

CHAPTER 9515

DEPARTMENT OF HUMAN SERVICES

STATE HOSPITAL ADMINISTRATION

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ADMINISTRATION OF SPECIFIED THERAPIES TO STATE HOSPITAL PATIENTS

9515.0200 PURPOSE.

Parts 9515.0200 to 9515.0800 govern the administration of the treatment methods specified in part 9515.0300 to committed patients residing at state hospitals.

Statutory Authority: *MS s 246.01*

9515.0300 DEFINITIONS.

Subpart 1. **Aversive therapy.** "Aversive therapy" means a treatment procedure where noxious substances or other unpleasant stimuli are used to produce a change in behavior.

Subp. 2. **Coma therapy.** "Coma therapy" means any type of psychiatric treatment where loss of consciousness occurs as a part of the regular treatment process.

Subp. 3. **Convulsive therapy.** "Convulsive therapy" means a type of psychiatric treatment where central nervous system seizures are induced by electrical, chemical, or other means.

Subp. 4. **Functional neurosurgery (psychosurgery).** "Functional neurosurgery (psychosurgery)" is a general term used to describe brain operations done to relieve the symptoms of mental illness, and includes the ablation or destruction of histologically normal brain cells by any medical or surgical procedure. This term includes, but is not limited to, a lobotomy.

Subp. 5. **Schedule II drugs.** "Schedule II drugs" means a general category of drugs controlled by federal law because of increased risk of abuse and/or addiction.

Statutory Authority: *MS s 246.01*

9515.0400 REGULATED TREATMENTS.

The following treatments must be administered pursuant to the provisions of parts 9515.0500 to 9515.0700:

- A. functional neurosurgery (psychosurgery);
- B. electroconvulsive therapy, or any other convulsive therapy;
- C. coma therapy, including insulin;
- D. injection of any chemical substance as an aversive therapy; and

E. medically prescribed maintenance therapy using substances set forth in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, United States Code, title 21, section 812; provided, however, that this rule shall not apply to the prescription of any substance set forth in Schedule II when:

(1) such prescription is made for the treatment of Parkinsonism, epilepsy, hyperperistalsis, narcolepsy, or hyperkinesia; or

(2) such prescription is necessary for the preoperative or postoperative care of the patient.

Statutory Authority: *MS s 246.01*

9515.0500 PROCEDURES.

None of the treatment methods listed in part 9515.0400 shall be administered to a patient committed to a state hospital unless the medical director of the state hospital, on the basis of consultation with the patient's treating physician, has determined in accordance with the provisions of part 9515.0600 that the treatment method is medically indicated for the committed patient; and:

A. The court order committing the patient to the state hospital authorizes administration of the proposed treatment method; or

B. In the case of committed adult patients, written consent is obtained on a form which specifies the nature, purpose, risks and effects of the proposed treatment and advises the patient of the right to consult with any other persons regarding this decision and to withdraw consent at any time. The signed consent shall be accessible to the patient and must include a certification by the medical director of the state hospital or the patient's treating physician that the patient has read and understands the terms of the document and that the patient is competent to give an informed consent to the proposed treatment; or

C. In the case of a committed person who has mental retardation or a related condition, written consent is obtained from the closest responsible relative on a form which specifies the nature, purpose, risks, and effects of the proposed treatment and advises the relative of the right to consult with any other persons regarding the decision and to withdraw consent at any time. The signed consent shall be accessible to the person's responsible relative and must include a certification by the medical director of the state hospital or the resident's treating physician that the relative has read and understands the terms of the document. If the person also is under guardianship or conservatorship of the commissioner, Department of Human Services, Minnesota Statutes, section 252A.11 the commissioner must give the above consent as provided in subdivision 1, paragraph (a) or (g) in addition to the relative's consent. A certification shall be made by the medical director of the state hospital or the resident's treating physician that the person has received an explanation of the proposed treatment to the extent of the person's understanding; or

D. Judicial authorization for the administration of the proposed treatment is granted by a court of competent jurisdiction pursuant to the provisions of part 9515.0700; or

E. In the case of committed minors, including minors with mental retardation or related conditions, treatments regulated by this rule may not be administered without prior judicial authorization pursuant to part 9515.0700.

Statutory Authority: *MS s 246.01; 252.28 subd 2; 256B.092 subd 6; 256B.503*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148*

9515.0600 FACTORS TO BE CONSIDERED IN DETERMINING MEDICAL INDICATIONS.

In assessing whether any of the treatment methods listed in part 9515.0400 are medically indicated for a committed patient, the medical director and the patient's physician shall consider the following factors in relation to such patient:

A. the predicted extent and duration of changes in mental activity and behavior patterns effected by the treatment;

B. the risks of adverse side effects compared with potential benefits to the patient;

C. the experimental nature of the treatment;

D. its acceptance by the medical community of this state and whether less intrusive methods would secure the same benefits;

E. the extent of intrusion into the patient's body and the pain connected with the treatment; and

F. the patient's ability to competently determine whether the treatment is desirable.

Statutory Authority: *MS s 246.01*

History: *17 SR 1279*

9515.0700 HEARINGS.

Subpart 1. **Judicial authorization required.** In cases where the provisions of part 9515.0500, item D apply, none of the treatment methods specified in part 9515.0400 shall be administered absent judicial authorization. The state hospital medical director or a designee shall petition the probate or the county court of the county financially responsible for the patient as specified by Minnesota Statutes, section 256D.18, subdivision 2. Where necessary and appropriate, this court may arrange to have the matter heard in the county of the patient's presence.

Subp. 2. **Contents of petition.** The petition shall state the nature of the proposed treatment, describe its purpose, recite the risks and effects of the procedure, and recite the findings of the medical director and/or treating physician as provided in parts 9515.0500 and 9515.0600.

The petition shall request the appointment of a guardian ad litem to represent the patient and that this person be an attorney if legal counsel is not otherwise available to the patient.

Subp. 3. **Copy of petition for agency.** A copy of the petition shall be supplied to the Human Services Department or other designated agency in the county of financial responsibility in advance of the hearing.

Subp. 4. **County attorney.** The medical director shall seek representation from the county attorney of the county in which the hearing is held. In the event the county attorney is unable to provide such representation, the medical director shall seek legal representation through the Department of Human Services.

Subp. 5. **Cost of hearing.** The cost of such hearings shall be met by the county financially responsible for the patient as specified by Minnesota Statutes, section 256D.18, subdivision 2.

Statutory Authority: *MS s 246.01*

History: *L 1984 c 654 art 5 s 58; 17 SR 1279*

9515.0800 EXCEPTION.

Parts 9515.0200 to 9515.0800 do not affect the administration of generally recognized treatment methods not specified in part 9515.0400.

Statutory Authority: *MS s 246.01*

**REIMBURSEMENT FOR COST OF CARE OF PATIENTS
AND RESIDENTS IN STATE FACILITIES**

9515.1000 SCOPE AND STATUTORY AUTHORITY.

Parts 9515.1000 to 9515.2600 govern the administration of the state facilities cost of care program in the Department of Human Services. Parts 9515.1000 to 9515.2600 are to be read in conjunction with Minnesota Statutes, sections 246.50 to 246.55 and other rules of the department. Parts 9515.1000 to 9515.2600 do not apply to persons admitted to chemical dependency treatment programs who are eligible to have chemical dependency treatment paid for with funds from the consolidated chemical dependency treatment fund under Minnesota Statutes, chapter 254B and parts 9530.7000 to 9530.7030.

Statutory Authority: *MS s 246.01; 246.23; 246.51 subd 2*

History: *L 1984 c 654 art 5 s 58; 12 SR 2252*

9515.1100 [Repealed, 12 SR 2252]

9515.1200 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 9515.1000 to 9515.2600, the following terms have the meanings given them.

Subp. 2. **Business expense.** "Business expense" means the cost of producing income from a business or farm. Capital expenditures and depreciation are not included as part of a business expense.

Subp. 3. **Capital expenditure.** "Capital expenditure" means an investment made to purchase property or to make an improvement to property which has a useful life of more than one year.

Subp. 3a. **Client.** "Client" means a person receiving services at a state facility, whether or not those services require occupancy of a bed overnight. Client includes:

- A. an inpatient;
- B. a resident patient;
- C. an outpatient;
- D. a day patient;
- E. a patient; and
- F. a resident.

Subp. 4. **Cost of care.** "Cost of care" means the cost of providing services to state facility clients, calculated in accordance with Minnesota Statutes, section 246.50, subdivision 5.

Subp. 5. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 6. **Dependent.** "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota state income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent shall be allocated equally among the persons unless the persons choose another allocation.

Subp. 6a. **Financial file.** "Financial file" means financial data collected for the purpose of determining ability of the client or the responsible relative to pay the client's cost of care.

Subp. 7. **Gross income or gross earnings.** "Gross income" or "gross earnings" means all income received except dividends and interest.

Subp. 8. **Homestead.** "Homestead" means the house owned and occupied by the client as his or her dwelling place, together with the land upon which it is situated as limited by Minnesota Statutes, section 510.02.

Subp. 9. [Repealed 10 SR 1589]

Subp. 10. [Repealed, 16 SR 1797]

Subp. 11. **Lump sum payment.** "Lump sum payment" means income received at one time. It includes windfalls, repayment of debts, payments from sale of property, tax refunds, gifts, and inheritances.

Subp. 12. **Net income.** "Net income" means the amount of income remaining after deductions and exclusions from gross income as provided in parts 9515.1000 to 9515.2600.

Subp. 13. [Repealed, 16 SR 1797]

Subp. 14. [Repealed, 16 SR 1797]

Subp. 15. [Repealed, 16 SR 1797]

Subp. 16. **Person.** "Person" means a client, responsible relative, conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney.

Subp. 17. **Personal property.** "Personal property" means all property which is not real property including dividends and interest.

Subp. 18. **Property.** "Property" means everything owned by a person, including money.

Subp. 19. **Real property.** "Real property" means land, including the buildings and improvements on it, and its natural assets, such as minerals and water.

Subp. 19a. [Repealed, 16 SR 1797]

Subp. 20. **Resource.** "Resource" means any property or benefit that is available to pay for the cost of care of the client.

Subp. 21. **Responsible relative.** "Responsible relative" means the spouse and the parents of minor children in that order of liability for cost of care.

Subp. 21a. **Services.** "Services" means all services in a state facility. The following are services:

- A. observation;
- B. care;
- C. treatment;

- D. diagnostic services;
- E. therapeutic services;
- F. counseling services treatment; and
- G. other related assistance.

Subp. 22. **State facility.** "State facility" means a regional treatment center, state nursing home, or other facility, as defined by Minnesota Statutes, section 246.50, subdivision 3.

Statutory Authority: *MS s 246.01; 246.23; 246.51*

History: *8 SR 172; L 1984 c 654 art 5 s 58; 10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.1300 TIME OF DETERMINATION.

Ability to pay the cost of care shall be determined when the client is admitted, when there is a change in the person's financial status, when a client, responsible relative, guardian, conservator, or representative payee reports a change in the financial status used in determining ability to pay, when the client has been hospitalized for 120 days or more, when the client is being discharged, and when the responsible relative's financial status has not been reviewed for one year.

Within the six-year period after the date of a client's discharge from the facility, the department from time to time may, and upon request of the client shall, reevaluate the client's ability to pay any balance of the charge for cost of care.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

In all instances the client shall be present at the interview to determine ability to pay unless the client is a minor or the treatment staff of the state facility attests the client's presence is medically contraindicated. When the client cannot be present at the interview, the reason shall be noted in the financial file for that client.

The client shall be the source of financial information to determine ability to pay except when the management of the client's financial affairs is in the hands of another person. When the client is not the source of financial information the reason shall be noted in the financial file for that client.

When the client is not able to act on his or her own behalf, the person interviewed shall be the client's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the client, a trustee, a representative payee, the client's legal representative, or a county social worker.

If the client is unable to pay the full cost of the care, the responsible relative shall be interviewed.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.1500 FINANCIAL INTERVIEW.

When a person is interviewed, the department shall:

- A. inform the person that he or she may choose an individual to assist in the determination process and any other contact with the department by authorizing such assistance in writing;
- B. provide the person with an informational pamphlet on cost of care and review with the person how the department determines the charges for the client's cost of care;
- C. inform the person that financial information obtained from the person will not be released without the person's written consent except pursuant to Minnesota Statutes, chapter 13;
- D. inform the person of county, state, and federal financial programs which may assist in paying the cost of care and meeting personal and family needs;
- E. inform the person of the legal obligation to provide sufficient information, required documents, and proof necessary to determine ability to pay and of the consequences of the failure to do so;

F. provide the person the following forms which the department uses to investigate the person's financial resources: the financial information form, the insurance claim and assignment of insurance benefits form, and the form or forms consenting to the release of information necessary to obtain or verify information about the person's resources; and

G. request the person to complete and sign the forms provided by the department and to provide verification of financial information.

Statutory Authority: *MS s 246.01; 246.23; 246.51*

History: *8 SR 172; 12 SR 2252; 16 SR 1797*

9515.1600 VERIFICATION REQUIRED.

This process shall be used to substantiate information entered on the signed financial information form. The department shall verify: the person's income, insurance benefits, property, deductions allowed to pay previously incurred debts, and the number of dependents claimed.

Statutory Authority: *MS s 246.50 to 246.55*

History: *10 SR 1589*

9515.1700 CONSENT FORMS.

The person shall provide the department with a separate signed consent form for each verification which must be obtained from a third party. The name, date, and the information authorized shall be on the consent form prior to the person's signature. A blanket authorization may be used for a group of related agencies such as banks or insurance companies.

Statutory Authority: *MS s 246.50 to 246.55*

History: *10 SR 1589*

9515.1800 REFUSAL TO COMPLETE FINANCIAL INFORMATION FORM.

Failure or refusal to complete and sign the required financial information form, apply insurance benefits received to pay the cost of care, or provide signatures required to assign third party benefits and release medical and financial information or verification within 30 days of the interview shall result in the determination that the person is able to pay the full cost of care permitted under Minnesota Statutes, section 246.51 until the person takes the required action.

Statutory Authority: *MS s 246.51 subd 2*

9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.

A determination order and notice of rate showing the cost of care, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian, conservator, or representative payee.

Statutory Authority: *MS s 246.51*

History: *16 SR 1797*

9515.2000 REQUEST FOR REVIEW OF DETERMINATION.

A person who disagrees with the department's determination of ability to pay may request that the department review its decision. The request shall be made in writing within 15 calendar days of the date the order was mailed. The request for review shall include the reasons for disagreeing with the determination order. When a person requests review as provided in this part, the department's determination shall not become final until the department responds to the request for the review. The department shall send the person a notice of the decision after review and a final determination order.

Statutory Authority: *MS s 246.51 subd 2*

9515.2100 APPEAL OF DETERMINATION.

A person may also appeal from the determination order pursuant to Minnesota Statutes, section 246.55.

Statutory Authority: *MS s 246.51 subd 2*

9515.2200 SOURCES OF INCOME CONSIDERED.

Subpart 1. **In general.** The client's ability to pay shall be determined from insurance benefits, net income, and value of property owned.

Subp. 2. **Insurance benefits.** When the investigation of the client's ability to pay discloses eligibility for insurance benefits, the client shall be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. The dollar amount of this coverage need not be specified in the determination order.

When the insurance benefits pay less than the cost of care, the ability of the client to pay the remaining part of the cost of care shall be determined from the client's net income and nonexcluded property.

Subp. 3. **Net income.** The client's entire net income remaining after the deductions from gross income have been made in accordance with part 9515.2300, subpart 4, except Supplemental Security Income paid under section 1611(e)(1)(E) of the Social Security Act, United States Code, title 42, section 1382(e)(1)(E), as amended through November 10, 1986, shall be available to pay the cost of care.

Subp. 4. **Property.** As long as the client owns property not excluded under part 9515.2500, the client shall be determined able to pay the full cost of care.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.2300 NET INCOME OF CLIENT.

Subpart 1. [Repealed, 10 SR 1589]

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of retirement, survivors, and disability insurance shall be excluded as property for six months if retained after the month of receipt. The client shall report the lump sum to the department within ten working days.

Subp. 3. **Seasonal income from business or farm.** Average monthly amounts for gross income and the deductions allowed in subpart 4 shall be used to calculate the net monthly income of farmers and other individuals who experience seasonal variations in income and business expenses.

Subp. 4. **Deductions from gross income to arrive at net income.** The following items shall be deducted from the client's monthly gross income:

- A. State and federal income tax payments, including back assessments.
- B. Payments made under the Federal Insurance Contributions Act and Supplemental Medical Insurance.
- C. Child care costs paid by the client and not reimbursed from any source.
- D. Support payments ordered by a court and actually paid. If this deduction is taken, the individual for whom support is paid shall not be included as a member of the client's household in determining the monthly household living allowance in part 9515.2400.
- E. Guardianship fees.
- F. Monthly payments on previously incurred bills for medical, dental, and hospital care, car payments, house payments or rent, and utilities. The deduction allowed shall be the lesser of the sum of the actual monthly payments or \$100 per month.
- G. Personal expenses of employment, including mandatory retirement fund deductions, cost of transportation to and from work, work uniforms, union dues, dues of a professional association required for employment, and cost of tools and equipment used on the job. The amount deducted for costs of transportation to and from work shall be either the actual cost of public transportation or a per mile reimbursement as paid by the state to an employee using a personal car on state business for actual miles traveled.
- H. Hospital and medical insurance premiums.
- I. Business and farm expenses as reported on United States income tax returns. The cost of repairs and upkeep of income producing property which may be deducted shall be limited, on an annual basis, to two percent of the value of the property.

J. An allowance of \$86 per month per boarder, \$71 per month per roomer, and \$157 per month for each person who is both a roomer and boarder. This amount shall be updated periodically by the percentage the legislature authorizes for public assistance grants.

K. A personal needs and clothing allowance of the client in the amount determined under Minnesota Statutes, section 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all clients in state facilities. The special personal allowance shall not exceed 50 percent of net monthly income.

L. Sixty percent of the income earned from child care in one's own home or, if the client chooses, the actual itemized business expenses incurred in providing child care subject to the limitations provided in parts 9515.1200, subparts 2 and 3; and 9515.2300, subpart 4, item I.

M. A client receiving inpatient services without dependents living in his or her home shall be allowed the actual cost of his or her housing and utilities in the community for the month of admission and a period of three months of continuous hospitalization subsequent to that admission. A client receiving inpatient services with dependents living in his or her home shall be allowed a pro rata share of his or her household's total actual housing costs during the month of admission and for a period of three months of continuous hospitalization subsequent to that admission. This housing allowance shall be available to the client receiving inpatient services only twice in any one calendar year regardless of the number of times the client is admitted to a state facility in that calendar year. A client receiving outpatient services or former client shall be allowed the actual cost of his or her housing and utilities.

N. A monthly household living allowance calculated according to the schedule in part 9515.2400.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *8 SR 172; 10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

Number in Household	Monthly Household Living Allowance
1	\$ 539
2	\$ 809
3	\$1,073
4	\$1,349
5	\$1,618
6	\$1,888
over 6	\$1,888 plus \$ 280 for each additional person

The number of persons in the household of a client receiving inpatient services is the number of dependents the client claims. The number in the household of a client receiving outpatient services or former client shall be the client plus the number of dependents claimed. The gross monthly income of a client's spouse, if any, shall be deducted from the housing allowances shown above.

By July 1 of each year, the department shall adjust the monthly household living allowance to reflect the annual percentage change reported in the most recent Consumer Price Index, for all urban consumers in the Minneapolis-Saint Paul area. The Consumer Price Index shall be as published by the Bureau of Labor Statistics, United States Department of Labor. The year 1967 is the standard reference base period.

By July 1 of each year, the department shall publish the adjusted monthly household living allowance in a department bulletin.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.2500 PROPERTY OF CLIENT.

Subpart 1. **In general.** Property shall be available to pay for the cost of the client's care to the extent owned by the client, subject to the exclusions in subparts 2 to 7.

Subp. 2. **Real property.** The value of the client's homestead is excluded from consideration as a resource.

The value of real property owned by the client which produces a net income is excluded from consideration as a resource. Real property which the client is selling on a contract for deed and for which the client receives payments is considered income producing property.

Subp. 3. **Personal property.** The value of the following personal property is excluded from consideration as a resource:

A. the value of personal property other than stocks, bonds, and other investment instruments which is owned by the client and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

B. the cash or liquid assets for a single client and the cash or liquid assets for a married couple shall be the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended;

C. Indian claim payments made by Congress to compensate for tribal land taken by the federal government;

D. Minnesota Housing Finance Agency loans for nine months after issuance;

E. one vehicle;

F. household goods and furniture;

G. clothing;

H. manufactured home used as a home by the client or the client's dependents;

I. personal jewelry;

J. bicycles;

K. cameras;

L. life insurance owned by the client is the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended;

M. trust funds, however trust funds are not excluded from consideration if the trustee is required or has discretion to use the funds for paying the cost of care or the funds are designated for care, support, maintenance, or medical care even if the trust requires that public funds must first be exhausted; and

N. burial expenses, including a burial lot and a prepaid burial account, shall be the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended.

Subp. 4. **Waiver of property as a resource.** The department shall waive consideration of property in excess of the exemptions when the client's equity cannot be liquidated, the offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price.

Each case shall be referred to the department's reimbursement division central office and decided on the merits of the facts recorded in the client's financial file to substantiate the circumstances.

The decision to waive the consideration shall be examined at least annually for changes in market value, opportunity for sale or mortgage, and other pertinent factors.

Subp. 5. **Transfer of property.** The market value of any property transferred, less any value received, shall be treated as an available resource if the property is valued at more than \$1,000 and if the transfer is for less than the market value and if the transfer is made:

A. during or after hospitalization in a state facility; or

B. prior to hospitalization in a state facility, but with intent to avoid the use of the property to pay for facility care or in determining ability to pay for care; or

C. prior to hospitalization in a state facility but within 24 months of admission.

Subp. 6. **Documentation required.** When property described in subpart 5 is transferred during the period between two years prior to admission to a state facility and six years following discharge, the client or the representative shall provide documentation of the circumstances of the transfer.

Subp. 7. **Exemption.** The provisions of subparts 5 and 6 do not apply when the client is not continuing to accrue charges and the full cost of care has been paid. The provisions of subparts 5 and 6 do not apply to property excluded from consideration under other provisions of parts 9515.1000 to 9515.2600.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: 8 SR 172; 10 SR 1589; 12 SR 2252; 16 SR 1797

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subpart 1. **In general.** When the client is determined not to be able to pay the full cost of care, the department shall determine the ability of each responsible relative of the client to pay the amount permitted by statute.

Subp. 2. **Interview.** The responsible relative shall be contacted to obtain and verify financial information.

Subp. 3. **Insurance benefits.** The responsible relative shall inform the department about dependent benefits from hospital and medical insurance carried by the relative.

Dependent benefits to a client shall be considered the same as the client's insurance.

Any difference between benefits to a client and others covered by the responsible relative's policy shall be verified.

The responsible relative shall complete and sign the forms necessary to verify eligibility for benefits and assign benefits to pay the cost of care of the client.

The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

Subp. 4. **Liability of responsible relatives.** When the sum of the benefits described in subpart 3 and the client's other resources pay less than the full cost of care, the ability of each responsible relative to pay shall be determined in the statutory order of liability for cost of care. When two responsible relatives have the same order of liability for cost of care, a determination shall be made for each one except that a joint determination shall be made for parents who reside in the same household.

Subp. 5. **Limitations on relative's ability to pay.** The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the following limitations:

A. A responsible relative who verifies annual gross earnings of less than \$11,000 shall be determined not able to pay the cost of care.

B. No responsible relative who is a resident of Minnesota shall be ordered to pay more than ten percent of the cost of care for each client except that the responsible relative who has failed to provide the information, documents, and proofs which are necessary to determine ability to pay as required by part 9515.1500, items F and G may be ordered to pay the full cost of care until such time as they are provided.

C. The department may require full payment of the full cost of care for a client whose parents or parent, spouse, guardian, or conservator do not reside in Minnesota and are financially able to pay as determined by the department.

D. Only the annual gross earnings of the spouse of a client shall be used to determine the spouse's ability to pay.

E. When a responsible relative is married to a person who is not a responsible relative, only the annual gross earnings of the responsible relative shall be used to determine the responsible relative's ability to pay.

F. The department may accept from the responsible relatives voluntary payments in excess of ten percent.

G. The liability of parents for cost of care provided to minor children shall be determined according to Minnesota Statutes, section 252.27, subdivision 2, and rules adopted under that section.

Subp. 6. **Determination of relative's ability to pay.** A responsible relative who provides the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G shall have his or her ability to pay determined from the table in subpart 8. For purposes of this table, household size consists of the responsible relative and the responsible relative's dependents living in the responsible relative's household, other than the client.

A responsible relative who chooses not to provide the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G may be determined liable for the full cost of care.

Subp. 7. **Purpose of table.** The table in subpart 8 shall be used to determine a relative's ability to pay, as described in subpart 6. When there is a change in the cost of care, the department shall revise subpart 8. Adjustments shall be made according to the following formula: at each level of annual gross earnings, daily payments equal to ten percent of the cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the cost of care for the current year; the daily payment of a responsible relative whose earnings are above these levels shall be at ten percent of the current cost of care.

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Subp. 8. Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000- 11,999	.33	0								
12,000- 12,999	.45	.33	0							
13,000- 13,999	.57	.45	.33	0						
14,000- 14,999	.72	.57	.45	.33	0					
15,000- 15,999	.87	.72	.57	.45	.33	0				
16,000- 16,999	1.05	.87	.72	.57	.45	.33	0			
17,000- 17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000- 18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000- 19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000- 20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000- 21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000- 22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000- 23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000- 24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000- 25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000- 26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23

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27,000- 27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000- 28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
29,000- 29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000- 30,999	21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000- 31,999	23.30	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000- 32,999	26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000- 33,999	27.15	22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000- 34,999	27.15	27.15	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000- 35,999	27.15	27.15	20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000- 36,999	27.15	27.15	25.06	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000- 37,999	27.15	27.15	27.15	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000- 38,999	27.15	27.15	27.15	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000- 39,999	27.15	27.15	27.15	22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000- 40,999	27.15	27.15	27.15	27.15	14.76	11.81	9.45	7.56	6.12	5.67
41,000- 41,999	27.15	27.15	27.15	27.15	18.45	14.76	11.81	9.45	7.56	6.12
42,000- 42,999	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81	9.45	7.56
43,000- 43,999	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81	9.45
44,000- 44,999	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81
45,000- 45,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76
46,000- 46,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45
47,000- 47,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06
48,000- 48,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15

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Subp. 9. **Maximum rate.** When the annual gross earnings exceed the amount shown in the table in subpart 8, the daily payment shall be at the statutory limitation of ten percent of the cost of care.

Subp. 10. **Verification of financial information.** The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return, from the United States income tax return.

The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the client shall be verified.

Subp. 11. **Clothing and personal needs allowance of a minor.** The parents of a client who is an unmarried, dependent child are responsible for meeting the child's clothing and personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *8 SR 172; 10 SR 1589; 12 SR 2252; 16 SR 1797*