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CHAPTER 9550 DEPARTMENT OF HUMAN SERVICES GENERAL ADMINISTRATION OF SOCIAL SERVICES

ADMINISTRATION OF COMMUNITY SOCIAL SERVICES

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ADMINISTRATION OF COMMUNITY SOCIAL SERVICES

9550.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9550.0010 to 9550.0092 the following terms have the meanings given them.

Subp. 2. **Approved vendors.** "Approved vendors" means providers of community social services that have met the standards established by state licensing laws, department rules, or, in the absence of state law or rule, local agency criteria established in accordance with part 9550.0040, subpart 4.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or his or her designee.

Subp. 4. **Community social services.** "Community social services" means the services included in a county's community social services plan in order to fulfill the county responsibility, as prescribed in Minnesota Statutes, section 256E.08, subdivision 1, to target populations specified in Minnesota Statutes, section 256E.03, subdivision 2. These services are administered by county boards and provided or arranged for the target populations according to the county board's community social services plan.

Subp. 5. **Community social services plan.** "Community social services plan" means the biennial social services plan required of the county board by Minnesota Statutes, section 256E.09, subdivision 3.

Subp. 6. **County board.** "County board" means the county board of commissioners in each county. When a human services board has been established under Minnesota Statutes, sections 402.02 to 402.10 it shall be considered to be the county board for purposes of this chapter.

Subp. 7. **County of financial responsibility.** "County of financial responsibility" means the county responsible for the payment of individual client social services under Minnesota Statutes, section 256E.08, subdivision 7.

Subp. 8. **County of service.** "County of service" means the county arranging for or providing community social services to individual clients at the request of the client, the client's representative, or the county of financial responsibility.

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Subp. 9. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 10. **Developmental achievement services.** "Developmental achievement services" means those community social services provided to a client with mental retardation or a related condition on a scheduled basis for periods of less than 24 hours each day away from the client's place of residence in order to assist the client in developing and maintaining life skills and community integration.

Subp. 11. **Emergency social services.** "Emergency social services" means immediate intervention on behalf of an individual to stop or prevent abuse, neglect, harm, or exploitation by others, or to prevent an individual from harming himself or herself or others when there is reason to believe the individual may do so. Social services that are initiated as emergency social services shall cease to be considered emergency social services if extended beyond 30 consecutive days.

Subp. 12. **Goal.** "Goal" means the desired outcome of an activity.

Subp. 13. **Host county.** "Host county" means a county contracting for the provision of social services with an approved vendor within its county boundaries at the request of another county.

Subp. 14. **Individual service plan.** "Individual service plan" means the plan agreed upon between the local agency and the client or client's representative for the provision of social services to the client by the local agency.

Subp. 15. **Local agency.** "Local agency" means the social services agency authorized by the county board to provide community social services.

Subp. 16. **Objectives.** "Objectives" means the specific steps to be taken in order to achieve a desired goal. Objectives must be quantifiable, measurable, and set within a specific time frame.

Subp. 17. **Outcome.** "Outcome" means the measure of change or the degree of attainment of specified goals and objectives resulting from the provision of service to a client or clients.

Subp. 18. **Placement agreement.** "Placement agreement" means a written document specifying the terms for provision of services to a client that is signed by the approved vendor and the county of financial responsibility or its designee.

Subp. 19. **Publish.** "Publish" means to print in the official newspaper of the county, or if there is no official newspaper, in a newspaper of general circulation in the county.

Subp. 20. **State facility.** "State facility" means the state hospitals located at Anoka, Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, Saint Peter, and Willmar; Ah-Gwah-Ching and Oak Terrace Nursing Homes; and the state schools for the deaf and blind located at Faribault.

Subp. 21. **Target populations.** "Target populations" means the groups of persons, identified by Minnesota Statutes, section 256E.03, subdivision 2, whose members are potential recipients of community social services provided or arranged for by county boards.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0020 COUNTY RESPONSIBILITY FOR COMMUNITY SOCIAL SERVICES.

Subpart 1. **Responsibility of counties.** A county board is responsible for administering, planning, monitoring, and evaluating community social services, and for disbursing funds made available for community social services under Minnesota Statutes, sections 256E.06 and 256E.07.

Subp. 2. **Recipients of services.** A county board shall provide community social services in accordance with Minnesota Statutes, section 256E.08, subdivi-

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sion 1, to groups of persons identified in Minnesota Statutes, section 256E.03, subdivision 2.

Subp. 3. Methods of providing services. A county board shall provide community social services directly through the local agency, by contracting with or through grants to approved vendors or by arranging for the voluntary provision of services at no cost to the county board.

Subp. 4. Eligibility policy and criteria. The county board shall establish eligibility policies and criteria for community social services. The eligibility policies and criteria established by the county board must be described in the county's biennial community social services plan. The inclusion of the county board's eligibility policies and criteria shall be one condition of the department's approval of the county's community social services plan as provided under part 9550.0030, subpart 4, item C.

Subp. 5. Annual effectiveness report. The county board shall submit an annual effectiveness report to the commissioner pursuant to Minnesota Statutes, section 256E.10, subdivision 1. The report must include an evaluation of the outcomes of each service based on the achievement of measurable goals and objectives.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0030 COMMUNITY SOCIAL SERVICES PLAN.

Subpart 1. County board responsibility. No later than 120 calendar days after receipt of plan format and instructions from the department, the county board shall submit a proposed biennial community social services plan to the commissioner for certification.

Subp. 2. Citizen participation. The county board shall provide opportunities for citizens, including users and approved vendors to participate in the development of the community social services plan.

Subp. 3. Publication of plan. Upon submission of the proposed plan to the commissioner, the county board shall publish notice of the availability of their proposed community social services plan and make the proposed plan available to residents of the county upon request.

Subp. 4. Minimum standards. The county board shall comply with the following minimum standards in order to obtain certification from the commissioner that the community social services plan fulfills the purposes and requirements of Minnesota Statutes, section 256E.09, state and federal law, and the rules of the department.

A. The proposed community social services plan must provide the following documentation of citizen participation in the development of the plan:

(1) documentation that notice of opportunities for citizen participation was published at least 60 calendar days prior to the publication of the proposed plan;

(2) documentation of the methods and timetables chosen by the county board in order to achieve citizen participation;

(3) a summary of the content and source of public comments; and

(4) documentation of the effect which public comments had on needs assessment, on selection of priorities within and services to be offered for each target population, and on the allocation of money for those services.

B. The plan must specify each target population group or subgroup identified in Minnesota Statutes, section 256E.03, subdivision 2. Target populations included under Minnesota Statutes, section 256E.03, subdivision 2, clause (i), must be consistent with the overall purpose of Minnesota Statutes, chapter 256E.

C. The plan must include eligibility policies and criteria and client fee policies and schedules.

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D. The plan must include the methods used to assess the needs of each target population group or subgroup for community social services, and the information obtained through the needs assessment process. The plan must contain information which indicates:

- (1) total county population for each target population;
- (2) availability and capacity of community resources, both public and private, including associations of volunteers;
- (3) needed but unavailable resources;
- (4) new resources to be developed during the biennium;
- (5) for persons from each target population:
 - (a) the number of persons currently residing in a state facility;
 - (b) the number of persons currently residing in a state facility for whom available community resources exist;
 - (c) service development needed to move additional persons out of state facilities;
 - (d) the estimated number of current state facility residents who will continue to need state facility services; and
 - (e) the estimated number of new state facility admissions;
- (6) the priorities for meeting the needs of each target population;
- (7) the methods used for setting these priorities; and
- (8) the unmet needs of each target population.

E. The plan must include for each target population group or subgroup at least one biennial goal that reflects the needs assessment for that target population. For each goal, the plan must include at least one specific objective for each calendar year in the biennium.

F. The plan must include strategies for early intervention, prevention, and education designed to reduce or eliminate the need for services for each target population.

G. The plan must specify how the county board plans to make the following services available for persons identified by the county as in need of these services:

- (1) developmental achievement services;
- (2) subacute detoxification services;
- (3) residential services; and
- (4) nonresidential social support services.

H. The plan must identify for each target population all services the county board proposes to provide, who the service providers shall be, and the planned expenditures for each service. The plan must specify how the county board plans to facilitate access of physically handicapped or impaired persons to the services the county board proposes to provide.

I. The plan must contain evidence that serious consideration was given to the purchase of services from both private and public agencies, a statement of the county board's policies on purchase of service contracts, and local agency criteria for approval of vendors established under part 9550.0040, subpart 4.

J. The plan must identify all anticipated federal, state, and local funding sources, and all anticipated expenditures for community social services. The planned expenditures must reflect the assessed needs of each target population and must support the implementation of the services designed to meet the stated goals and objectives for each target population.

K. The plan must describe the methods that the county board plans to use for monitoring and evaluating community social services during the biennium.

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Subp. 5. Publication of final plan. The county board shall publish a final community social services plan no later than 60 days following certification of the final plan by the commissioner, and make the plan available to residents of the county upon request.

Subp. 6. Duration of plan. The community social services plan shall be in effect from January 1 of each odd-numbered year through December 31 of the following year.

Subp. 7. Amendment to plan. The county board shall amend its community social services plan pursuant to Minnesota Statutes, section 256E.09, subdivision 6, and this subpart when the county proposes to:

A. add, reduce, or delete a service;

B. change eligibility categories, including expansion, restriction, or deletion of a category; or

C. change fee policies or schedules.

The county board shall publish notice of the proposed amendment and make it available to county residents upon request. The county board shall permit the public to review and comment on the proposed amendment for a minimum of 30 calendar days following notice of the proposed amendment. If the county board approves the proposed amendment following the period for public comment, it shall submit the amendment to the commissioner.

All provisions of the current approved plan must remain in effect until the proposed amendment becomes final. The proposed amendment becomes final when the commissioner certifies that the amended plan fulfills the purpose and requirements of the law and rules of the department.

Subp. 8. Exception to amendment process. A county board need not go through the amendment process to implement the following changes:

A. a specific proposal already contained in the approved community social services plan for a future change of the type specified in subpart 7, items A to C, provided the dates of proposed implementation are included in the original plan; or

B. a contingency plan, already specified in the approved community social services plan, for prioritizing and delivering services not required by federal or state law or regulation when funds are insufficient to provide services to all applicants.

Subp. 9. County board right to appeal. Before the commissioner certifies any reductions in aid under Minnesota Statutes, section 256E.05, subdivision 2, the commissioner shall give 30 days written notice to the county board. The written notice shall inform the county board of the reasons its community social services plan is not approved, the commissioner's intent to certify a reduction in the county board's next quarterly payment, and the county board's right to a hearing under the contested case procedures of Minnesota Statutes, chapter 14. If the commissioner receives a written appeal from the county board within 30 days of the date the written notice is sent, the commissioner shall initiate a contested case proceeding. The commissioner shall not certify any reduction in aid until the hearing is conducted and a decision rendered in accordance with Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0040 GRANTS AND PURCHASE OF SERVICE CONTRACTS.

Subpart 1. Authority. The local agency may purchase community social services by grant or purchase of service contract from public, nonprofit, or proprietary agencies or from individuals approved as vendors. Services purchased in this manner must be identified in the biennial community social services plan and must conform to the standard contract procedures established by this part.

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Subp. 2. Grant and contract requirements. Grants and contracts for the purchase of community social services must contain the following:

- A. the beginning and ending dates of the grant or contract;
- B. an explicit description of the service or services to be purchased;
- C. the total dollar amount of the grant or contract;
- D. the unit cost of the services provided, either by hour, day, week, or month;
- E. a statement affixing responsibility for making a preliminary determination of client eligibility in accordance with the criteria established by the community social services plan;
- F. a statement that the amount, frequency, and duration of purchased services will be provided in accordance with the client's individual service plan and, where applicable, the individual habilitation plan, and shall be directed toward clients' achievement of goals and objectives;
- G. procedures for discharge or termination of services to an individual client;
- H. the site where the services will be provided;
- I. procedures for certification of expenditures;
- J. procedures for reimbursement;
- K. an itemized list of program and fiscal records to be maintained by the approved vendor;
- L. a retention schedule for program and fiscal records;
- M. local agency procedures for monitoring and evaluation of the grant or contract, including monitoring and evaluating clients' achievement of goals and objectives identified on individual service plans;
- N. statement of compliance with the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13;
- O. provisions for bonding, indemnification, auditing, and insurance;
- P. grounds for termination of the grant or contract; and
- Q. provisions, consistent with Minnesota Statutes, chapter 13, permitting the local agency, the department, and the Department of Health and Human Services access to and authority to copy program and fiscal records.

In addition, if proof of applicable licensure or certification and an exposition of staffing, including job descriptions and professional qualifications of personnel, are not contained in the body of the grant or contract, the grant or contract must have them attached to it.

Subp. 3. Duties of local agency. The local agency shall:

- A. Use a written grant or contract containing all provisions specified in subpart 2 when purchasing community social services. Every grant and purchase of service contract shall be completed, signed, and approved by all parties to the agreement, including the county board. Grants and contracts with individual approved vendors for an amount not to exceed \$10,000 in a calendar year need not be signed by the county board if the county board has designated the local agency to sign on its behalf. No service shall be provided before the effective date of the grant or contract.
- B. Determine client's eligibility for purchased services, or delegate the responsibility for making the preliminary determination to the approved vendor under the terms of the grant or contract;
- C. Develop an individual social service plan based on the needs of the individual;
- D. Provide services required in accordance with individual service plans;

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E. Monitor purchased services and evaluate grants and contracts on the basis of outcomes; and

F. Purchase only from approved vendors.

Subp. 4. Local agency criteria. When the local agency chooses to purchase community social services from a vendor that is not subject to state licensing laws or department rules, the local agency shall establish written criteria for vendor approval which will ensure the health, safety, and well-being of service recipients. The local agency criteria must be included in the community social services plan.

Subp. 5. Case records and reporting requirements. Case records and data reporting requirements for grants and purchased services are the same as case record and data reporting requirements for direct services.

Subp. 6. Files. The local agency shall keep an administrative file for each grant and contract. The file must contain:

A. a copy of the signed and completed grant or contract;

B. copies of correspondence between the approved vendor and the local agency;

C. copies of monitoring and evaluation reports;

D. copies of correspondence between the local agency and the department relating to the grant or contract;

E. copies of hearing transcripts, complaints, grievances, and inquiries relating to grant or contract performance; and

F. financial, statistical, social services, and any other reports specified in the grant or contract.

Subp. 7. Host county contracts. The following provisions govern host county contracting:

A. The local agency of the county where an approved vendor is located shall negotiate and administer host county purchase-of-service contracts on behalf of other local agencies requesting to purchase services from the approved vendor, unless one of the exceptions in subpart 8 apply.

B. All local agencies that purchase services from an approved vendor who has entered into a host county contract shall abide by the terms of the contract.

C. The host county shall monitor the terms of the contract.

D. The host county shall make available, upon request of other local agencies, copies of the host county contract.

Subp. 8. Exceptions to host county contracts. Host county contracting is not required where the following exceptions apply:

A. The local agency of the county where an approved vendor is located shall not negotiate a host county contract unless asked to do so by another local agency wishing to purchase from that approved vendor.

B. A local agency may refuse to act as the host county in situations where the prospective vendor has failed to comply with the terms of a past contract or has had a prior contract terminated within the last 12 months for failure to provide adequate services. A county of financial responsibility may not contract directly with an approved vendor located in another county when the exception in this item applies.

C. A local agency within the geographic area served by a community mental health board authorized by Minnesota Statutes, sections 245.61 to 245.69, may contract directly with that community mental health board. However, if a local agency outside of the geographic area served by a community mental health board wishes to purchase services from the board, the local agency shall follow the requirements in subpart 7.

Subp. 9. Placement agreements. A placement agreement must be used for res-

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idential services. Placement agreements are valid when signed by authorized representatives of the facility and the county of financial responsibility. If the county of financial responsibility is other than the county where the approved vendor is located, the county of financial responsibility must mail a copy of the placement agreement to the county of service within ten calendar days of the date the placement agreement is signed. The placement agreement must specify that the service provided shall be in accordance with the individual service plan as required under part 9550.0090, subpart 2, and must specify the unit cost, the date of placement, and the date for the review of the placement. A placement agreement may also be used for nonresidential services.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0050 AGREEMENTS BETWEEN COUNTY OF SERVICE AND COUNTY OF FINANCIAL RESPONSIBILITY.

Subpart 1. Agreement required. When a local agency takes an application from a client who is the financial responsibility of another county, the local agency in the county of service shall obtain a written agreement to the individual service plan and assurance of reimbursement from the county of financial responsibility before providing services to the client. When emergency social services are necessary, this prior agreement is not required.

Subp. 2. Client information for county of financial responsibility. The county of service shall send the county of financial responsibility copies of the client's application, eligibility documents, and individual service plan. These documents must be sent within five calendar days of the date the application process has been completed.

Subp. 3. Disapproval of an individual service plan by county of financial responsibility. The county of financial responsibility may disapprove an individual service plan for one or more of the following reasons:

A. the proposed service or eligibility category does not appear in the county of financial responsibility's community social services plan;

B. the client's need for service is not established to the satisfaction of the county of financial responsibility; or

C. the county of financial responsibility makes an alternative offer of service within its own county that meets the needs of the client.

When the county of financial responsibility disapproves an individual service plan, the county shall document the reasons for the decision and shall send this information to be received by the client and the county of service no later than 25 calendar days after receiving the client's application, eligibility documents, and the individual service plan.

Subp. 4. Implied consent and agreement to pay. If the county of financial responsibility fails to respond to the documents sent to it by the county of service within the time period in subpart 3 or 7, the county waives its right to refuse consent and becomes responsible for payment.

Subp. 5. Notice to client. Within 15 calendar days of receipt of the county of financial responsibility's decision, the county of service shall notify the client in writing that the county of financial responsibility approves or disapproves the individual service plan. If the county of financial responsibility disapproves the individual service plan, the county of service shall advise the client in writing that he or she has the right to appeal this decision. The county of service shall at the same time provide written information describing the appeal procedure.

Subp. 6. Emergency social services. The county of service shall provide emergency social services when necessary. The county of financial responsibility shall fully reimburse the county of service for emergency social services for up to 30 calendar days for each client in need of these services.

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When a service initiated as an emergency social service must be extended beyond 30 calendar days, the county of service shall obtain the prior approval of the county of financial responsibility as prescribed in subpart 1.

Subp. 7. Financial responsibility denied. When a county, contacted under subpart 2, determines it is not financially responsible for the client for whom it has been requested to assure reimbursement for services, the following procedures shall apply:

A. the county denying financial responsibility shall record the reasons for its decision and send copies of the client's application, eligibility documents, and records documenting the county's decision to deny financial responsibility to the county where the application was taken and to any other county it believes to be financially responsible within ten days of receipt of information under subpart 2;

B. the county denying financial responsibility shall send a copy of the information identified in item A to the commissioner within ten days of receipt of the information under subpart 2;

C. the county where the application was taken shall provide or arrange for services to the client within 30 days of receipt of information under item A;

D. the commissioner shall review the information received under item B, provide counties with an opportunity to state their position, decide which county is financially responsible, and issue an order in accordance with the procedures identified in Minnesota Statutes, section 256D.18, subdivision 4;

E. the commissioner's order shall be binding on counties, and must be complied with until it is appealed and reversed in district court; and

F. the county determined to be financially responsible under the procedures of item D shall reimburse any other county in accordance with the commissioner's order for the cost of any community social services provided or arranged for in accordance with item C.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0060 SOCIAL SERVICES FEES.

Subpart 1. Fee schedule. The county board may establish a fee policy and schedule for any or all community social services, subject to the approval of the commissioner. Fee policies must be included in the community social services plan.

Subp. 2. Criteria for approval. Fees must be based upon the client's ability to pay. Counties may consider family size, income, and other resources affecting ability to pay if they are defined in the fee schedule and approved by the commissioner.

Fees must not be based upon a minimum charge to all clients or solely upon a percentage of the cost of service. Fees charged must not exceed the actual cost of the service. A written copy of the fee schedule must be made available to the client upon request.

Subp. 3. Exceptions. The county board shall not charge a fee to recipients of public assistance maintenance grants, or to persons wishing to adopt a hard-to-place or special needs child as defined by Minnesota Statutes, section 259.40, subdivisions 1, 2, and 4.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0070 APPLICATION FOR SOCIAL SERVICES.

Subpart 1. Right to apply. The local agency shall post a notice in a prominent place within the local agency advising individuals of their right to apply for social

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services and shall advise all individuals who request social services of their right to sign an application for social services without delay during normal business hours and that the application will be processed after it is signed and completed.

Subp. 2. Information about available services. The local social services agency must give prospective applicants a written list of the services available according to the county's community social services plan.

Subp. 3. Application requirement. Except for information and referral services, an individual must make written application prior to receiving community social services. Emergency social services may be provided to an individual who has not signed an application by following the procedure in subpart 5.

Subp. 4. Statement of applicant rights and responsibilities. Before the applicant signs the application, the local agency shall provide to the applicant, on a form prescribed or approved by the department, a written statement containing information on the applicant's rights, the applicant's responsibilities, and how data collected about the applicant will be used. If for any reason an applicant does not understand the written statement, an agency representative shall read the written statement aloud and explain the written statement to the applicant or the applicant's representative. The local agency shall provide interpreters for hearing impaired persons, and foreign language interpretive services if necessary. The agency's representative shall answer any questions the applicant or applicant's representative asks regarding the application process.

Subp. 5. Filling out application. The applicant or the applicant's representative shall complete, sign, and date the application form prescribed or approved by the department. If the applicant cannot or does not sign the application, the following persons in descending order of priority may sign the application form: the applicant's legal guardian or representative, or the agency representative. The reasons why the applicant did not sign the application must be recorded in the case record.

Subp. 6. Eligibility. In addition to submitting the application, the applicant or applicant's representative shall provide information about the applicant's eligibility on forms made available by the local agency and approved by the department. The forms must be signed and dated by the applicant or the applicant's representative.

Subp. 7. Local agency decision about eligibility and notification to applicant. The county of financial responsibility shall determine the applicant's eligibility within 30 calendar days after the date on which the application and eligibility forms are completed and signed. Within 15 calendar days after determining eligibility, the local agency shall notify the applicant in writing that the application has been approved or denied unless the community social services are initiated prior to the end of the 15 calendar day notice period.

Subp. 8. Denial of application. If the application is denied, the local agency shall record the notification date and the reason for denial. The local agency shall also notify the applicant in writing within 15 calendar days after denying eligibility. The notice shall contain the following information:

- A. the reason for denial;
- B. a reference to the specific rule or approved community social services plan provision which is the basis for denial;
- C. an explanation of the applicant's right to appeal the decision to the department; and
- D. a description of the appeal procedure.

Subp. 9. Approval of application. If the application is approved, the local agency shall provide the social services within 15 calendar days after the applicant has been notified of his or her eligibility or at an appropriate later date which has been mutually agreed upon by the local agency and the applicant.

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Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0080 INFORMATION ABOUT CLIENTS.

Subpart 1. **Client data.** All data collected, stored, used, and disseminated about an applicant or client by the local agency shall be governed by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13.

Subp. 2. **Contracts and grants.** When a contract or grant administered by the local agency requires that data on applicants or clients be made available to the contracting parties, access to that data shall be governed by Minnesota Statutes, chapter 13, except that access to medical data shall also be subject to provisions of Minnesota Statutes, section 144.335.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0090 INDIVIDUAL SERVICE PLAN.

Subpart 1. **Agreement upon plan.** The local agency and the recipient or recipient's representative shall agree upon a plan for the provision of community social services other than emergency social services.

Subp. 2. **Requirements.** The individual service plan must:

A. be developed with the recipient of the service or the recipient's representative;

B. be based upon an assessment of the recipient's individual needs;

C. state the reasons for local agency involvement; the specific services to be provided; the amount, frequency, and duration of service; the service provider; how the services will assist the individual in attaining the highest level of independent functioning appropriate to the individual; and the goals and objectives to be achieved;

D. specify the purpose of contacts between the local agency and the client and the frequency of the contacts;

E. state the anticipated time necessary to accomplish the identified goals and objectives; and

F. specify agreed upon times to review the plan, to address the client's progress toward achieving goals and objectives, and to revise the plan as necessary. The plan must be reviewed at least annually. The review and assessment requirements of this part do not negate the requirements of other laws or department rules.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0091 CLIENT'S RIGHT TO ACCEPT OR REJECT SERVICES.

An applicant or client may accept or reject a local agency assessment of a need for community social services or an offer of community social services. When a social service is rejected by a client the local agency shall give a clear explanation of the possible consequences of that choice to the applicant or client, or his or her caretaker or guardian. A refusal to accept community social services shall not affect payment of grants under public assistance grants maintenance programs except in the Work Incentive Program.

Local agencies are required to offer and provide protective services under Minnesota Statutes, sections 626.556 and 626.557. When an individual who needs protective services or a person acting on the individual's behalf rejects those services, the local agency shall follow the procedures established under parts 9555.7600 and 9560.0280.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

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9550.0092 GENERAL ADMINISTRATION OF SOCIAL SERVICES 10444

9550.0092 RIGHT TO A FAIR HEARING.

Subpart 1. **Right to a fair hearing.** An applicant for or recipient of community social services has the right to a fair hearing under Minnesota Statutes, section 256.045.

Subp. 2. **Notice of adverse action.** The local agency shall notify the recipient of community social services ten calendar days before taking action to deny, reduce, suspend, or terminate services to the recipient. The notice must be in writing, must be mailed or given to the recipient, and must inform the recipient of the right to appeal the action, the right to be represented by an attorney or other interested party at the hearing, and that community social services shall be continued if the appeal is filed prior to the reduction, suspension, or termination date specified in the notice. The notice must also cite the specific rule or approved community social services plan amendment upon which the reduction or termination of services is based.

Subp. 3. **Appealable actions.** The applicant or recipient may appeal if:

A. the local agency fails to act upon the application within the time limits prescribed in parts 9550.0050 and 9550.0070;

B. the local agency fails to develop or to implement an individual service plan in accordance with part 9550.0090, subpart 2;

C. the local agency reduces the quantity of social services from that agreed on in the individual service plan;

D. the local agency denies a request for a specific social service;

E. the local agency suspends or terminates social services; or

F. the applicant or recipient fails to agree with the individual service plan developed between the applicant or recipient and the local agency.

Subp. 4. **Submittal of appeals.** All appeals must be submitted in writing to the local agency or to the department within 30 days after receiving written notice of the appealable action, or within 90 days of such written notice if a justified reason for delay can be shown.

Subp. 5. **Notice in suspected fraud cases.** If the local agency obtains information indicating that social services should be discontinued, reduced, or terminated because of suspected fraud of the recipient, and, where possible, evidence of fraud has been verified through collateral sources, then notice of agency action is timely if it is mailed at least five calendar days before the action becomes effective.

Statutory Authority: *MS s 256E.05 subd 1*

History: *10 SR 1502*

9550.0100 [Repealed, 10 SR 1502]

9550.0200 [Repealed, 10 SR 1502]

TITLE IV-E FUNDING ALLOCATION

9550.0300 MR 1985 [Repealed, 10 SR 1502]

9550.0300 PURPOSE.

The purpose of parts 9550.0300 to 9550.0370 is to establish the methods to be used in distributing to local agencies the dollars received by the Department of Human Services from the federal government for administrative and training costs incurred in providing social services under Title IV-E and Title XIX.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: *12 SR 827*

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10445 GENERAL ADMINISTRATION OF SOCIAL SERVICES 9550.0310

9550.0310 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 9550.0300 to 9550.0370, the following terms have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 3. **County board.** "County board" means the county board of commissioners in each county. When a human services board or welfare board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board for the purposes of parts 9550.0300 to 9550.0370.

Subp. 4. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 5. **Local agency.** "Local agency" means the social services agency authorized by the county board to provide community social services.

Subp. 6. **Social service cost pool.** "Social service cost pool" means all direct and indirect costs incurred by local agencies in providing community social services as defined in part 9550.0010, subpart 4, except costs that are not allocated through the use of the social service time study.

Subp. 7. **Social service time study.** "Social service time study" means the study conducted by the department that measures the portion of local agency staff time spent on various social service activities for the purpose of determining the percentage of administrative costs attributable to social service expenditures that are federally reimbursable.

Subp. 8. **Substitute care.** "Substitute care" means placement in a group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county, other political subdivision, or any of their agencies, to provide those services.

Subp. 9. **Title IV-E.** "Title IV-E" means the federal program that reimburses administrative and training costs incurred in providing services under Public Law Number 96-272 as amended through June 17, 1980.

Subp. 10. **Title IV-E money.** "Title IV-E money" means the federal dollars claimed and received by the department as reimbursement for administrative and training costs incurred by the local agencies under Title IV-E.

Subp. 11. **Title XIX.** "Title XIX" means the federal program that reimburses the costs incurred in providing health care to eligible persons under United States Code, title 42, sections 1396 to 1396p.

Subp. 12. **Title XIX money.** "Title XIX money" means the federal dollars claimed and received by the department under Title XIX as reimbursement for administrative costs incurred by the local agencies in providing social services to medical assistance program recipients.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd*

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History: 12 SR 827

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9550.0320 GENERAL ADMINISTRATION OF SOCIAL SERVICES 10446

9550.0320 TITLE IV-E REIMBURSEMENT.

The following equation shall be used to calculate the local agency's share of the Title IV-E money received by the department each quarter of the federal fiscal year:

$$A_i = B \frac{C_i \left(\frac{D_i + F}{E_i + 10} \right)}{\sum_{i=1}^{87} C_i \left(\frac{D_i + F}{E_i + 10} \right)}$$

A_i = the i th local agency's share of Title IV-E money received by the department

B = the total amount of Title IV-E money received by the department to be distributed for the quarter

C_i = the social service cost pool reported by the i th local agency during the quarter

D_i = the average monthly number of IV-E eligible children on the i th local agency's caseload for the quarter

E_i = the average monthly number of children in substitute care on the i th local agency's caseload for the quarter

F = a stabilizing factor, equal to the statewide ratio of children eligible under Title IV-E to all children in substitute care, multiplied by ten

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: 12 SR 827

9550.0330 TITLE XIX REIMBURSEMENT.

The following equation shall be used to calculate the local agency's share of the Title XIX money received by the department:

$$A_i = B \frac{\sqrt{C_i * D_i}}{\sum_{i=1}^{87} \sqrt{C_i * D_i}}$$

where:

A_i = the i th local agency's share of the Title XIX money to be distributed by the department

B = the total amount of Title XIX money received for distribution by the department

C_i = the social service cost pool reported by the i th local agency for the quarter

D_i = the average monthly number of persons receiving medical assistance in the i th local agency during the quarter for whom the local agency is financially responsible

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: 12 SR 827

9550.0340 REPORTING REQUIREMENTS.

Subpart 1. Information required. To receive reimbursement under parts 9550.0300 to 9550.0370, the local agency must:

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A. provide the information required by the department to conduct the social service time studies on which the state's federal reimbursement claims for administrative costs under Title IV-E and Title XIX are based; and

B. submit quarterly reports to the department no later than 20 calendar days after the end of the quarter on forms specified by the commissioner. The quarterly reports must provide the information needed to make the calculations specified in parts 9550.0320 and 9550.0330, including:

- (1) the local agency's social service cost pool for the quarter;
- (2) the average monthly number of children in the county who are eligible under Title IV-E during the quarter; and
- (3) the average monthly number of children in substitute care in the county during the quarter.

Subp. 2. Penalty. A local agency shall not receive its Title IV-E or Title XIX reimbursement until the agency has provided the information required under subpart 1. If the local agency does not meet the reporting requirements of subpart 1, the commissioner shall send a written notice of noncompliance to the local agency. If a local agency does not comply with subpart 1 within 30 days of the date written notice was sent, the commissioner shall certify a reduction in the local agency's reimbursement by 20 percent for the quarter of noncompliance. When a local agency is notified of this action, it may make an appeal under Minnesota Statutes, section 256E.06, subdivision 10. Money received or retained by the department as a result of the penalty must be distributed to all local agencies that were not penalized. The percentage of penalty money received by each local agency must be equal to the percentage of Title IV-E money received by the local agency for the quarter.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: 12 SR 827

9550.0350 DISALLOWANCES.

Any disallowances due to audits of federal claims for administrative reimbursement must be shared by all local agencies. A local agency's percentage share of a disallowance must be equal to the percentage of the federal administrative reimbursement received by the local agency for the quarter and program to which the disallowance applies. The commissioner shall notify each county of the action to be taken and the reasons for the action.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: 12 SR 827

9550.0360 HOLD HARMLESS CLAUSE.

Subpart 1. Effect. For the federal fiscal year 1986, each county shall receive as reimbursement under part 9550.0320 no less than the amount of Title IV-E reimbursement received by the county as of April 1, 1987, for federal fiscal year 1985. The funds needed to satisfy the requirements of this part must be obtained by deducting an equal percentage from the federal fiscal year 1986 Title IV-E allocation to each local agency that did not submit a Title IV-E claim in federal fiscal year 1985.

Subp. 2. Applicability. This part applies only to allocations for federal fiscal year 1986.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: 12 SR 827

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9550.0370 GENERAL ADMINISTRATION OF SOCIAL SERVICES 10448

9550.0370 PRIOR PERIOD ADJUSTMENT.

Subpart 1. **Prior adjustments permitted.** A local agency may provide the department with amended reports to correct inaccuracies in data provided for previous quarters. Additional federal revenue obtained as a result of corrections in data for previous quarters must be distributed to all local agencies in accordance with the formulas in parts 9550.0320 and 9550.0330. Any money owed to the federal government because of amended local agency reports under this part must be billed to all local agencies in accordance with the formulas in parts 9550.0320 and 9550.0330.

Subp. 2. **Limitation on prior adjustments.** An amended report must be received by the department no later than 12 months after the reporting deadline for the quarter being amended.

Statutory Authority: *MS s 256.01 subd 2 cl (2); 256.011 subd 1; 393.07 subd 4*

History: 12 SR 827

9550.0400 [Repealed, 10 SR 1502]

9550.0500 [Repealed, 10 SR 1502]

9550.0600 [Repealed, 10 SR 1502]

9550.0700 [Repealed, 10 SR 1502]

9550.0800 [Repealed, 10 SR 1502]

9550.0900 [Repealed, 10 SR 1502]

9550.1000 [Repealed, 10 SR 1502]

9550.1100 [Repealed, 10 SR 1502]

9550.1200 [Repealed, 10 SR 1502]

9550.1300 [Repealed, 10 SR 1502]

9550.1400 [Repealed, 10 SR 1502]

9550.1500 [Repealed, 10 SR 1502]

9550.1600 [Repealed, 10 SR 1502]

9550.1700 [Repealed, 10 SR 1502]

9550.1800 [Repealed, 10 SR 1502]

9550.1900 [Repealed, 10 SR 1502]

9550.2000 [Repealed, 10 SR 1502]

9550.2100 [Repealed, 10 SR 1502]

9550.2200 [Repealed, 10 SR 1502]

9550.2300 [Repealed, 10 SR 1502]

9550.2400 [Repealed, 10 SR 1502]

9550.2500 [Repealed, 10 SR 1502]

9550.2600 [Repealed, 10 SR 1502]

9550.2700 [Repealed, 10 SR 1502]

9550.2800 [Repealed, 10 SR 1502]

9550.2900 [Repealed, 10 SR 1502]

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9550.4100 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4200 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4300 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4400 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4500 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4600 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4700 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4800 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4900 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.5000 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.5100 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

PARENTAL FEES FOR CHILDREN PLACED IN 24-HOUR OUT-OF-HOME CARE

9550.6200 SCOPE.

Subpart 1. **Applicability.** Parts 9550.6200 to 9550.6240 govern the assessment and collection of parental fees by county boards or the Department of Human Services from parents of children in 24-hour out-of-home care who:

- A. have mental retardation or a related condition;
- B. have an emotional handicap;
- C. have a physical handicap; or
- D. are in a state hospital.

Parts 9550.6200 to 9550.6240 also specify parental responsibility for medical costs of children who are not listed in items A to D, but are in 24-hour out-of-home care, and whose eligibility for medical assistance was determined without considering the parent's resources or income as specified in Minnesota Statutes, section 256B.14, subdivision 2.

Subp. 2. **Exclusion.** Children who are under court order and subject to Minnesota Statutes, section 260.251, subdivision 1, and who also do not fall under the provisions of Minnesota Statutes, section 252.27, are excluded from the scope of parts 9550.6200 to 9550.6240.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005*

9550.6210 DEFINITIONS.

Subpart 1. **Applicability.** As used in parts 9550.6200 to 9550.6240, the following terms have the meanings given them.

Subp. 2. **Child or children.** "Child" or "children" means a person or persons under 18 years of age.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 4. **Cost of care.** "Cost of care" means the per diem rate established by the department or the per diem and negotiated monthly rate adopted by the county board for the 24 hour out of home care, treatment, and training of a child provided in a facility licensed by the Department of Health, Department of Human Services, or approved by the commissioner in accordance with the interstate placement compacts of Minnesota Statutes, sections 245.51 to 245.53, 257.40 to 257.48, and 260.51 to 260.57.

Subp. 5. **County board.** "County board" means the county board of commis-

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sioners in each county. When a Human Services Board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board for purposes of parts 9550.6200 to 9550.6240.

Subp. 6. County of financial responsibility. "County of financial responsibility" means the following:

A. For a child whose cost of care is paid from community social services funds allocated in accordance with title 20 of the Social Security Act, United States Code, title 42, section 1397, as amended through December 31, 1984, and Minnesota Statutes, chapter 256E, it has the meaning given in Minnesota Statutes, section 256E.08, subdivision 7.

B. For a child whose cost of care is paid from medical assistance funds allocated according to title 19 of the Social Security Act, United States Code, title 42, section 1396, as amended through December 31, 1984, and Minnesota Statutes, chapter 256B, it has the meaning specified in Minnesota Statutes, section 256B.02, subdivision 3.

C. For a child whose cost of care is paid according to title 4-E of the Social Security Act, United States Code, title 42, sections 670 to 676, as amended through December 31, 1984, it has the meaning specified in Minnesota Statutes, section 256.73, subdivision 4.

Subp. 7. Department. "Department" means the Minnesota Department of Human Services.

Subp. 8. Emotional handicap. "Emotional handicap" means a psychiatric or emotional disorder that is diagnosed by a licensed psychiatrist, licensed psychologist, or licensed consulting psychologist; and

A. substantially impairs the child's mental health;

B. requires 24 hour out of home treatment or supervision; and

C. is listed in the International Classification of Diseases (I-CD-9-CM) Ninth Revision (1980), code range 290.0 to 299.0, or the corresponding code of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are incorporated by reference. They are available through the Minitex interlibrary loan system. They are not subject to frequent change.

Subp. 9. Income. "Income" has the meaning given it by Minnesota Statutes, section 290A.03, subdivision 3.

Subp. 10. Medical assistance. "Medical assistance" means the federal, state, and county funded program which provides for the medical needs of eligible clients, as specified in Minnesota Statutes, chapter 256B, and United States Code, title 19 of the Social Security Act, United States Code, title 42, section 1396, as amended through December 31, 1984.

Subp. 11. Mental retardation or a related condition. "Mental retardation or a related condition" means a condition that is diagnosed in accordance with parts 9525.0015 to 9525.0145 [Emergency] and the definition of related condition in Minnesota Statutes, section 252.27, and requires 24 hour out of home supervision and treatment.

Subp. 12. Parent. "Parent" means a father or mother, biological or adoptive, as specified in Minnesota Statutes, section 259.21, subdivision 3.

Subp. 13. Physical handicap. "Physical handicap" means a physical disorder or impairment diagnosed by a licensed physician which requires 24 hour out of home treatment or supervision.

Subp. 13a. Respite care. "Respite care" means short-term supervision and care provided to a child due to temporary absence or need for relief of the child's parents and involving the out of home care of a child for a minimum of a continuous 24 hour period of time. For purposes of this subpart, "short term" means a cumulative total of less than 2,160 hours in a year.

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Subp. 14. State hospital. "State hospital" means the state administered facility for the care and treatment of persons with mental illness or mental retardation under Minnesota Statutes, chapter 246.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005; 12 SR 102; L 1987 c 403 art 3 s 96*

9550.6220 DETERMINATION OF PARENTAL FEE.

Subpart 1. Parental responsibility. The extent to which a parent is responsible for reimbursing the county of financial responsibility or the department for the cost of care must be determined according to subparts 2 to 13.

Subp. 2. Determination of household size. Parents and their dependents, as specified in Minnesota Statutes, section 290A.03, subdivision 7, shall be counted as members of the household when determining the fee, except that a stepparent and his or her natural or adopted children shall not be included.

Subp. 3. Determination of income. Income must be determined according to Minnesota Statutes, section 290A.03, subdivision 3 (Property Tax Refund Act).

Subp. 4. Percentage schedule. The department shall provide the county of financial responsibility with a schedule which is revised annually in accordance with items A to D. The schedule must specify the percentage rate that shall be applied to the parent's income to determine the parental fee. The schedule must be designed in the following manner:

A. The household size matrix must indicate a range of one to ten or more persons using incremental increases of one.

B. The income matrix for each household size must begin at 60 percent of state median income derived from the most recent annual State Median Income for Household Size published in the Federal Register by the United States Department of Health and Human Services according to the Code of Federal Regulations, title 45, part 96.85, as amended through December 31, 1984. Parents of households with income between zero and 60 percent of state median income shall be assessed at a rate of zero percent of income and shall pay no fee.

C. Parents of households with incomes at or above 115 percent of state median income, as specified in item B, shall be assessed a fee at a rate of five percent of income.

D. The schedule must provide for eight equal incremental increases in income between 60 percent and 115 percent of State Median Income for Household Size as specified in items B and C. The first percentage increment applied to the income matrix must be one percent with increases of one-half percent thereafter.

Subp. 5. Annual schedule revision. The department shall provide counties with a revised schedule within 30 days after the annual revision of the State Median Income for Household Size is published in the Federal Register.

Subp. 6. Determination of parental fee. The monthly parental fee assessed must be determined according to parts 9550.6200 to 9550.6250 and the following formula:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. Using the household size and income figures in items A and B, refer to the percentage schedule supplied by the department according to subpart 4 and determine the applicable percent to be applied to the parent's income.

D. The monthly parental fee must be determined by multiplying the income from item B by the percentage from item C and dividing the product by 12.

Subp. 7. State hospital placements. As specified in Minnesota Statutes, sections 246.51 and 246.511, under no circumstances shall a parent with an annual

income of \$11,000 or less and a child in a state hospital be assessed a fee. As specified in Minnesota Statutes, sections 246.51 and 246.511, a parent with a child in a state hospital shall be assessed a fee based on income determined in accordance with parts 9550.6200 to 9550.6240 or ten percent of the cost of care for the child, whichever is less.

Subp. 8. Payment in excess of fee. Parents may voluntarily pay a fee greater than that determined by the formula in subpart 6.

Subp. 9. Parental responsibility for clothing or personal needs. Payment of the parental fee specified in subpart 6 does not exempt the parent from responsibility for the child's clothing and personal needs not included in the cost of care, except as specified in Minnesota Statutes, section 256B.35, subdivision 1.

Subp. 10. Discharge. Except as provided in subpart 10a, the full monthly parental fee must be assessed unless the child is discharged and spends less than a full month in 24 hour out-of-home care. In this case, the full fee must be reduced only if the actual cost of care during that month is less than the regular fee.

Subp. 10a. Parental fee for respite care. When a child is placed in 24 hour out-of-home respite care, the parental fee must be a per diem fee multiplied by the number of days the child is in 24 hour out-of-home respite care. The per diem fee must be determined in the following manner:

A. Household size must be determined as specified in subpart 2.

B. Income must be determined as specified in subpart 3.

C. Using the household size and income figures in items A and B, the percentage schedule supplied by the department in subpart 4 must be used to determine the applicable percent to be applied to the parent's income.

D. Determine the per diem fee by multiplying the income from item B by the percent from item C and divide the product by 365.

E. Any part of a day spent in 24 hour out-of-home respite care must be counted as a full day for purposes of this fee.

F. The parental fee must be determined at the end of a month when respite care is used.

Subp. 11. Number of fees. As specified in Minnesota Statutes, section 252.27, subdivision 2, parents who have more than one child in 24-hour out-of-home care shall not be required to pay a fee for more than one child. If more than one child is placed out of the home, the parent shall be responsible for a fee for the child with the highest cost of care.

Subp. 12. Separate households. Parents who have established separate households as specified in Minnesota Statutes, section 290A.03, subdivision 4, shall each pay a fee using the formula in part 9550.6220, subpart 2, except for parents whose fee responsibility is satisfied pursuant to subpart 13.

Subp. 13. Child support payments. Child support payments that are established by the court in accordance with Minnesota Statutes, section 518.17, for a child in 24-hour out-of-home care, must be considered a resource of the child and be applied directly toward the cost of care.

A. If the child support payment equals or exceeds the fees required in part 9550.6220, subpart 6, for both the custodial and noncustodial parent, then the child support payment shall satisfy the parental fee responsibility of both.

B. If the child support payment equals or exceeds the fee required of the noncustodial parent, but not that of the custodial parent in either whole or part, then the custodial parent must pay the difference between the amount that remains after the noncustodial parent's fee is deducted and the fee determined in part 9550.6220, subpart 6 for the noncustodial parent. If the child support payment does not exceed the fee required of the noncustodial parent, the custodial parent must pay the full fee as determined in part 9550.6220, subpart 6 and the noncustodial parent must pay the balance between the fee required under part 9550.6220, subpart 6, and the child support payment.

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C. If the court decree ordering child support covers more than one child and the decree does not differentiate the amount provided to each child, the county shall use the amount derived by dividing the child support by the number of children covered in the decree as the amount used to determine whether the fee of the custodial or noncustodial parent has been satisfied in whole or in part.

Subp. 14. **Fees in excess of cost.** If the parental fee exceeds the monthly cost of care for the child, the parent shall be responsible for the lesser amount.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005; 12 SR 102*

9550.6225 HEALTH INSURANCE PREMIUMS AND BENEFITS.

If at the time of placement the child has health care insurance or other enrollment or subscriber benefits, the benefits must be considered a resource of the child and applied directly to the cost of care.

Payment by the parent of any health care benefit, insurance, subscriber, or enrollment fee shall not nullify parental responsibility for the fee. The parental fee must be assessed in addition to any health care benefit, insurance, subscriber, or enrollment fee, unless the benefit directly reduces the facility's per diem or negotiated rate for medical care that would routinely be provided for the child. If the benefit directly reduces the facility's per diem or negotiated rate for medical care that would routinely be provided for the child, the premiums and fees must be deducted from the parental fee.

If the child is not eligible for medical assistance, the provisions of Minnesota Statutes, section 252.27, subdivision 2, clause (b) shall apply.

Payments of any health care, insurance, subscriber, or enrollment premiums by the parents of any child covered under parts 9550.6200 to 9550.6240 must be deducted from the parental fee if the commissioner determines that the benefit directly reduces the facility's per diem or the cost of medical care that would routinely be provided for the child. The amount of the premium payment must be that incremental portion attributable to dependent coverage for the child in out-of-home care.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005*

9550.6228 REVIEW AND REDETERMINATION OF FEES.

Subpart 1. **Review.** Parental fees must be reviewed by the county board or the department:

A. at least once every 12 months in accordance with parts 9550.6220 to 9550.6240;

B. when there is a change in household size as specified in part 9550.6220, subpart 2;

C. when there is a change in the cost of care; or

D. when there is a loss of or gain in income from one month to another in excess of 15 percent.

Subp. 2. **Failure to cooperate.** Failure or refusal by the parent to provide the financial information needed to determine parental responsibility for a fee shall result in the determination that the parent is able to pay the full cost of care.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005*

9550.6229 NOTIFICATION OF CHANGE IN FEE.

If the fee assessed to a parent with a child in 24-hour out-of-home care is increased as a result of parts 9550.6200 to 9550.6240, the increase must not be effective until a notice of the increase has been sent by the agency or department to the parent at least 30 days in advance of the effective date of the increase.

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Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005*

9550.6230 VARIANCE FOR HARDSHIP AND APPEALS.

Subpart 1. Variance for hardship. A variance of the parental fee determined according to parts 9550.6220 to 9550.6240 may be requested any time and the parental fee varied when the child is placed out of the home for a period exceeding three months and the total of items A, B, C, and D exceed two percent of parental income as defined in part 9550.6210, subpart 10. The parental fee shall be based on income as defined in part 9550.6210, subpart 10, less the total amount of items A, B, C, and D:

A. medical expenditures since the last review of the fee or within the last 12 months for the child in out-of-home placement which are not covered by medical assistance or health insurance and are a type which would be allowable as a federal or state tax deduction;

B. expenditures since the last review of the fee or within the last 12 months for modifications to the parent's vehicle to accommodate the child's medical needs and are a type which would be allowable as a state or federal tax deduction;

C. expenditures since the last review of the fee or within the last 12 months for minor physical adaptations to the child's home which are necessary to accommodate the child's physical needs and comply with parts 9525.1800 to 9525.1930 [Emergency], or its successor; and

D. sudden and unusual expenditures by the parent that are necessary to meet the basic needs of the family and are not covered by insurance or health care benefits.

Subp. 2. Variance for tax status. A variance shall be granted, in the form of a deduction from income, as defined in part 9550.6210, subpart 9, if the parent can show that, as a result of the parent's peculiar tax status, there is a gross disparity between the amount of income, as defined in part 9550.6210, subpart 9, allocated to the parent and the amount of the cash distributions made to the parent.

A. The disparity must adversely affect the parent's actual ability to pay.

B. A variance shall not be granted in cases where the tax status was created in whole or in part for the purpose of avoiding liability under parts 9550.6200 to 9550.6240.

C. Income to be deducted under this subpart shall be deducted only if:

(1) the income has never been legally available to the parent as a cash distribution; and

(2) the parent has no authority to alter the amount of cash distributed during a given year, or the method whereby the cash is distributed.

D. If the parent's peculiar tax status resulted in a reduced fee under parts 9550.6200 to 9550.6240 in prior years due to losses reported under Minnesota Statutes, section 290A.03, the amount of income deducted in any variance shall be adjusted to recoup the prior years' reduced fees.

E. A variance granted under this subpart shall only be made on the recommendation of the county board, and approval of the commissioner, except that for children in state hospitals, authority to grant a variance shall lie directly with the commissioner.

F. A parent who is granted a variance under this subpart must sign a written agreement in which the parent agrees to report any change in the circumstances which gave rise to the tax status variance, such as an increased distribution, a sale, transfer, or any other transaction affecting the parent's ability to pay within 30 days of that change.

Subp. 3. Exceptions. The parental fee or income as defined in part

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9550.6210, subpart 10, shall not be reduced for new home purchases, college education expenses, clothing and personal needs, or medical expenditures covered by medical assistance or health insurance.

Subp. 4. Procedures. A parent may request a variance from parts 9550.6200 to 9550.6240. The request must be submitted to the county board or department as specified in subpart 5, include the section of parts 9550.6200 to 9550.6240 with which the parent cannot comply, and state why compliance with the specified section would cause undue hardship.

Subp. 5. County authority. The commissioner shall delegate to the county board the authority to grant variances according to parts 9550.6200 to 9550.6240 for children in 24-hour out-of-home placement other than a state hospital.

A. When the county board receives a written request for a variance, the county board or its designated social or human service agency shall grant or deny the request and mail the written decision to the parent within 30 days after the request is received. If the county board denies the request for a variance, the parent shall be informed at the time of the denial of the reasons for the denial which address the specific hardships raised by the parent, and of the right to appeal the denial to the department.

B. If the department denies the parent's request for a variance, the parent shall be informed at the time of denial of their right to appeal the department's decision according to Minnesota Statutes, sections 246.55 and 256.045, subdivisions 2 and 3.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005*

9550.6240 COLLECTIONS.

The county board shall be responsible for the assessment and collection of parental fees for children in 24-hour out-of-home placement facilities other than state hospitals. The department shall be responsible for the assessment and collection of fees for children in state hospitals.

Statutory Authority: *MS s 252.27; 246.511*

History: *10 SR 2005*