

CHAPTER 9550

DEPARTMENT OF HUMAN SERVICES

GENERAL ADMINISTRATION OF 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.

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 Center and Oak Terrace Nursing Home; 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; L 1991 c 292 art 6 s 58*

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, subdivision 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.

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.

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.

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;

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 residential 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 without 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.

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 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.

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*

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;

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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*

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 4*

History: *12 SR 827*

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:

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

where:

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:

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

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]

9550.4100 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

9550.4200 [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

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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 CARE OF CHILDREN

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 care outside the home, including respite care, in a facility licensed by the commissioner, who:

- A. have mental retardation or a related condition;
- B. have a severe emotional disturbance;
- C. have a physical disability; or
- D. are in a state facility.

Parts 9550.6200 to 9550.6240 also specify parental responsibility for the cost of services of children who are not specified in items A to D, who are living in or out of their parents' home, and whose eligibility for medical assistance was determined without considering parental 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.

Parents of a minor child identified in subpart 1 must contribute monthly to the cost of services unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to Minnesota Statutes, section 259.40, or through title IV-E of the Social Security Act, or the parents are determined not to owe a fee under the formula in Minnesota Statutes, section 252.27, subdivision 2a.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

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 services.** "Cost of services" means the cost for:

A. 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 care outside the home, 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 according to the interstate placement compacts of Minnesota Statutes, sections 245.51 to 245.53, 257.40 to 257.48, and 260.51 to 260.57; and

B. services to children whose eligibility for medical assistance was determined without consideration of parental income or assets as specified in part 9550.6200, subpart 1.

Subp. 5. 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 parts 9550.6200 to 9550.6240.

Subp. 6. County of financial responsibility. "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256G.02, subdivision 4.

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

Subp. 8. Emotional handicap or emotional disturbance. "Emotional handicap" or "emotional disturbance" has the meaning given it in Minnesota Statutes, section 245.4871, subdivision 15.

Subp. 9. Income. "Income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form as specified in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (d), or a verified statement of the adjusted gross income if no tax forms are available.

Subp. 10. Medical assistance. "Medical assistance" means the program which provides for the health service needs of eligible clients, as specified in Minnesota Statutes, chapter 256B, and title XIX of the Social Security Act, United States Code, title 42, section 1396.

Subp. 11. Mental retardation or a related condition. "Mental retardation or a related condition" has the meaning of "mental retardation" under part 9525.0015, subpart 20, items A and B, and the meaning of "related condition" given in Minnesota Statutes, section 252.27, subdivision 1a.

Subp. 12. Parents. "Parents" means the natural or adoptive parents.

Subp. 13. Physical handicap or physical disability. "Physical handicap" or "physical disability" has the meaning given it in part 9570.2200, subpart 7.

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. Respite care may include day, overnight, in-home, or out-of-home services, as needed.

Subp. 14. [Repealed, 16 SR 2780]

Subp. 15. Severe emotional disturbance. "Severe emotional disturbance" means an emotional disturbance that has:

A. resulted in the child's admission within the last three years or the child's being at risk of admission to inpatient treatment or residential treatment for an emotional disturbance;

B. required the child to receive inpatient treatment or residential treatment for an emotional disturbance as a Minnesota resident through the interstate compact; or

C. resulted in a determination by a mental health professional that the child has one of the following conditions:

(1) psychosis or clinical depression;

(2) risk of harming self or others as a result of an emotional disturbance;

(3) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or

(4) resulted in the child's having significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.

Subp. 16. State facility. "State facility" means any facility owned or operated by the state of Minnesota that is under the programmatic direction or fiscal control of the commissioner. State facility includes regional treatment centers; the state nursing homes; state-operated community-based programs; and other facilities owned or operated by the state and under the commissioner's control.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 12 SR 102; L 1987 c 403 art 3 s 96; 16 SR 2780*

9550.6220 DETERMINATION OF PARENTAL FEE.

Subpart 1. Parental responsibility. The extent to which parents are responsible for reimbursing the county of financial responsibility or the department for the cost of services must be determined according to subparts 2 to 13. Parents have no obligation to contribute assets. The parental responsibility and the role of the agency responsible for collection of the parental fee shall be explained in writing to the parents at the time eligibility for services is being determined. The parental fee shall be retroactive to the first date covered services are received, including any services received in months of retroactive eligibility.

Subp. 2. Determination of household size. Natural and adoptive parents and their dependents under the age of 21, as specified in Minnesota Statutes, section 290A.03, subdivision 7, including the child receiving services, shall be counted as members of the household when determining the fee, except that a stepparent shall not be included.

Subp. 3. Determination of income. Income must be determined according to Minnesota Statutes, section 252.27, subdivision 2a, paragraph (d).

Subp. 4. Percentage schedule. The parental fee shall be computed according to the formula specified in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b).

The fee amounts obtained from Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), are added to equal the annual parental fee. The annual fee is then divided into 12 monthly payments as specified in subpart 6, item E.

Subp. 5. Annual revision of federal poverty guidelines. The parental fee shall be revised annually on July 1 to reflect changes in the federal poverty guidelines. The revised guidelines are effective on the first day of July following the publication of changes in the Federal Register.

Subp. 5a. Parental income deduction. The parental income deduction amount is determined by using the applicable figure from the annual federal poverty guidelines under subpart 5, and multiplying that amount by two.

Subp. 6. Determination of monthly parental fee. The monthly parental fee assessed must be determined according to parts 9550.6200 to 9550.6240 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. The parental income deduction amount must be determined as specified in subpart 5a.

D. Using the household size, income figures, and parental income deduction in items A, B, and C, refer to the percentage schedule in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), and determine the applicable percentages to be applied to the parents' income.

E. The monthly parental fee must be determined according to the following steps:

(1) start with the parents' adjusted gross income from last year's federal Income Tax Form 1040, line 31, or 1040A, line 13, or, if no tax form is available, then a verified statement regarding the previous year's income;

(2) subtract the parental income deduction as determined in subpart 5a;

(3) multiply remaining income by each applicable percentage from the percentage schedule in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b);

(4) add the amounts in subitem (3) and add five percent to the percentage if health insurance was available to the parents, as specified in part 9550.6225, but was not taken, to determine the annual parental fee;

(5) divide by 12 to determine the monthly parental fee;

(6) subtract \$200 if the child receiving services lives with the parents; and

(7) subtract the monthly amount of any court-ordered child support payments actually paid by the parent for the child receiving services and received by the obligee.

Subp. 7. [Repealed, 16 SR 2780]

Subp. 8. [Repealed, 16 SR 2780]

Subp. 9. Parental responsibility for clothing or personal needs. Payment of the parental fee specified in subpart 6 does not exempt the parents from responsibility for the

child's clothing and personal needs not included in the cost of services, 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 services are terminated before the end of a calendar month. In this case, the full fee must be reduced only if the actual cost of services during that month is less than the regular fee.

Subp. 10a. Parental fee for respite care. When a child is receiving respite care services, the parental fee must be a per diem fee multiplied by the number of days the child receives respite care. The parental fee for respite care shall be used only when respite care is the single service the child is receiving. When the child is receiving additional services governed by parts 9550.6200 to 9550.6240, the parental fee determined under part 9550.6220 shall apply. 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 in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (b), must be used to determine the applicable percent to be applied to the parents' 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 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 receiving services who meet the criteria identified in part 9550.6200, subpart 1, shall not be required to pay more than the amount for the child with the highest expenditures.

Subp. 12. Parents not living with each other. Parents of a minor child who do not live with each other as specified in Minnesota Statutes, section 252.27, subdivision 2a, paragraph (g), shall each pay a fee using the formula in subpart 6.

Subp. 13. Child support payments. A court-ordered child support payment actually paid on behalf of the child receiving services shall reduce the fee of the parent making the payment.

Subp. 14. Fees in excess of cost. The total amount parents must pay between the time the first monthly payment is due under either the initial determination of the fee amount or notice of an increase in the fee amount, and the end of the state's fiscal year in June of each year cannot be higher than the cost of services the child receives during the fiscal year. At the end of each state fiscal year, the department or county board shall review the total amount that the parent paid in fees during the fiscal year and the total cost of services paid by the department or county board, not including payments made to school districts for medical services identified in an individualized education plan and covered under the medical assistance state plan, that the child received during the fiscal year. If the total amount of fees paid by the parents exceeds the total cost of services, the department or county board shall: (1) reimburse the parents the excess amount if their child is no longer receiving services; or (2) apply the excess amount to parental fees due starting July 1 of that year, until the excess amount is exhausted.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 12 SR 102; 16 SR 2780*

9550.6225 HEALTH INSURANCE BENEFITS.

The parental fee determined under part 9550.6220 shall be increased by an additional five percent if the department or local agency determines that insurance coverage is available to the parents, but not obtained for the child receiving services. For purposes of this part, "available" and "insurance" have following meanings.

A. "Available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income.

B. "Insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6226 RESPONSIBILITY OF PARENTS TO COOPERATE.

Subpart 1. Request for information. The department or county board shall send the parents a form describing:

- A. the formula used to determine the fee;
- B. how to obtain information on possible variances from the fee amount;
- C. information on the circumstances under which a fee may be reviewed or redetermined;
- D. the right to appeal a fee determination; and
- E. the consequences for not complying with a request to provide information when a request for information is sent in the following instances:

(1) when making an initial determination of the amount of the parental fee under part 9550.6220; and

(2) when a review and redetermination of the parental fee is required under part 9550.6228.

Parents shall provide any and all information that is required by the department or county board as necessary to determine or review the parental fee.

Subp. 2. Determination of parental fees. Parents shall attach to the form requesting financial information, a copy of their previous year's federal income tax return or a verified statement concerning their income if no federal income tax form is available. Failure or refusal by the parents to provide to the department or county board within 30 calendar days after the date the request is postmarked, the financial information needed to determine parental responsibility for a fee shall result in notification to the parents that the department or county board may institute civil action to recover the required reimbursement under Minnesota Statutes, sections 252.27, subdivision 3, and 256B.14, subdivision 2.

Subp. 3. Review and redetermination of parental fees. When parents are requesting a review or redetermination of the fee under part 9550.6228, a request for information shall be sent to the parents within ten calendar days after the department or county board receives the parents' request for review. Parents shall:

A. notify the department or county board within 30 calendar days of a gain in income or a loss of a household member; and

B. provide to the department or county board all information required under part 9550.6228, subpart 3, to verify the need for redetermination of the fee.

No action shall be taken on a review or redetermination of the parental fee until the required information is received by the department or county board.

Subp. 4. Variance requests. No action shall be taken by the department or county board on a request for a variance until the department or county board receives all information required under part 9550.6230. Failure of the parents to cooperate by completing and returning the form requesting parental information to the department or county board within 30 calendar days after the date the request is postmarked, will result in a final written notice to the parents stating that the request for a variance will be denied unless the parents complete and return this information within ten calendar days after the date this final notice is postmarked.

Subp. 5. Refusal or failure to pay. If the parents refuse or fail to pay the fee as determined under parts 9550.6200 to 9550.6240, the department or county board may institute civil action to enforce payment of the required amount when the action is cost effective.

Statutory Authority: *MS s 252.27; 256B.14*

History: *16 SR 2780*

9550.6228 REVIEW AND REDETERMINATION OF FEES.

Subpart 1. **Review.** Parental fees must be reviewed by the county board or the department according to Minnesota Statutes, section 252.27, subdivision 2a, paragraph (f), in any of the following situations:

- A. at least once every 12 months;
- B. when there is a change in household size as specified in part 9550.6220, subpart 2;
- C. when the department or county billing records, on the history of service use, indicate a disparity between the fee amount and the cost of services provided of 60 percent or more; or
- D. when there is a loss of or gain in income from one month to another in excess of ten percent.

For self-employed individuals, the following conditions shall apply to the verification of loss or gain of income under item D:

- (1) the loss or gain in income shall be documented over a three-month period;
- (2) paystubs, signed statements from employers and contractors, and/or bank statements or verified statements from the parents shall be furnished to support the request for redetermination; and
- (3) the county or department may require other information which is necessary to support the request for redetermination.

Subp. 2. [Repealed, 16 SR 2780]

Subp. 3. **Procedures for review.** In reviewing the parental fees under this part, the department or county board shall use the following procedures:

- A. The annual review of parental fees under subpart 1, item A, shall be done according to procedures in part 9550.6220, subpart 14.
- B. The review of parental fees under subpart 1, item B, shall be done within ten calendar days after the department or county board receives a copy of the certificate of birth or other supporting documents as verification of the change in household size.
- C. The review of parental fees under subpart 1, item C, shall consist of a review of historical department or county billing records. Parents whose fee is adjusted under subpart 1, item C, shall sign a written agreement in which the parents agree to report to the department or county board any increase in the amount of services provided and to make up any shortfall at the end of the fiscal year based upon the increase in the amount of services provided.
- D. The review of parental fees under subpart 1, item D, shall be done within ten calendar days after the department or county board receives completed information that verifies a loss or gain in income in excess of ten percent.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6229 NOTIFICATION OF CHANGE IN FEE.

Subpart 1. **Increase in fee.** Notice of an increase in the parental fee amount shall be mailed by the department or county board to the parents of children currently receiving services, 30 calendar days before the increased fee is effective. An increase in the parental fee is effective in the month in which the decrease in household size or increase in parental income occurs for parents who fail to comply with part 9550.6226, subpart 3.

Subp. 2. **Decrease in fee.** A decrease in the parental fee is effective in the month that the parents verify a reduction in income or a change in household size occurred, retroactive to no earlier than the beginning of the current fiscal year.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6230 VARIANCE FOR UNDUE HARDSHIP.

Subpart 1. **Definition; limitations on variance.** For purposes of this part, "variance" means any modification of the parental fee as determined by Minnesota Statutes, section

252.27, subdivision 2a, when it is determined that strict enforcement of the parental fee would cause undue hardship. All variances shall be granted for a term not to exceed 12 months, unless otherwise determined by the department or county board. The parents' liability to pay under Minnesota Statutes, section 252.27, subdivision 2a, shall be modified only by the provisions in subparts 1a and 2.

Subp. 1a. Variance for undue hardship. A variance of the parental fee determined according to Minnesota Statutes, section 252.27, subdivision 2a, and parts 9550.6220 to 9550.6240 may be requested when expenditures for items A through D are made by the parents and the expenditures are not reimbursable by any public or private source. Each expenditure may be the basis for a variance only one time. The total amount of items A, B, C, and D shall be deducted from income as defined in part 9550.6210, subpart 9.

A. Payments made since the last review of the fee or within the last 12 months for medical expenditures for the child receiving services or for that child's parents and parents' other dependents when the medical expenditures are not covered by medical assistance or health insurance and are a type, irrespective of amount, which would be allowable as a federal tax deduction under the Internal Revenue Code.

B. Expenditures since the last review of the fee or within the last 12 months for adaptations to the parents' vehicle which are necessary to accommodate the child's medical needs and are a type, irrespective of amount, which would be allowable as a federal tax deduction under the Internal Revenue Code.

C. Expenditures since the last review of the fee or within the last 12 months for physical adaptations to the child's home which are necessary to accommodate the child's physical, behavioral, or sensory needs and are a type, irrespective of amount, that would be allowable as a deductible medical expense under the Internal Revenue Code. A variance for physical adaptations to the child's home will be granted only for that portion of the adaptation that does not increase the value of the property.

D. Unexpected, sudden, or unusual expenditures by the parents since the last review or within the past 12 months that are not reimbursed by any type of insurance or civil action and which are a type, irrespective of amount, which would be allowable as a casualty loss deduction under the Internal Revenue Code.

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 parents can show that, as a result of the parents' peculiar tax status, there is a gross disparity between the amount of income, as defined in part 9550.6210, subpart 9, allocated to the parents and the amount of the cash distributions made to the parents.

A. The disparity must adversely affect the parents' 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 parents as a cash distribution; and

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

D. A variance granted under this subpart shall only be made on the recommendation of the department or county board according to subpart 5.

E. Parents who are granted a variance under this subpart must sign a written agreement in which the parents agree 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 parents' ability to pay within 30 days of that change.

Subp. 3. Exceptions. The following expenses shall not be considered to constitute undue hardship and shall not reduce the parental fee or income as defined in part 9550.6210, subpart 9:

A. new home purchases, other than that portion of the cost of a new home that is directly attributable to the physical, behavioral, or sensory needs of the child receiving services and that is a type, irrespective of amount, which would be allowable as a deductible medical expense under the Internal Revenue Code;

B. college education expenses;

C. clothing and personal expenses, other than expenses allowed in subpart 1a such as specialized clothing needed by the child receiving services due to their disability; or

D. any expenditures that are usual and typical, other than those which are allowable under subpart 1a.

Subp. 4. Procedures for requesting a variance. Parents may request a variance from parts 9550.6200 to 9550.6240 by submitting a written request to the department or county board that states why compliance with parts 9550.6200 to 9550.6240 would cause undue hardship.

The department or county board shall forward to the parents a request for financial information within ten calendar days after receiving a written request for a variance. Parents must provide the department or county board with the requested financial information, including the previous year's tax forms, and verification of any physical adaptations to the home or vehicle, medical expenditures, casualty losses, or peculiar tax status. The information supplied must be sufficient to verify the existence of undue hardship necessitating a variance. Parents must cooperate by completing and returning all information requested by the department or the county board as necessary to determine or review the parental fee. If parents fail to cooperate by providing this required information, part 9550.6226, subpart 4, applies.

Subp. 5. Department and county authority to grant variances.

A. 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 care outside the home, other than a state facility, where only social services funds are expended for the cost of services.

B. The department shall grant variances according to parts 9550.6200 to 9550.6240 for parents of children who have mental retardation or a related condition, a severe emotional disturbance, or a physical disability and who are:

(1) residing in state facilities;

(2) residing outside the home where medical assistance funds are expended for the costs of services;

(3) residing outside the home when both medical assistance and social services funds are expended for the cost of services; and

(4) determined eligible for medical assistance without consideration of parental income or assets.

Subp. 6. Payment pending determination of variance request. Those parents requesting a variance from a notice of an increase in the amount of the parental fee shall continue to make monthly payments at the lower amount pending determination of the variance request. Those parents requesting a variance from an initial determination of the parental fee amount shall not be required to make payment pending determination of the variance request. However, these parents may make payments as desired during the determination. If the variance is granted, any payments made pending outcome of the request that result in overpayment, shall be: (1) reimbursed to the parents if the child is no longer receiving services; or (2) applied to the parental fees remaining in the current fiscal year and the remainder of the excess amount applied to the parental fees due starting in the next fiscal year, if the child is still receiving services. If the variance is denied, the parents shall pay to the department or county board:

A. the additional amount due from the effective date of the increase in the parental fee; or

B. the total amount due from the effective date of the original notice of determination of the parental fee as specified in part 9550.6235, subpart 3.

Subp. 7. Insurance settlements; settlements in civil actions. Parents who are granted a variance under subpart 1a, item D, shall sign a written agreement in which the parents agree to report to the department or the county board any changes in circumstances that gave rise to the undue hardship variance, such as subsequent payment by the insurer on a medical or casualty claim or receipt of settlement in a civil action. Failure by the parents to sign this agree-

ment will result in denial of the variance. The variance shall terminate or be adjusted effective on the date of the parents' receipt of any such settlement.

Subp. 8. Grant or denial of variance. When the department or county board receives a request for a variance, written notice of a grant or denial of the variance shall be mailed to the parents within 30 calendar days after the department or county board receives the financial information required under subpart 4. A grant will necessitate a written agreement between the parents and the department or county board with regard to the specific terms of the variance. The variance will not become effective until the written agreement is signed by the parents. If the department or the county board denies in whole or in part the parents' request for a variance, the denial notice shall set forth in writing the reasons for the denial that address the specific hardship raised by the parents and of the parents' right to appeal under part 9550.6235.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*

9550.6235 APPEALS.

Subpart 1. Right of appeal. Parents aggrieved by an action under parts 9550.6200 to 9550.6240 have the right to appeal according to Minnesota Statutes, section 256.045.

Subp. 2. Appeal process. Parents may appeal an action under parts 9550.6200 to 9550.6240 by submitting a written request for a hearing to the department within 30 calendar days after the aggrieved action, or within 90 calendar days if an appeals referee finds that the parents have good cause for failing to request a hearing within 30 calendar days. The hearing is governed by Minnesota Statutes, section 256.045.

Subp. 3. Rights pending hearing. If parents appeal on or before the effective date of the increase in the parental fee, the parents shall continue to make payments to the department or the county board in the lower amount while the appeal is pending. Parents appealing an initial determination of a parental fee shall not be required to make monthly payments pending an appeal decision. However, parents may continue to make monthly payments as desired during the appeal process. Any payments made that result in an overpayment shall be: (1) reimbursed to the parents if their child is no longer receiving services; or (2) applied to the parental fees remaining in the current fiscal year and the remainder of the excess amount applied to the parental fees due starting in the next fiscal year.

If the department's or county board's determination is affirmed, the parents shall pay to the department or the county board, within 90 calendar days after the date of the order, the total amount due from the effective date of the original notice of determination of the parental fee. The commissioner's order is binding on the parents and the department or county board and shall be implemented subject to Minnesota Statutes, section 256.045, subdivision 7. No additional notice is required to enforce the commissioner's order.

Statutory Authority: *MS s 252.27; 256B.14*

History: *16 SR 2780*

9550.6240 COLLECTIONS.

Subpart 1. County responsibility. The county board shall be responsible for the assessment and collection of parental fees for children in 24-hour care outside the home other than state facilities, where only social services funds are expended for the cost of services.

Subp. 2. Department responsibility. The department shall be responsible for the assessment and collection of fees for children who have mental retardation or a related condition, a severe emotional disturbance, or a physical disability and who are:

- A. residing in state facilities;
- B. residing outside the home when medical assistance funds are expended for the cost of services;
- C. residing outside the home when both medical assistance and social services funds are expended for the costs of services; and
- D. determined eligible for medical assistance without consideration of parental income or assets.

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If the parental fee is for reimbursement for the cost of services to both the local agency and medical assistance, the department shall reimburse the local agency for its expenses first and the remainder shall be reimbursed to the medical assistance account.

Statutory Authority: *MS s 246.511; 252.27; 256B.14*

History: *10 SR 2005; 16 SR 2780*