issued as Office of Management and Budget Circular A-73 and found in the Federal Register, volume 43, pages 12404-12406 (1978);

D. Cost Principles for State and Local Governments, issued as Office of Management and Budget Circular A-87 and found in the Federal Register, volume 46, pages 9548-9554 (1981);

E. Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, issued as Office of Management and Budget Circular A-95 and found in the Federal Register, volume 40, pages 2052-2065 (1976);

F. Notification to States of Grant-in-Aid Information, issued as United States Treasury Circular 1082 and found in the Federal Register, volume 41, page 2652 (1976); and

G. Withdrawal of Cash From the Treasury for Advances Under Federal Grant and Other Programs, issued as United States Treasury Circular 1075 and found in the Code of Federal Regulations, title 31, section 205 (1980).

Statutory Authority: *MS s 268.37 subd 3*

3300.1000 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3300.0800 to 3300.1900 the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means an organization that receives funds under parts 3300.0800 to 3300.1900 to operate a weatherization program.

Subp. 3. **Assistant commissioner.** "Assistant commissioner" means the assistant commissioner of the Division of Training and Community Services of the Department of Jobs and Training.

Subp. 4. **Community action agency.** "Community action agency" means a private corporation or public agency as defined in Minnesota Statutes, section 268.53, subdivision 1.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Jobs and Training.

Subp. 6. **Conditioned space.** "Conditioned space" means an area inside the building envelope where the air temperature can be altered by a heating or cooling device.

Subp. 7. **Cosmetic items.** "Cosmetic items" means items that only enhance the aesthetic appearance of the property. Some examples of "cosmetic items" are finishes, decorative fenestration, and elevation materials such as aluminum siding, board and batten, clapboard, brick, stone, shakes, and asphalt siding.

Subp. 8. **Cost of employment.** "Cost of employment" means compensation for services as defined in Office of Management and Budget Circular A-87, Attachment B, A.10, A.13, and A.14, as cited in part 3300.0900, item D.

Subp. 9. **Department.** "Department" means the Department of Jobs and Training.

Subp. 10. **Dwelling unit.** "Dwelling unit" means a house or household. It includes stationary mobile homes, homes, apartments, and groups of rooms or single rooms occupied as separate living quarters.

Subp. 11. **Elderly person.** "Elderly person" means a person who is 60 years of age or older.

Subp. 12. **Eligible dwelling unit.** "Eligible dwelling unit" means a dwelling unit that is occupied by a low-income family unit.

Subp. 13. **Family unit.** "Family unit" means all persons living together in a dwelling unit.

Subp. 14. **Grantee.** "Grantee" means an organization that receives funds under this rule to operate a weatherization program.

Subp. 15. **Grantor.** "Grantor" means the Division of Training and Community Services, Department of Jobs and Training, state of Minnesota.

Subp. 16. **Handicapped person.** "Handicapped person" means a person who, in the opinion of a qualified medical person, is permanently physically or mentally disabled. "Qualified medical person" means a qualified physician or chiropractor authorized to practice in the state of Minnesota.

Subp. 17. **Heating degree days.** "Heating degree days" means the difference in temperature, in degrees Fahrenheit between the mean temperature for the day and 65 degrees Fahrenheit on any day when the mean temperature is less than 65 degrees Fahrenheit. Data for this factor is from Monthly Normals of Temperature, Precipitation and Heating and Cooling Degree Days, 1941 to 1970, issued by the National Oceanic and Atmospheric Administration (United States Department of Commerce, 1973).

Subp. 18. **Heating or cooling source.** "Heating or cooling source" means a device that can raise or lower temperatures in a dwelling unit as part of the permanent heating, ventilating, and air conditioning system installed in the dwelling unit. It includes furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air conditioners, fans, and solar devices.

Subp. 19. **Independent contractor.** "Independent contractor" means an entity that furnishes materials or provides labor or both in the weatherization of buildings of low-income persons.

Subp. 20. **Indian tribe.** "Indian tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act, United States Code, title 43, sections 1601 to 1628 (1977 and Supplement III 1980), which:

A. is recognized as eligible for special programs and services provided by the United States to Native Americans because of its status as Native American; or

B. is located on or near a federal or state reservation or rancheria.

Subp. 21. **Low-income.** "Low-income" means having a total household income in relation to family size which:

A. is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Federal Office of Management and Budget in Code of Federal Regulations, title 45, section 1060 (1981); or

B. is the basis for which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act, Statutes at Large, volume 49, page 620, chapter 531 (1935), codified in scattered sections of United States Code, volume 42.

Subp. 22. **Mechanical equipment.** "Mechanical equipment" means control devices or apparatus that is primarily designed to improve the heating or cooling efficiency of a dwelling unit and that will be permanently affixed to an existing heating or cooling source. It includes a flue damper, clock setback thermostat, filter, and replacement limit switches.

Subp. 23. **Multifamily dwelling unit.** "Multifamily dwelling unit" means a dwelling unit that is located in a structure containing more than one dwelling unit.

Subp. 24. **Number of low-income, owner-occupied dwelling units in the county.** "Number of low-income, owner-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

Subp. 25. **Number of low-income, renter-occupied dwelling units in the county.** "Number of low-income, renter-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

Subp. 26. **Repair material.** "Repair material" means an item necessary for the effective performance or preservation of weatherization materials. "Repair material" includes lumber used to frame or repair windows and doors that could not otherwise be caulked or weather-stripped, and protective materials, such as paint, used to seal materials installed under this program. "Repair material" also includes furnace efficiency modifications limited to:

A. replacement burners;

B. devices for modifying fuel openings, including one-time replacement of furnace filters; and

C. electrical or mechanical furnace ignition systems that replace standing gas pilot lights.

Subp. 27. **Regional clearinghouse.** "Regional clearinghouse" means the local regional development commission that has the authority under title IV of the Intergovernmental Cooperation Act of 1968, United States Code, volume 42, sections 4231 to 4233 (1977), to review and comment with respect to projects funded by the federal and state governments.

Subp. 28. **Rental dwelling unit.** "Rental dwelling unit" means a dwelling unit occupied by a person who pays periodic sums of money to occupy the dwelling unit.

Subp. 29. **Separate living quarters.** "Separate living quarters" means those in which the occupants do not regularly live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall, or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Subp. 30. **Single-family dwelling unit.** "Single-family dwelling unit" means a structure containing no more than one dwelling unit.

Subp. 31. **State.** "State" means the state of Minnesota.

Subp. 32. **Weatherization crew.** "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

Subp. 33. **Weatherization laborer.** "Weatherization laborer" means a person who performs weatherization and repair activities necessary to complete work on eligible dwelling units. The work may include auditing, inspecting, delivery, and physical warehousing of weatherization materials and equipment.

Subp. 34. **Weatherization project.** "Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

Subp. 35. **Weatherization supervisor.** "Weatherization supervisor" means a person who inspects weatherization and repair activities and who is responsible for crew laborers' conduct, performance, and evaluation.

Subp. 36. **Weatherization materials.** "Weatherization materials" means materials used to weatherize homes as defined in Code of Federal Regulations, title 10, sections 456.101 to 456.914 (1980) amended by Federal Register, volume 45, pages 63449, 63453, 63793 (1980).

Statutory Authority: *MS s 268.37 subd 3*

History: *1Sp1985 c 14 art 9 s 75; 17 SR 1279*

3300.1100 ALLOCATION OF FUNDS.

Subpart 1. **Determination.** The department shall allocate funds by county to eligible grantees with a demonstrated ability to administer and deliver weatherization services. The department shall determine whether or not a grantee has a demonstrated ability to administer and deliver weatherization services by taking into account the criteria in subpart 4. Equal

weight shall be given to each of the criteria. The department shall also allocate funds to eligible grantees who have been engaged in contracting for the construction and repair of real property.

Subp. 2. Contracts. All contracts between the state and a grantee will run for six months beginning July 1.

Subp. 3. Termination of grant. A grant shall be terminated if the department determines, after a public hearing conducted by the Office of Administrative Hearings, that the grantee has been ineffective in meeting the purpose of Minnesota Statutes, section 268.37.

Subp. 4. Criteria. In making a determination under subpart 3, the department shall evaluate the performance of the grantee and shall consider:

A. how quickly the weatherization project achieves the goals of Minnesota Statutes, section 268.37;

B. whether the grantee has adhered to the plan submitted;

C. the quality of work performed through the grantee; and

D. the number, qualifications, and experience of staff members of the grantee.

Statutory Authority: *MS s 268.37 subd 3*

3300.1200 GRANT APPLICATIONS.

Subpart 1. Application procedure. Applications to the department must contain a plan for the use of state funds which is submitted not later than 30 days after receipt of written notice from the department of the availability of funds for each year. The department shall review each timely application and if the submission complies with the applicable provisions of this rule, approve a final budget and issue a notice of grant award.

Subp. 2. Application. Each application must include:

A. the name and address of the grantee responsible for administering the program;

B. a financial schedule which indicates the monthly funding requirements based on projected production;

C. staffing patterns for all weatherization personnel to allow local program grantees to attain production goals;

D. a written review of the plan by the regional clearinghouse; and

E. a statement by grantee ensuring that:

(1) no dwelling unit may be weatherized without written documentation that the unit is eligible for weatherization as provided in parts 3300.0800 to 3300.1900;

(2) there is an outreach process used to obtain applications together with a description of that process; and

(3) it will establish a priority system for client applications.

Each application must state the minimum number of dwelling units to be completed by each grantee which are to be established by the department.

Subp. 3. Maximum amount of material in dwelling unit. The grantee shall ensure that no eligible dwelling unit receives more than \$750 in material and that each dwelling unit is weatherized according to the priority list established by the department as found in subparts 4 and 5. The department shall waive the \$750 restriction for individual eligible dwelling units on written application documenting that the material costs on the applicant's dwelling exceed \$750 and that all activities are eligible according to the agency's priority list. A waiver will be granted if the eligible dwelling exceeds 1,500 square feet, or is two story, or requires more than 16 storm windows. If a waiver is granted, the total material expenditures may not exceed \$1,000. For purposes of subparts 4 and 5, home types have the following meanings:

A. "Type I" means homes with accessible attics;

B. "Type II" means homes with inaccessible basements;

C. "Type III" means homes with solid walls;

D. "Type IV" means homes with knee wall construction;

E. "Type V" means mobile homes.

Subp. 4. Department's memorandum; weatherization priorities for home types I-IV, 8-28-81. The following list of priorities is a departmental memorandum:

Weatherization deliverers will follow the priority list given below. If the particular activity listed currently exists or cannot be done, then an explanation must be made on the Retro Tech Job Sheet. If the client will not permit certain activities, then a statement with an explanation of the refusal to permit work, signed by the client, must be in the file.

Priorities

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.
2. Sill plates.
3. Foundation cracks.
4. Corners of buildings.
5. Under door sills.
6. Around all electrical & plumbing entrances.
7. All other infiltration areas.

B. Install hot water heater jackets except where a vent damper is present.

C. Insulate hot water pipes in accessible unheated space.

D. Weatherstrip movable windows and doors between conditioned and unconditioned space, including basement doors, attic scuttles and knee wall entrances.

E. Install gaskets on electrical boxes located on the interior side of exterior walls.

F. Replace or reset broken or loose glass.

II. Insulate Attic area

A. To R-38

B. Vent in accordance with FHA/HUD Minimum Property Standards. (No vapor barrier 1 to 150 ratio; with vapor barrier 1 to 300 ratio.)

C. Insulate attic scuttle doors to R-30; dam access area allowing entry to attic.

III. Insulate exterior walls to minimum of R-11.

IV. Insulate rim joist area to a minimum of R-19 with vapor barrier on warm side.

V. Insulate above-grade foundation walls to R-11. When insulation is applied to interior side of the foundation wall, extend insulation 2 feet below grade.

On crawl space, either insulate perimeter foundation wall to R-11 or floor to minimum of R-19 where freezing of pipes is not a factor.

VI. Install storm windows on single-glazed windows where storm windows are missing or existing storm windows are deteriorated beyond repair.

VII. Install new primary doors and windows only where old ones are beyond repair and cannot be weatherstripped.

Optional Items — Only after all of the required items are completed and if maximum material limit has not been reached.

I. Clock set back thermostats.

II. Storm doors.

Subp. 5. **Department's memorandum; mobile home priorities, 8-28-81.** The following list of priorities is a departmental memorandum:

Priorities for Type V Home

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.
2. Corners of buildings.
3. Under door sills.
4. Around all electrical and plumbing entrances.
5. Along all siding seams.
6. Around all "through the wall" accessories.

B. Install hot water heater jackets on electrical water heaters, or

Insulate water heater closet on gas and oil fired water heaters.

- C. Insulate hot water pipes where accessible.
- D. Replace all worn weather stripping on all movable windows.
- E. Weatherstrip all exterior prime doors.
- F. Replace or reset broken or loose glass.

II. Insulate ceiling to maximum extent possible not to exceed R-38 and install at least two 8-inch round vents or equivalent.

III. Insulate floor to maximum extent possible not to exceed R-38.

IV. Install storm windows on those single glazed windows where the original storm is either missing or damaged beyond repair.

V. Install new prime doors and windows where existing ones are beyond repair.

Optional Items (Only after all required items are completed.)

- I. Replace damaged or missing storm door.
- II. Repair and tighten skirting — certify that permanent vent equaling 36 sq. in. per 25 lineal feet of skirt is installed if skirting repair is done.

Statutory Authority: *MS s 268.37 subd 3*

3300.1300 ALLOWABLE EXPENDITURES.

Expenditures shall be limited to:

- A. the cost of purchase, delivery, and storage of weatherization materials;
 - B. transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the dwelling work site;
 - C. maintenance, operation, and insurance of vehicles to transport items in item B;
 - D. maintenance of tools and equipment;
 - E. purchases of tools, equipment, and vehicles;
 - F. payments to an independent contractor for furnishing materials or providing labor or both in the weatherization of dwellings of low-income persons;
 - G. the cost of employment of weatherization supervisors;
 - H. the cost of employment of weatherization laborers;
 - I. the cost, not to exceed \$150 per dwelling unit, for repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective;
 - J. building permits where applicable;
 - K. the cost of liability insurance for weatherization projects for personal injury and property damage;
 - L. administrative expenses not to exceed 7.5 percent of each grantee's allocation;
- and

M. weatherization of a building containing eligible rental dwelling units if at least 66 percent of the rental units in the building are eligible dwelling units and if the landlord or landlord's agent agrees in writing that the grantee may do the weatherization work and that rents will not be raised because of the weatherization work.

All purchases in item E with an acquisition value of \$300 or more must have written approval from the department. Purchasing must follow procedures outlined in Office of Management and Budget Circulars A-87, A-102, and A-110, as cited in part 3300.0900.

Statutory Authority: *MS s 268.37 subd 3*

3300.1400 UNALLOWABLE EXPENDITURES.

Grant funds may not be used for any of the following purposes:

- A. to weatherize a dwelling unit that has been weatherized previously with grant funds from the United States Department of Energy or state assistance under Minnesota Statutes, section 268.37 or parts 3300.0800 to 3300.1900, unless the dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;
- B. to weatherize a dwelling unit that is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or

C. to purchase cosmetic items, remodeling items, or a heating or cooling source.

Statutory Authority: *MS s 268.37 subd 3*

3300.1500 OVERSIGHT RESPONSIBILITY.

The department shall supervise the projects of the grantees in the following manner:

A. At least once every three months the department shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under parts 3300.0800 to 3300.1900 through on-site inspections, reviews of reports submitted by grantees, and inspection of their books and records.

B. The grantee shall give the department access, for the purpose of audit and examination, to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under parts 3300.0800 to 3300.1900.

C. The commissioner shall conduct an annual audit of the records of a grantee receiving financial assistance under parts 3300.0800 to 3300.1900.

Statutory Authority: *MS s 268.37 subd 3*

3300.1600 RECORD KEEPING.

Record keeping shall be in accordance with Office of Management and Budget Circular A-87 as cited in part 3300.0900, item D. Each grantee receiving state financial assistance under parts 3300.0800 to 3300.1900 shall keep records the department requires, including records which fully disclose the amount and disposition by each grantee of funds received under parts 3300.0800 to 3300.1900, the total cost of the weatherization project for which the assistance was given or used, including all sources and amounts of funds for the project or program, and other records the department deems necessary for an effective audit and performance evaluation.

Statutory Authority: *MS s 268.37 subd 3*

3300.1700 MONTHLY REPORTS.

Each grantee receiving financial assistance under parts 3300.0800 to 3300.1900 shall submit a monthly program performance report and a monthly financial report or invoice to the department.

Statutory Authority: *MS 268.37 subd 3*

3300.1800 GRANTING PROCESS.

When the department approves an application for a grant, it shall notify the grantee, in writing, of the approval. The department and the grantee shall sign a grant contract. The grant contract must specify what report requirements and other grant requirements must be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program. Cash on hand in excess of 30-day program requirements shall not be delivered. Payments to grantees shall be reviewed in comparison to expenditures to determine cash needs. Grantees shall report expenditures monthly on forms to be supplied by the department. The department shall require the grantees to project the next month's cash needs on the previous month's expenditure report. If the grantee determines that it cannot fulfill its obligations under the plan in whole or part, the grantee may request an amendment or revision of the existing approved plan and resubmit a new plan or amendments within 30 days after the written notice of request for consideration. The request from the grantee must be in writing detailing its specific views with supporting data and arguments.

Statutory Authority: *MS s 268.37 subd 3*

3300.1900 VARIANCES.

Subpart 1. Granting of variance. The department shall grant a variance to the use of materials required by part 3300.1000, subpart 36 if it appears that:

- A. product or test standards have changed; and
- B. granting the variance would not adversely affect the public health or safety; and
- C. granting the variance would not conflict with applicable building codes.

Subp. 2. Written request for a variance. A grantee may submit to the department a written request for a variance documenting the need to include or exclude additional or exist-

ing materials required by part 3300.1000, subpart 36. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with subpart 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

Subp. 3. Notification of variance. The department shall notify all grantees, in writing, that a variance has been granted. Notification will be issued within 30 days after the granting of the variance.

Statutory Authority: *MS s 268.37 subd 3*

REHABILITATION FACILITIES

3300.1950 SCOPE AND PURPOSE.

Parts 3300.1950 to 3300.3050 govern the provision of extended employment programs by rehabilitation facilities as defined in Minnesota Statutes, chapter 129A. The purpose of extended employment programs is to maximize the vocational potential of persons with disabilities by providing appropriate paid work through establishing the most enabling environment.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2000 [Repealed, 11 SR 394]

3300.2050 DEFINITIONS.

Subpart 1. Scope. When used in parts 3300.1950 to 3300.3050, the terms defined in this part have the meanings given them.

Subp. 2. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 3. Community based employment program. "Community based employment program" means a program providing work and service hours in a position removed from a rehabilitation facility site, which:

A. is paid at a rate equal to or greater than the state or federal minimum wage, whichever is appropriate, or at a lesser rate of pay according to a certificate issued under Code of Federal Regulations, title 29, sections 524.1 to 524.1.13 or other federal regulations providing for exemption from federal minimum wage requirements;

B. is subsidized for training purposes by public funds or is expected to provide the services necessary to assure continued work;

C. is full time, unless work of less than 30 hours per week is determined to be appropriate due to the availability of work opportunities, or other individual circumstances;

D. allows the participant, wherever appropriate to the work performed or work setting, the opportunity for frequent daily interactions in a work situation with people without disabilities who are not paid caregivers or providers;

E. can reasonably be expected to allow the participant to develop the participant's vocational potential; and

F. is under the supervision of the rehabilitation facility.

Subp. 4. Competitive employment. "Competitive employment" means employment in a position which:

A. is paid at a rate equal to or greater than the state or federal minimum wage, whichever is appropriate;

B. is not subsidized for training purposes by public funds, excluding any state or federal tax credits available to increase employment among specified groups;

C. is full time, unless employment of less than 30 hours per week is determined to be appropriate because of the availability of positions in which the participant can be employed or other individual circumstances;

D. can reasonably be expected to be available on a permanent basis or can reasonably be expected to be followed by employment in positions not subsidized for training purposes by public funds;

E. has a majority of nondisabled individuals as the working peers of the participant; and

F. can reasonably be expected to allow the participant to develop the participant's vocational potential.

Subp. 5. Conversion point score. "Conversion point score" means a numerical value on a scale of standard deviations above or below a mean. It is used to provide a uniform scale to which the quantifiable performance measures, the economic and geographic factors, and the disability index conversion scores can be converted for use in allocating funds.

Subp. 6. Disability adjusted average hourly earnings factor. "Disability adjusted average hourly earnings factor" means an average wage calculation for the extended employment program. The calculation has as its numerator the sum of the products which result from multiplying each participant's disability index conversion score by each participant's total wages in the reporting period. Total wages include remuneration for paid holidays and paid sick, vacation, and other paid leave. The calculation has as its denominator the total number of hours worked in the reporting period by the total unduplicated number of participants. Number of hours worked is defined in subpart 20. The mathematical formula for the wage calculation is represented as follows:

Sum of (the sum of wages in the reporting period for each program participant multiplied by that participant's disability index conversion score)

Total number of hours worked by the total unduplicated number of participants in the reporting period

= Disability adjusted average hourly earnings factor

Subp. 7. Disability index. "Disability index" means an index which measures the effect that disability levels have on participants in achieving their vocational potential. The disability index incorporates by reference the Functional Assessment Inventory (FAI) as revised in May 1983. This inventory was developed and authored by Nancy M. Crewe, Ph.D., and Gary T. Athelstan, Ph.D. and is published by the University of Minnesota. The inventory is not subject to frequent change. It is available for loan and inspection at the State Law Library and for inspection at the Minnesota Department of Jobs and Training, Division of Rehabilitation Services, 390 North Robert Street, Fifth Floor, Saint Paul, Minnesota 55101. The elements of the disability index and the relative power of each element are the following:

A. the total score (sum of 30 ratings) from the FAI with a relative power of 27.09;

B. the receipt of nonemployment income by participants with a relative power of 7.79;

C. the FAI adaptivity factor score which is based upon FAI items 24, 25, 26, 27, 28, and 29 with a relative power of 3.15;

D. the FAI item 30 (rating of initiative) with a relative power of 2.07.

In the formula a constant, 4.4305, is added to four products. The first product results when a factor, -.0509, is multiplied by the FAI total score. The second product results when a factor, 0.7398, is multiplied by the nonemployment income item. The third product results when a factor, .0334, is multiplied by the FAI adaptivity score. The fourth product results when a factor, -.3091, is multiplied by FAI item 30. The values produced are then multiplied by -1. The formula is represented as follows:

$10 + [4.4305 + (-.0509 \times \text{FAI total score}) + (.7398 \times \text{nonemployment income item}) + (.0334 \times \text{FAI adaptivity score}) + (-.3091 \times \text{FAI item 30})] \times -1 = \text{Disability Index}$

Subp. 8. Disability index conversion score. "Disability index conversion score" means an expression of participants' disability indexes in terms of their rank among other participants in a program, converted to a continuous scale from one to four.

Subp. 9. Disability levels. "Disability levels" means the varieties of disabling conditions affecting participants' potential for rehabilitation as measured by the disability index described in subpart 7.

Subp. 10. **Economic conditions.** "Economic conditions" means those economic and geographic factors in the primary service areas surrounding rehabilitation facilities which affect extended employment programs in providing placement opportunities, paying wages, and furnishing service hours to participants. The factors are the following:

- A. annual average county unemployment rate;
- B. average county covered quarterly wages;
- C. county per capita income; and
- D. percent of population below the poverty level.

Information concerning items A to D is available upon request from the Minnesota Department of Jobs and Training, Research and Statistics Office (RASO), 390 North Robert Street, Fifth Floor, Saint Paul, Minnesota 55101. Item A is computed by RASO. Item B is published by RASO in Minnesota Employment and Wages by County and is available for inspection at RASO. Item C is published in the Minnesota Labor Market Information Directory by RASO and is available for inspection at RASO. Item D is provided to RASO by the Office of the Minnesota State Demographer based on the latest United States Census estimates or actual data. Items A to D will be updated annually. If more than one county is contained in a rehabilitation facility's primary service area, data from the counties will be combined and weighted in proportion to the program participants' counties of residence. The factors in items A to D are given equal weight.

Subp. 11. **Extended employment programs.** "Extended employment programs" means programs providing paid work and service hours as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or during such time as employment opportunities for them in the competitive labor market do not exist. Extended employment programs are the following:

- A. long-term employment program as defined in subpart 16;
- B. work activity program as defined in subpart 33;
- C. work component program as defined in subpart 34;
- D. community based employment program as defined in subpart 3.

Subp. 12. **Full-time employment.** "Full-time employment" means employment for an average of 30 hours per week or more in a community based employment program or in competitive employment.

Subp. 13. **Full-time equivalent (FTE).** "Full-time equivalent" or "FTE" means the lesser of the following calculations:

A. A count resulting when the total annual number of work and service hours for each program produced by a rehabilitation facility is divided by 1,560 hours per year for a long term employment program or a community based employment program, by 1,040 hours per year for a work activity program, or by 520 hours per year for a work component program. Service hours may comprise no more than one-quarter of the total hours of participation for each program in a year; or

B. A count of participants in a program during a year. For purposes of this subpart, a participant is counted in the program where the participant accrued the most hours of work during the year and where the participant's annual hours of work and service were at least:

- (1) 120 hours in a long term employment program or a community based program;
- (2) 80 hours in a work activity program; or
- (3) 40 hours in a work component program.

Subp. 14. **Fundamental personnel benefits.** "Fundamental personnel benefits" means benefits for vacation, sick leave, holidays, military leave, maternity leave, jury duty, overtime pay, voting time, social security, and workers' compensation provided to participants in a long-term employment program on a proportional basis as provided to the nonexempt, full-time staff of the rehabilitation facility. "Nonexempt" has the meaning given it in the federal Fair Labor Standards Act of 1938, as amended. However, in no event will the participants be entitled annually to less than five days of paid vacation, five days of paid sick leave, and five paid holidays.

Subp. 15. **Grievance.** "Grievance" means a claim or complaint brought by a participant in a long-term employment program or a representative of the participant involving the in-

terpretation or application of written personnel policies or other written expression of the terms and conditions of employment.

Subp. 16. **Long-term employment program.** "Long-term employment program" means a program which provides paid work to participants on the premises of a rehabilitation facility and service hours to participants on or off the premises, and is distinguished from work activity in the federal Fair Labor Standards Act of 1938, as amended.

Subp. 17. [Repealed, 12 SR 2783]

Subp. 18. **Net program costs.** "Net program costs" means the total direct and indirect costs calculated for each extended employment program less the dollar amount of wages paid to participants in each program and the dollar amount incurred for production supplies in each program.

Subp. 19. **Nonemployment income.** "Nonemployment income" means regular income that is received by the participant from human services programs or other legally obligated sources.

Subp. 20. **Number of hours worked.** "Number of hours worked" means the hours for which a participant receives pay for performing work, including hours of paid holidays and paid sick, vacation, and other leave, but not including service hours as defined in subpart 30.

Subp. 21. **Opportunities for participants to participate in decisions affecting their employment.** "Opportunities for participants to participate in decisions affecting their employment" means organized activities sponsored by the rehabilitation facility to encourage participants' participation in decisions affecting their employment and must include the following:

A. participant representation on safety committees in rehabilitation facilities;
B. at least quarterly meetings where participants may discuss with staff matters of concern affecting their employment; and

C. at least semiannual consultation with participants' representatives at management staff meetings.

Subp. 22. **Participant.** "Participant" means a person with severe physical, mental, emotional, or behavioral disabilities who receives one or more days of service or paid work in an extended employment program during a reporting period.

Subp. 22a. **Participant productivity.** "Participant productivity" means the extent to which a participant is using his or her own current capacity for work in an extended employment program.

Subp. 23. **Placement.** "Placement" means an offer by an employer and acceptance by a participant of competitive employment after a written plan has been developed which specifies the number of hours per week of employment and the provision of services reasonably expected to assure continued employment or work.

Subp. 24. **Program efficiency.** "Program efficiency" means a measurement of the cost of providing a combination of paid work and service hours to program participants in the reporting period. The cost per hour rate results when the allocation for the extended employment program in the reporting period is divided by the combined total of the sum of the number of hours worked by program participants and the sum of the number of service hours provided to program participants in the reporting period. The mathematical calculation is represented as follows:

$$\frac{\text{Program allocation}}{\text{Total hours worked and service hours provided}} = \text{Program efficiency}$$

Subp. 25. **Rate of placement in competitive employment.** "Rate of placement in competitive employment" means a ratio in which the numerator is the sum of the disability index conversion scores of all participants placed in competitive employment during a reporting period and in which the denominator is the total unduplicated number of participants in all extended employment programs offered by a rehabilitation facility during that reporting period. Participants not counted are described in part 3300.2450, subpart 1. The mathematical formula for the calculation is represented as follows:

Sum of disability index conversion
scores of participants placed in
competitive employment

Total unduplicated number of
participants in all extended
employment programs

= Rate of placement
in competitive
employment

Subp. 26. Rate of retention in competitive employment. "Rate of retention in competitive employment" means a ratio in which the numerator is the sum of the disability index conversion scores of participants for each extended employment program who were placed during the previous reporting period and who continued in competitive employment one year or more and in which the denominator is the total unduplicated number of participants in all extended employment programs in the previous reporting period. Participants not counted are described in part 3300.2450, subpart 1. The mathematical formula is represented as follows:

Sum of disability index conversion
scores for all participants placed in
competitive employment during the
previous reporting period who were
employed twelve months or more

Total unduplicated number of participants
in all extended employment programs in
the previous reporting period

= Rate of
retention
in competitive
employment

Subp. 27. Rate of transfer to long-term employment. "Rate of transfer to long-term employment" means a rate derived from a calculation for the work activity program and the work component program in which the numerator is the sum of the disability index conversion scores of the participants who were transferred to long-term employment during the reporting period and in which the denominator is the total unduplicated number of participants of the work activity and work component programs of the rehabilitation facility during the reporting period. The mathematical formula for the calculation is represented as follows:

Sum of the disability index
conversion scores for participants
transferred to long-term employment
in the reporting period

Total unduplicated number of
participants of the work activity
and work component programs in
the reporting period

= Rate of transfer to
long-term employment

Subp. 28. Rate of work and service in community based employment. "Rate of work and service in community based employment" means a ratio in which the numerator is the sum in all extended employment programs of each participant's number of hours worked and paid service hours provided in community based settings multiplied by each participant's disability index conversion score and in which the denominator is the total number of hours of work and paid service hours provided in all extended employment programs offered by a rehabilitation facility. Participants not counted are described in part 3300.2450, subpart 1. The mathematical formula for the calculation is represented as follows:

Number of hours worked and
paid service hours provided
in community based employment
multiplied by each participant's
disability index conversion score

Total number of hours worked and
paid service hours provided in
all extended employment programs

Rate of work
and service
= in community based
employment

Subp. 28a. **Rehabilitation facility.** "Rehabilitation facility" means any entity as defined in Minnesota Statutes, section 129A.01, subdivision 6, that provides one of the extended employment programs as listed in subpart 11, and that is operated by a city, town, county, nonprofit organization, state regional center, or any combination of these.

Subp. 29. **Responsiveness to grievances.** "Responsiveness to grievances" means that (1) a grievance resolution procedure has been implemented with binding arbitration as its final step (2) education and training of participants in the use of the procedure has occurred (3) the procedure has accommodated participants' disabling conditions and (4) the grievances have been responded to in accordance with the approved procedure.

Subp. 30. **Service hours.** "Service hours" means the hours of service which an extended employment program provides to participants to maximize their vocational potential, whether paid or unpaid, which are recognized as an expense incurred by the program. Service hours may be provided either on or off the premises of a rehabilitation facility. Each of the following categories qualifies as hours of service:

- A. money management training;
- B. training in independent living skills;
- C. utilization of public transportation training and drivers training;
- D. training in grooming and personal care skills;
- E. training in job seeking skills;
- F. job and safety training;
- G. coordination of support services;
- H. behavioral management;
- I. sign language training;
- J. social skill training;
- K. simulated work training; and
- L. orientation, mobility, braille, and electronic communications training.

Subp. 31. [Repealed, 12 SR 2783]

Subp. 32. [Repealed, 12 SR 2783]

Subp. 33. **Work activity program.** "Work activity program" means a program within the meaning of Minnesota Statutes, section 129A.01, paragraph (f) and which complies with state and federal law, including the federal Fair Labor Standards Act of 1938, as amended, which provides paid work and other services and which permits a level of production below that required for a long-term employment program.

Subp. 34. **Work component program.** "Work component program" means a cooperative effort agreed to between a rehabilitation facility for a long-term employment or a work activity program and a developmental achievement center licensed by the Minnesota Department of Human Services or other facility to provide a work activity program on a limited scale designed so that the primary responsibility over vocational outcomes will be vested in the long-term employment or work activity program.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2100 [Repealed, 11 SR 394]

3300.2150 CERTIFICATION REQUIREMENTS AND TYPES OF CERTIFICATES.

Subpart 1. Scope. The requirements in this part govern the operation of any extended employment program engaged in, or seeking to engage in, the programs listed in part 3300.2050, subpart 11. Program certification as evidenced by a valid rehabilitation facility certificate is required before the commissioner may provide funding for an extended employment program.

Subp. 2. Full certificate. Requirements for a full rehabilitation facility certificate are the following:

A. The membership of the rehabilitation facility's governing body must comply with the requirements of Minnesota Statutes, section 129A.07.

B. Accreditation by a national accrediting body for rehabilitation facilities must be acquired and maintained by a rehabilitation facility in order for an extended employment program to be certified. For each program seeking certification, the accrediting body must have been approved by the commissioner as appropriate for each program. The criteria the commissioner will use in determining appropriateness for accrediting bodies is:

(1) The accrediting agency is national in the scope of its operations.

(2) The accrediting agency performs no function that would be inconsistent with the formation of independent judgment of the quality of a program.

(3) The accrediting agency makes available to the public the standards and criteria it uses for accreditation purposes, makes regular reports of its operations, and lists the facilities it has accredited.

(4) The agency uses an on-site examination as a basis for securing sufficient and pertinent data concerning the quantitative and qualitative aspects of the program.

(5) The accrediting agency has an adequate organization and effective procedures to maintain its operations on an ethical basis.

(6) The agency reviews at regular intervals the standards and criteria by which it evaluates facilities.

(7) The accrediting agency has had enough experience to indicate its competence to do the job it sets out to do.

C. Each rehabilitation facility must have a risk protection program adequate to preserve its assets and to compensate its staff, volunteers, participants, and the public for reasonable claims for which the entity is liable.

D. Fundraising activities undertaken by a rehabilitation facility must conform to all requirements of state law.

E. When a work component program takes place in a developmental achievement center, the developmental achievement center must be licensed by the Minnesota Department of Human Services. When a work component program takes place in another type of facility the facility must meet applicable licensing or regulatory requirements.

F. Each rehabilitation facility must comply with the Employee Right to Know Act of 1983 (Laws of Minnesota 1983, chapter 316) and chapter 55 of the Minnesota Uniform Building Code.

G. Each rehabilitation facility or extended employment program must comply with all applicable regulations of the Minnesota Department of Labor and Industry and the United States Department of Labor.

H. Each extended employment program must be in compliance with the requirements of other applicable state law and federal laws.

I. Eligibility for extended employment programs must be established by rehabilitation facilities using appropriate standards and criteria. The standards and criteria must be in writing and be made available to the public. The standards and criteria by which persons with severe disabilities are to be determined eligible for participation in each program must include the following:

(1) assurances that persons with severe disabilities, including those with severe behavioral disabilities, will not be categorically denied access to, admission to, full utilization of, or benefit from any extended employment program because of their severe disabilities;

(2) assurances that persons with severe disabilities seeking admission are in need of participation in an extended employment program and are reasonably expected to develop their vocational potential through participation;

(3) assurances that persons with severe disabilities seeking admission to or being served by an extended employment program will not be discriminated against as provided in the Minnesota Human Rights Act, Minnesota Statutes, chapter 363.

J. Each long-term employment program must provide participants with fundamental personnel benefits as defined in part 3300.2050, subpart 14, with a procedure for resolution of grievances which has binding arbitration as a final step and provides responsiveness to grievances as defined in part 3300.2050, subpart 29, and with opportunities for participants to participate in decisions affecting their employment as defined in part 3300.2050, subpart 21.

Subp. 3. Provisional certificate. A provisional rehabilitation facility certificate may be issued to new entities for new extended employment programs or to existing rehabilitation facilities for expanded programs for a specified period of time, not to exceed 18 months. In order to obtain a provisional certificate, all new or expanded extended employment programs covered by the certificate must be in full compliance with all the requirements of subpart 2, except item B. However, the extended employment programs must demonstrate that there is a reasonable likelihood that the programs will meet the requirements in subpart 2, item B, within 18 months. If at the end of the 18-month period all of the programs covered by the provisional certificate have not met the requirements in subpart 2, item B, or are no longer meeting any of the other requirements of subpart 2, the commissioner will not issue a full rehabilitation facility certificate for the programs. However, a rehabilitation facility has the option of removing any noncomplying program from consideration for inclusion under a full certificate. Denial of a full certificate under this subpart means the termination of program certification as provided in part 3300.2250, subpart 7, for all the programs covered by the provisional certificate.

Subp. 4. Probationary certification status. The commissioner may place on probationary certification status any extended employment program that has previously been fully certified where the program no longer completely meets any of the certification requirements in subpart 2, item A, B, or C. Probationary certification status permits a noncomplying program to continue to receive state funding. To qualify for probationary certification status, the rehabilitation facility must first submit a written plan which has been approved by the commissioner and which will bring the program into compliance with the requirements within a reasonable time. If the program is not in full compliance within the time specified by a written plan, certification for the program will be terminated as provided in part 3300.2250, subpart 7. Probationary certification status for one program does not affect program certification for any other complying programs under a full certificate.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2200 [Repealed, 11 SR 394]

3300.2250 CERTIFICATION PROCEDURE.

Subpart 1. Purpose. The purpose of certification is to ensure that all extended employment programs meet minimum requirements for operation.

Subp. 2. Subminimum wage payments. A rehabilitation facility certificate issued under the certification procedure provided by this part does not replace or modify any certificates issued by the United States Department of Labor or the Minnesota Department of Labor and Industry for purposes of subminimum wage payments.

Subp. 3. Single certificate. A single rehabilitation facility certificate will be issued to a rehabilitation facility, and the certificate will specify the type and location of all approved programs. Entities seeking a certificate, including a provisional certificate as provided in part 3300.2150, subpart 3, must complete an official application form available from the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training.

Subp. 4. Responsible organization. When an extended employment program other than a community based employment program is operated cooperatively with a separate en-

tity, the rehabilitation facility certificate will be held by either the extended employment program or the entity whichever meets the requirements of part 3300.2150 and is responsible for payment of wages.

Subp. 5. Time limitation. A rehabilitation facility certificate may not be issued for more than three years.

Subp. 6. Additional programs under certificate. Programs may be added under a rehabilitation facility certificate. However, any additional program must fully comply with all the requirements of part 3300.2150, subpart 2. Once an additional program has met all applicable requirements and is accepted for state funding, the rehabilitation facility certificate must be amended to reflect its inclusion and to specify the type and location of the approved program.

Subp. 7. Termination of program certification. Certification for programs not complying with the requirements of part 3300.2150 will be terminated and allocated state funds will be withdrawn as provided in part 3300.2650. The withdrawal of state funds creates the right of appeal as provided in part 3300.2650, subpart 3. Once a program's certification has been terminated and any right of appeal has been exhausted, the rehabilitation facility certificate must be amended to show the termination. Termination of program certification occurs where:

A. a program covered by a full certificate no longer meets all of the requirements of part 3300.2150, subpart 2; or

B. one or more of the programs covered by a provisional certificate is not successfully brought into compliance as provided in part 3300.2150, subpart 3, resulting in termination of certification for all the programs covered by the certificate; or

C. a program in probationary certification status is not successfully brought into compliance as provided in part 3300.2150, subpart 4.

Statutory Authority: *MS s 129A.08 subd 5*

History: *11 SR 394; 12 SR 2783*

3300.2300 [Repealed, 11 SR 394]

3300.2350 STANDARDS FOR STATE FUNDING.

Subpart 1. Evaluation factors in general. After fulfilling the certification requirements of part 3300.2150 and submitting approved plans and budgets as provided in Minnesota Statutes, section 129A.08, subdivision 2, extended employment programs are eligible to receive state funding. Funding of extended employment programs by the commissioner must take into consideration an evaluation of individual program effectiveness. The evaluation factors to be considered are the following:

A. the disability adjusted average hourly earnings paid to participants;

B. the fundamental personnel benefits provided to long-term employment program participants;

C. the rate of retention in competitive employment;

D. the rate of placement in competitive employment;

E. the rate of work and service in community based employment;

F. the opportunities for participants to contribute to decisions affecting their employment;

G. the responsiveness to grievances of long-term employment program participants;

H. the increases in participant productivity;

I. program efficiency;

J. the disability levels of the participants served, as measured by the average of their disability index conversion scores;

K. economic conditions; and

L. the rate of transfer to long term employment.

Subp. 2. Nonquantifiable evaluation factors. Before an individual program offered by a rehabilitation facility, except a new or expanded program as provided in subpart 6, may

receive state funding under part 3300.2550, the individual program must be in full compliance with the nonquantifiable evaluation factors listed in subpart 1, items B, F, G, and H. An individual program, except a new or expanded program as provided in subpart 6, must remain in full compliance with the nonquantifiable evaluation factors during the reporting period as established by audit or have all allocated funds withdrawn as authorized by part 3300.2650, item C.

Subp. 3. Quantifiable evaluation factors. The quantifiable evaluation factors are listed in subpart 1, items A, C, D, E, I, J, and L. The quantifiable evaluation factors applicable to a long term employment program and a community based employment program are those at subpart 1, items A, C, D, E, I, and J. The quantifiable evaluation factors applicable to a work activity program and a work component program are listed in subpart 1, items A, C, D, E, I, J, and L. An individual program, except a new or expanded program as provided in subpart 6, must attain the applicable minimum standard as provided in subpart 4 or have all allocated funds withdrawn as authorized by part 3300.2650, item D.

Subp. 4. Minimum standard for quantifiable evaluation factors. A program will fail to meet minimum standards when its performance on quantifiable evaluation factors appropriate to the program averages more than one half of one standard deviation below the mean or in the bottom 31 percent compared with similar programs. The minimum standard is one half of one standard deviation below the mean on a scale which averages the conversion point scales for the quantifiable evaluation factors. A new or expanded program is exempt from attaining the applicable minimum standard during its initial two years of operation as described in subpart 6.

Subp. 5. Audit. Before the end of each state fiscal year, the Division of Rehabilitation Services will assess each individual program at least once on its effectiveness as measured by all the evaluation factors in subpart 1, the number of FTEs, the FAI data, and the nonemployment income data. The applicable audited figures from the evaluation factors in subpart 1 and the audited number of FTEs will be used to adjust allocations as found in part 3300.2550, subpart 7. If the total disability indexes resulting from the audited FAI and nonemployment income data vary more than ten percent plus or minus from disability indexes calculated by each individual program, the audited data will be used as the basis to adjust allocations as found in part 3300.2550, subpart 7. If the results of an audit reveal that an individual program, except a new or expanded program as provided in subpart 6, is not fully complying with the nonquantifiable factors in subpart 2, allocated funds will be withdrawn as authorized by part 3300.2650, item C. If the results of an audit reveal that an individual program, except a new or expanded program as provided in subpart 6, has not attained the applicable minimum standard as described in subpart 4, the individual program will be placed on funding probation. After two continuous years on funding probation as established by audit, the individual program must attain the applicable minimum standard by the end of the following year or have all allocated funds withdrawn as authorized by part 3300.2650, item D.

Subp. 6. New program evaluation. An entity offering a new or expanded extended employment program must have been issued a certificate as provided in part 3300.2250 and have submitted an approved plan and budget before it may be eligible to receive state funding and be evaluated under this part. A new or expanded program from its start up must be in full compliance with the nonquantifiable factors listed in subpart 1, items B, F, and G, and must remain in full compliance with those factors during the reporting period as established by audit or have all allocated funds withdrawn as authorized by part 3300.2650, item C. As measured at the end of the first year of operation, a new or expanded individual program must also be in full compliance with the nonquantifiable evaluation factor listed in subpart 1, item H as established by audit, or have all allocated funds withdrawn as authorized by part 3300.2650, item C. As measured at the end of the second year of operation, a new or expanded individual program must meet the applicable minimum standard in subpart 4 or the new or expanded program will be placed on funding probation. After two continuous years on funding probation as established by audit, a new or expanded program must attain the applicable

minimum standard by the end of the following year or have all its allocated funds withdrawn as authorized by part 3300.2650, item D.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2400 [Repealed, 11 SR 394]

3300.2450 OPERATIONAL POLICIES FOR FUNDING STANDARDS.

Subpart 1. Exclusions in calculating rates of placement in competitive employment, retention in competitive employment, and work and service in community based employment. For purposes of the formulas in part 3300.2050, subparts 25, 26, and 28, for rates of placement in competitive employment, retention in competitive employment, and work and service in community based employment, respectively, participants who are over the age of 60 or who have physically degenerative diseases may be excluded from the denominators in the formulas if:

A. each participant so excluded or that participant's guardian/conservator determines that placement in competitive employment or work and service in community based employment would not be an appropriate outcome for the participant;

B. the rehabilitation facility reports the number of persons so excluded and the program in which the participant participates;

C. each rehabilitation facility maintains a record of the names of participants so excluded and the basis of that action; and

D. the physically degenerative disease, where applicable, makes placement in competitive employment or work and service in community based employment clearly improbable and undesirable based upon a thorough evaluation by appropriate professionals, including at least one professional not employed by the rehabilitation facility.

Subp. 2. Policies for calculating the rate of placement in competitive employment. If a participant is placed twice in competitive employment in a given year, both placements may be included in calculating the placement rate as defined in part 3300.2050, subpart 25. Any subsequent placement of that participant in the reporting period will not be considered in calculating the rate of placement. When a participant is placed in competitive employment but also continues on a part-time basis with an extended employment program, the participant will be considered to have been placed in competitive employment if the participant's wages from participation in the extended employment program are at or above 100 percent of the prevailing wage rate for the work performed.

Subp. 3. Policies for calculating rate of retention in competitive employment. A participant who changes from one position to another or one employer to another without returning to the status of participant in an extended employment program is considered to have been retained in competitive employment, as long as no period of unemployment intervenes which lasts longer than one month. When a participant returns to the status of participant in an extended employment program, the participant can no longer be counted as retained in competitive employment. When a participant is placed in competitive employment but also continues on a part-time basis with an extended employment program, the participant will be considered to have been retained in competitive employment if the participant's wages from participation in the extended employment program are at or above 100 percent of the prevailing wage rate for the work performed.

Statutory Authority: *MS s 129A.08 subd 5*

History: *11 SR 394; 12 SR 2783*

3300.2500 [Repealed, 11 SR 394]

3300.2550 ALLOCATION OF FUNDS.

Subpart 1. Statewide program allocation. From the total grant funds available each state fiscal year, the commissioner will establish a statewide program allocation for each of the four extended employment programs unless otherwise directed by the legislature and will determine the number of full-time equivalents for each individual program. The total of the individual program FTEs will constitute the statewide FTE level. The elements of the

statewide allocation for each of the extended employment programs and the weighted relative power of each element in terms of percentages are the following:

A. the net program costs for each statewide program in the previous state fiscal year, with a relative power of ten percent;

B. the net program costs for each statewide program based on budgets submitted for the current state fiscal year, with a relative power of ten percent;

C. the number of FTEs for each statewide program at the end of the previous state fiscal year, with a relative power of 20 percent;

D. the number of hours worked in each statewide program in the previous state fiscal year, with a relative power of ten percent;

E. the need for the services of each statewide program in the current state fiscal year as demonstrated by periodic surveys of the incidence of disability levels and disability types, by periodic surveys of rehabilitation counselors and staff, by research and by waiting lists maintained by rehabilitation facilities, with a relative power of 40 percent; and

F. the effect on services provided to current participants in each statewide program of changes in the level of statewide allocation from the previous state fiscal year, with a relative power of ten percent.

Subp. 2. Statewide program allocation base rate. The commissioner will use 50.5 percent of each statewide program allocation as calculated in subpart 1 to provide a base rate allocation to each individual program offered by a rehabilitation facility in direct proportion to the number of FTEs in these individual programs. The base rate per FTE is determined by dividing 50.5 percent of the statewide program allocation by the total number of full-time equivalents for the statewide program. The mathematical calculation is represented as follows:

$$\frac{(.505 \times \text{statewide program allocation})}{\text{full-time equivalents}} = \begin{array}{l} \text{Uniform} \\ \text{per FTE} \\ \text{base rate} \end{array}$$

The base rate allocation for each individual program is determined by multiplying the per FTE base rate from the above formula by the number of FTEs in the individual program.

Subp. 3. Statewide program allocation set aside. The commissioner will set aside 49.5 percent of each statewide program allocation in each current state fiscal year as determined in subpart 1 in order to distribute allocations to individual programs as provided in subpart 4. The distribution in subpart 4, will be based on evaluation factors found in part 3300.2350, subpart 1. The evaluation factors applicable to each statewide program will be weighted in terms of percentages of each statewide program allocation. The factors and percentages applicable to the extended employment programs are the following:

Funding Factor Weightings by Program, Expressed as Percentages of Total Program Allocation

Factor					
		Long term	Work Activity	Program Work Comp.	Community Based
1.	Disability Level	7	7.5	7.5	7
2.	Economic Conditions	15	15	15	15
3.	Program Efficiency	2.5	2.5	2.5	2.5
4.	Hourly Earnings	7.5	7.5	7.5	7.5
5.	Community based Employment rate	7.5	7.5	7.5	7.5
6.	Competitive Employment Placement Rate	5	3.5	3.5	5

MINNESOTA RULES 1993

3300.2550 TRAINING; COMMUNITY SUPPORT SERVICES

198

7.	Competitive Employment Retention Rate	5	3.5	3.5	5
8.	Transfer rate to Long term		2.5	2.5	
	Total	49.5	49.5	49.5	49.5

Subp. 4. Total individual program allocation. The base rate allocation, calculated in subpart 2, will be increased for each individual program by the program's relative share of the set-aside funds as provided in subpart 3. The commissioner will distribute the set-aside funds according to the individual program's relative standing on each applicable factor. The program's conversion point score for each factor will be calculated when budgets are submitted for the current state fiscal year and will be based on the program's reported performance in the previous year. On each factor, the individual programs whose performance or evaluation value is lowest will receive no additional funds, with the funding level for other individual programs related directly to their standing on the factor.

Subp. 5. Phase-in period and adjustment. For all individual programs, except new programs initially accepted for funding in state fiscal year 1987, each total individual program allocation for fiscal year 1988, as calculated in subpart 4, cannot be adjusted more than 30 percent above or below the previous year's program allocation. For all individual programs, except new programs initially accepted for funding in state fiscal year 1988, each individual program allocation for state fiscal year 1989 as calculated in subpart 4 cannot be adjusted more than 75 percent above or below the previous year's individual program allocation. In all subsequent state fiscal years there will be no limitation on the level of change possible for each individual program allocation. When total phase-in adjustments result in a net gain or loss to a statewide program, that amount will be applied as an addition or reduction to individual program allocations in proportion to their relative FTE size until the applicable 30 percent and 75 percent limitations have been achieved for all programs.

Subp. 6. New or expanded program funding. The commissioner will accept a new or expanded individual program for funding based upon the following:

- A. the need for the new or expanded individual program;
- B. the relationship of the new or expanded individual program to any current programs in terms of defined needs;
- C. the performance of current individual programs; and
- D. the geographic distribution of current programs and the new or expanded program in relationship to geographic needs.

When a new or expanded individual program offered by a rehabilitation facility is accepted for funding, the commissioner will fund its first and second years of operation based upon its relative percentage of the statewide FTE in that program. A new or expanded program's funding will be determined by dividing its FTE by the statewide FTE, and multiplying that fraction times the statewide allocation for that program. A new or expanded individual program has the right to appeal the commissioner's denial of initial funding as provided in part 3300.3050.

$$\frac{\text{New or expanded individual program FTE}}{\text{Total program FTE}} \times \text{Total program allocation} = \text{New or expanded program allocation}$$

Beginning with their third year of operation, new or expanded programs will be funded in the same manner as all other programs.

Subp. 7. Reconciliation. Allocations based on the number of FTEs each fiscal year, the quantifiable evaluation factors, the FAI data, and the nonemployment income data will be reconciled with the actual numbers and data at the end of the reconciliation period as provided in part 3300.2350, subpart 5. Adjustments to the allocations resulting from reconciliations, if any, will be made to allocations for the following state fiscal year. Any rehabilitation

facility aggrieved by a decision of the commissioner under this subpart has the right to appeal using the procedures of part 3300.3050.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2600 [Repealed, 11 SR 394]

3300.2650 WITHDRAWAL OF ALLOCATED STATE FUNDS.

Subpart 1. Criteria for withdrawal of allocated state funds. The commissioner may withdraw allocated state funds from an individual extended employment program which has been accepted for state funding. A program is eligible to receive allocated state funds after it has fulfilled the certification requirements of part 3300.2150 and submitted an approved plan and budget. Allocated state funds will be withdrawn when:

A. unencumbered but allocated state funds are not needed for the individual program to which they were allocated; or

B. an individual program is not being administered in accordance with its approved plan and budget as provided in Minnesota Statutes, section 129A.08, subdivision 2; or

C. an individual program, including a new or expanded individual program as provided in part 3300.2350, subpart 6, has not fully complied with the nonquantifiable evaluation factors found in part 3300.2350, subpart 2, as established by audit; or

D. an individual program, including a new or expanded individual program as provided in part 3300.2350, subpart 6, which has been placed on funding probation, has failed to meet the applicable minimum standard of effectiveness in part 3300.2350, subpart 4, as established by audit for three continuous years following the onset of probation; or

E. program certification has been terminated as provided in part 3300.2250, subpart 7; or

F. an individual program is not being administered in accordance with these rules.

Subp. 2. Notice of withdrawal. In situations governed by subpart 1, the commissioner must give written notice at least 45 days before allocated state funds may be withdrawn from an individual program or programs in a rehabilitation facility, except where there is an imminent danger to the health or safety of program participants. The notice must state the grounds for the withdrawal of funds and must allow a reasonable period of time to remedy the non-compliance. If program certification is to be terminated in addition to the withdrawal of funds, the notice must also state the grounds for the termination. An opportunity for a remedy must be given except where the withdrawal is based on inadequate past performance that cannot be presently corrected, including situations governed by subpart 1, item C, D, or E.

Subp. 3. Right of appeal. Any rehabilitation facility, including a new entity or existing rehabilitation facility operating an extended employment program under a provisional certificate, has the right to appeal the commissioner's withdrawal of allocated state funds from any of its individual programs. The appeal procedure is provided for in part 3300.3050.

Subp. 4. Reinstatement of eligibility to receive funds. After allocated funds have actually been withdrawn from an individual extended employment program and any right of appeal has been exhausted, reinstatement of eligibility to receive funds can only occur when at least one calendar year has elapsed from the date of the withdrawal of funds. Furthermore, a program seeking reinstatement, as measured at the end of the calendar year following withdrawal of funds, must fully satisfy parts 3300.2150, 3300.2250, and 3300.2350.

Subp. 5. Reallocation. Withdrawn funds will be reallocated by the commissioner whenever possible. The commissioner will reallocate by increasing the number of full-time equivalents for extended employment programs capable of serving additional persons.

Statutory Authority: *MS s 129A.08 subd 5*

History: *11 SR 394; 12 SR 2783*

3300.2700 [Repealed, 11 SR 394]

3300.2750 ELIGIBLE APPLICANTS FOR STATE FUNDING.

An application for state funding may be submitted at times the commissioner specifies by a city, town, county, nonprofit organization, state regional center, or any combination of

those, which operates or proposes to operate a public or nonprofit extended employment program.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2800 [Repealed, 11 SR 394]

3300.2850 NET PROGRAM COSTS.

The net program costs attributable to each individual program will be derived from each rehabilitation facility's plan and budget. A plan and budget must be submitted at times specified by the commissioner for the commissioner's approval.

Statutory Authority: *MS s 129A.08 subd 5; L 1988 c 689 art 2 s 267*

History: *11 SR 394; 12 SR 2783*

3300.2900 [Repealed, 11 SR 394]

3300.2950 STATE FUNDING APPLICATION CONTENT.

All applications for state funding must be made on official application forms available from the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training. Applicants must use application forms for the appropriate fiscal year. Assistance in completing the forms may be requested directly from the division at its central office.

Statutory Authority: *MS s 129A.08 subd 5*

History: *11 SR 394*

3300.3000 [Repealed, 11 SR 394]

3300.3050 APPEAL PROCEDURE.

Subpart 1. Scope. The procedure in this part governs all appeals initiated by an aggrieved party having a right of appeal under part 3300.2650, subpart 3, or 3300.2550, subpart 6 or 7.

Subp. 2. Notice of intent to appeal. An aggrieved party appealing a preliminary determination concerning withdrawal of allocated state funds as provided in part 3300.2650, subpart 2, must do so in writing to the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training. The written notice of intent to appeal must be received by the Division of Rehabilitation Services within 30 days from the date that a notice of withdrawal is sent. If the notice of intent to appeal is not received from the appellant within the 30-day period the preliminary determination of the Division of Rehabilitation Services is final. The notice of intent to appeal must state the grounds for the appeal including relevant facts and issues that could be addressed at a contested case hearing.

Subp. 3. Informal contact. No more than 15 days after the Division of Rehabilitation Services receives a notice of intent to appeal, a representative of the commissioner, will contact the appellant and discuss the grounds for the appeal. The contact by the commissioner's representative may be oral or written. Before the end of the 15-day period the commissioner's representative must make a decision concerning the appellant's appeal. The decision by the commissioner's representative must be made in writing, must contain a summary of the nature and basis of the decision and must describe the appellant's appeal rights under subpart 4.

Subp. 4. Contested case appeal. If an appellant has first informally discussed the appeal as provided in subpart 3 and has not been completely satisfied, the appellant may request in writing a contested case hearing before an administrative law judge as provided in Minnesota Statutes, sections 14.57 to 14.62. The contested case hearing will be initiated and conducted according to parts 1400.5100 to 1400.8500.

Subp. 5. Proposal for decision. When an initial decision is rendered, the administrative law judge will prepare a proposal for decision that will be recommended for the commissioner's adoption.

Subp. 6. Decision and order. The commissioner must notify the appellant of a final decision as provided in Minnesota Statutes, section 14.62.

Subp. 7. **Legal representation.** Any party may be represented by legal counsel at any step of the appeals process.

Statutory Authority: *MS s 129A.08 subd 5*

History: *11 SR 394*

INDEPENDENT LIVING CENTERS

3300.3100 MR 1985 [Repealed, 11 SR 394]

3300.3100 SCOPE AND PURPOSE.

Parts 3300.3100 to 3300.3270 govern the certification of centers for independent living as defined in Minnesota Statutes, section 129A.01. The purpose of a center for independent living is to enable persons with disabilities to live and function more independently in their home, family, and community. A center for independent living accomplishes this purpose by promoting consumer control, self-sufficiency, equal access, and local focus in the programming they provide to persons with disabilities.

Statutory Authority: *MS s 129A.10 subd 3*

History: *11 SR 634*

3300.3150 DEFINITIONS.

Subpart 1. **Scope.** When used in parts 3300.3100 to 3300.3270, the terms defined in this part have the meanings given them.

Subp. 2. **Center for independent living.** "Center for independent living" means a private nonprofit organization incorporated under Minnesota law and operated for the purpose of providing independent living services to persons with disabilities. The board of directors for the center for independent living is composed of community representatives, 51 percent of which must be individuals who are either severely disabled themselves or spouses or parents of persons with severe disabilities.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 4. **Eligible applicant organization.** "Eligible applicant organization" means any private nonprofit organization that is incorporated or has applied for incorporation under Minnesota Statutes, chapter 317A, which meets or intends to meet the purpose and board member criteria in subpart 2.

Subp. 5. **Independent living.** "Independent living" means the capacity of a person with a disability to manage the person's affairs, participate in day-to-day life in the community, and to fulfill a variety of social roles with as much personal control as possible.

Subp. 6. **Person with a disability.** "Person with a disability" means an individual who has a physical, mental, or psychological impairment or dysfunction that limits independent functioning in the family, community, or employment.

Statutory Authority: *MS s 129A.10 subd 3*

History: *11 SR 634; L 1989 c 304 s 137*

3300.3200 MR 1985 [Repealed, 11 SR 394]

3300.3200 CERTIFICATION REQUIREMENTS.

Subpart 1. **Purpose.** The purpose of certification is to ensure that a center for independent living meets minimum requirements for operation.

Subp. 2. **Center for independent living certificate.** Certification and a valid certificate is required before the commissioner may provide funding for a center for independent living. Requirements for a certificate are the following:

A. The membership of the board of directors of a center for independent living must comply with the requirements of Minnesota Statutes, section 129A.01, paragraph (h).

B. The center for independent living must be incorporated under Minnesota Statutes, chapter 317A.

C. The center for independent living must assure that individuals with severe disabilities will not be categorically denied access to full utilization of, or benefit from, any in-

dependent living service because of their severe disabilities and will not be discriminated against as provided in the Minnesota Human Rights Act, Minnesota Statutes, chapter 363.

D. The center for independent living must have a risk protection program adequate to preserve assets of the center for independent living and to compensate staff, volunteers, consumers, and the public for reasonable claims for which the center is liable.

E. Fundraising activities undertaken by the center for independent living must conform to all requirements of state law.

F. The center for independent living must be in compliance with chapter 1340 of the State Building Code which requires buildings to be accessible to persons with disabilities.

G. The center for independent living may provide any or all the independent living services described in Minnesota Statutes, section 129A.10, subdivision 1, but must at a minimum provide:

- (1) intake counseling to determine the individual's need for services;
- (2) referral and counseling service with respect to attendant care;
- (3) counseling and advocacy with respect to legal and economic rights and benefits;
- (4) housing and transportation referral and assistance; and
- (5) peer counseling.

H. The center for independent living must provide for substantial involvement by consumers in the policy direction, decision-making, service delivery, and management of the center. Substantial involvement must include the following:

- (1) periodic meetings, at least once a year, of staff and consumers or their representatives; and
- (2) periodic surveys of consumer satisfaction.

Statutory Authority: *MS s 129A.10 subd 3*

History: *11 SR 634; L 1989 c 304 s 137*

3300.3210 [Renumbered 3300.0050]

3300.3250 CERTIFICATION PROCEDURE.

Subpart 1. Eligible applicant organization. An application for certification as a center for independent living may be submitted at times the commissioner specifies by an eligible applicant organization as defined in part 3300.3150, subpart 4.

Subp. 2. Application forms. All applications for certification must be made on official application forms available from the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training.

Subp. 3. Reports, plans, and budgets. When applying for certification, eligible applicant organizations must submit expenditure reports and proposed plans and budgets as required in Minnesota Statutes, section 129A.10, subdivision 4.

Subp. 4. Time limitation. A center for independent living certificate may not be issued for more than three years but a center for independent living may be issued a new certificate if the center complies with the certification requirement of part 3300.3200, subpart 2.

Statutory Authority: *MS s 129A.10 subd 3*

History: *11 SR 634*

3300.3260 TERMINATION OF CERTIFICATION AND PRELIMINARY NOTICE.

Subpart 1. Certification termination. Certification of a center for independent living will be terminated when:

A. a center for independent living is not being administered in accordance with an approved annual plan and budget as required in Minnesota Statutes, section 129A.10, subdivision 4;

B. a center for independent living is not meeting all of the requirements of part 3300.3200; or

C. a center for independent living is not being administered in accordance with parts 3300.3100 to 3300.3270.

Subp. 2. Preliminary determination. In situations governed by subpart 1, the commissioner must give written notice at least 45 days before terminating the certification of a center for independent living, except where there is imminent danger to the health or safety of consumers. The preliminary notice must state the grounds for the termination and must allow a reasonable time to remedy the noncompliance. The preliminary notice of termination of certification creates the right of appeal as provided in part 3300.3270.

Subp. 3. Withdrawal of state funds. Allocated state funds will be withdrawn from a center for independent living whose certification is terminated.

Statutory Authority: *MS s 129A.10 subd 3*

History: *11 SR 634*

3300.3270 APPEAL.

Subpart 1. Scope. A center for independent living operating under a valid certificate has the right to appeal the commissioner's termination of its certification under part 3300.3260, subpart 1.

Subp. 2. Notice of intent to appeal. The center for independent living may appeal a preliminary determination concerning termination of certification as provided in part 3300.3260, subpart 2. The appeal must be in writing to the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training. The written notice of intent to appeal must be received by the Division of Rehabilitation Services within 30 calendar days from the date that a preliminary notice of termination is sent. If the notice of intent to appeal is not received within the 30-day period, the preliminary determination of the Division of Rehabilitation Services is final. The notice of intent to appeal must state the grounds for the appeal including relevant facts and issues that could be addressed at a contested case hearing.

Subp. 3. Informal contact. A representative of the commissioner will contact the appellant and discuss the grounds for the appeal no more than 15 days after the Division of Rehabilitation Services receives a notice of intent to appeal. The contact by the commissioner's representative must be reduced to writing, must contain a summary of the nature and basis of the decision, and must describe the appellant's appeal rights under subpart 4.

Subp. 4. Contested case appeal. If an appellant has first informally discussed the appeal as provided in subpart 3 and has not been completely satisfied, the appellant may request in writing a contested case hearing before an administrative law judge as provided in Minnesota Statutes, sections 14.57 to 14.62. The contested case hearing must be initiated and conducted according to parts 1400.5100 to 1400.8500.

Subp. 5. Proposal for decision. When an initial decision is rendered, the administrative law judge will prepare a proposal for decision that will be recommended for the commissioner's adoption.

Subp. 6. Decision and order. The commissioner must notify the appellant of a final decision as provided in Minnesota Statutes, section 14.62.

Subp. 7. Legal representation. A party may be represented by legal counsel at any step of the appeals process.

Statutory Authority: *MS s 129A.10 subd 3*

History: *11 SR 634*

OPPORTUNITIES INDUSTRIALIZATION CENTERS

3300.3300 OPPORTUNITIES INDUSTRIALIZATION CENTERS; JOB TRAINING.

Subpart 1. Purpose. The purpose of this part is to define "economically disadvantaged" for the purpose of job training and related services through opportunities industrialization centers according to Minnesota Statutes, section 268.61.

Subp. 2. Economically disadvantaged, defined. The term "economically disadvantaged" means an individual who:

A. receives, or is a member of a family which receives, cash welfare payments under a federal, state, or local welfare program;

B. has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of the poverty level determined in accordance with criteria established by the director of the Office of Management and Budget, or 70 percent of the lower living standard income level;

C. is receiving food stamps pursuant to the Food Stamp Act of 1977;

D. is a foster child on behalf of whom state or local government payments are made; or

E. in cases permitted by regulation of the Secretary of the Department of Labor, is an adult handicapped individual whose own income meets the requirements of item A or B, but who is a member of a family whose income does not meet those requirements.

Statutory Authority: *MS s 268.61 subd 4*

History: *9 SR 424*

3300.4010 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4020 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4030 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4040 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4050 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4060 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4065 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4070 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4080 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4090 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4100 [Repealed, 1Sp1985 c 14 art 9 s 78]

3300.4110 [Repealed, 1Sp1985 c 14 art 9 s 78]