

CHAPTER 9565

DEPARTMENT OF HUMAN SERVICES

INDIVIDUAL AND FAMILY SERVICES

CHILD CARE FUND

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CHILD CARE FUND

9565.5000 PURPOSE AND APPLICABILITY.

Subpart 1. Purpose. The purpose of parts 9565.5000 to 9565.5200 is to govern the administration of the child care fund and to reduce, according to a sliding fee schedule, the costs of child care services for eligible families to enable them to seek or retain employment or to participate in education or training programs to obtain employment. Parts 9565.5000 to 9565.5200 set eligibility standards for recipients and administrative requirements for agencies administering child care funds.

Subp. 2. Applicability. To the extent of available allocations, parts 9565.5000 to 9565.5200 apply to all county and human service boards providing subsidized child care assistance to eligible families under Minnesota Statutes, sections 256H.01 to 256H.19.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5010 DEFINITIONS.

Subpart 1. Scope. As used in parts 9565.5000 to 9565.5200, the following terms have the meaning given them in this part.

Subp. 2. Administering agency. "Administering agency" means a county social services agency or a public or nonprofit agency designated by the county board to administer the child care subsidy program.

Subp. 3. Administrative expenses. "Administrative expenses" means costs associated with the administration of the child care subsidy program. The costs include, but are not limited to:

A. salaries, wages, and related payroll expenses incurred in the administration of the child care subsidy program including direct personnel costs, expenses for general administration and supervision, and expenses for secretarial, clerical, accounting, and other support services;

B. travel and transportation and per diem or subsistence expenses;

C. expenses for materials and office supplies;

D. publication, telephone, postage, and photocopy expenses; and

E. other expenses directly attributable to the child care subsidy program.

Subp. 4. Aid to families with dependent children or AFDC. "Aid to families with dependent children" or "AFDC" means Aid to Families with Dependent Children program authorized under title IV-A of the Social Security Act and Minnesota Statutes, chapter 256. AFDC provides financial assistance and social services to needy families with dependent children.

Subp. 5. AFDC caretaker. "AFDC caretaker" means an AFDC recipient described in part 9500.2440, subpart 7, who lives with and provides care to a dependent child.

Subp. 6. AFDC employment special needs program. "AFDC employment special needs program" means a payment made on behalf of an AFDC recipient for certain expenses relating to the preparation for employment, including child care, training, and education meeting the requirements of the AFDC employment special needs program under Minnesota Statutes, section 256.736, subdivision 8.

Subp. 7. AFDC priority groups. "AFDC priority groups" means AFDC recipients as defined in Minnesota Statutes, section 256.736, subdivision 2a.

Subp. 8. Allocation. "Allocation" means the share of the total state appropriation of child care funds that a county may earn and be reimbursed for in a state fiscal year. A county's allocation may be raised or lowered during the fiscal year when the commissioner redistributes unexpended or unencumbered allocations.

Subp. 9. Applicant. "Applicant" means all parents, stepparents, legal guardians, or eligible relative caretakers in the family that apply for child care assistance under the child care subsidy program.

Subp. 10. Child. "Child" means a person 12 years old or younger, or a person 14 years old or younger who is handicapped, as defined in Minnesota Statutes, section 120.03.

Subp. 11. Child care. "Child care" means the care of a child in or out of the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day, by someone other than a parent, stepparent, legal guardian, or eligible relative caretaker.

Subp. 12. Child care services. "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, head start, licensed school age child care programs or extended-day school age programs that meet the standards established by the State Board of Education, or legal nonlicensed child care provided in or out of the child's home.

Subp. 13. Child care subsidy program. "Child care subsidy program" means child care services funded under Minnesota Statutes, sections 256H.01 to 256H.19.

Subp. 14. Commissioner. "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 15. County board. "County board" means the board of county commissioners in each county.

Subp. 16. Department. "Department" means the Department of Human Services.

Subp. 17. Documentation. "Documentation" means a written statement or record that substantiates or validates an assertion made by a person or an action taken by an administering agency.

Subp. 18. Education program. "Education program" means an education program as that term is defined in Minnesota Statutes, section 256H.01, subdivision 7.

Subp. 19. Employability plan. "Employability plan" means a plan developed

for an AFDC caretaker by an employment and training service provider or person designated by the county to provide employment and training services. The employability plan defines the caretaker's employment and training goals and outlines the training, education, and support services the caretaker needs to achieve those goals. All employability plans must receive county approval and meet the requirements of the AFDC Employment Special Needs Program under Minnesota Statutes, section 256.736, subdivision 8, or other federal reimbursement programs provided by Public Law Number 100-485.

Subp. 20. Employment and training service provider. "Employment and training service provider" means a provider certified by the commissioner of jobs and training under Minnesota Statutes, section 268.0122, subdivision 3, to deliver employment and training services.

Subp. 21. Family. "Family" means family as that term is defined in Minnesota Statutes, section 256H.01, subdivision 9.

Subp. 22. Family copayment fee. "Family copayment fee" means the unsubsidized portion of the provider charge the family must contribute as its share of child care costs.

Subp. 23. Full-time child care. "Full-time child care" means up to a maximum of 60 hours of child care per child per week.

Subp. 24. Greater Minnesota counties. "Greater Minnesota counties" means counties outside the seven county metropolitan area.

Subp. 25. Human services board. "Human services board" means a board established under Minnesota Statutes, section 402.02; Laws of Minnesota 1974, chapter 293; or Laws of Minnesota 1976, chapter 340.

Subp. 26. Income. "Income" means income as that term is defined in Minnesota Statutes, section 256H.01, subdivision 11.

Subp. 27. In-kind service. "In-kind service" means a child care subsidy payment made on behalf of a recipient of AFDC by a third party to cover the difference between actual child care costs and the child care disregard under Minnesota Rules, part 9500.2580, for employed AFDC recipients, or to cover the cost of child care without a disregard for unemployed AFDC recipients enrolled in an education or training program.

Subp. 28. Legal nonlicensed caregiver. "Legal nonlicensed caregiver" means a child care provider exempt from licensing under Minnesota Statutes, section 245A.03.

Subp. 29. Provider. "Provider" means the child care license holder who operates a family day care home, group family day care home, day care center, nursery school, day nursery; a licensed school age child care program or extended-day school age program that meets the standards established by the State Board of Education; or the legal nonlicensed caregiver who is 18 years old or older and functions in or out of the child's home.

Subp. 30. Provider charge. "Provider charge" means the amount the child care service provider charges for child care.

Subp. 31. Recipient. "Recipient" means a family receiving child care assistance under the child care subsidy program.

Subp. 32. Redetermination. "Redetermination" means the process by which information is collected periodically by the county and used to determine whether a recipient is eligible for continued assistance under the child care subsidy program.

Subp. 33. Seven county metropolitan area. "Seven county metropolitan area" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Subp. 34. State median income. "State median income" means the state's annual median income for a family of four, adjusted for family size, developed

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by the Bureau of Census and published annually by the United States Department of Health and Human Services in the Federal Register.

Subp. 35. Student. "Student" means an individual enrolled in an educational program as defined in subpart 18. A student is a full-time student if the student is enrolled in the minimum equivalent of 12 credits or 20 hours of classroom training per week. A student is a part-time student if the student is (1) a non-AFDC student enrolled in a minimum equivalent of six credits or ten hours of classroom training per week up to the minimum equivalent of full-time student status; or (2) an AFDC student who is less than a full-time student but is in compliance with the education or training requirements in his or her employability plan.

Subp. 36. Vendor payment. "Vendor payment" means a payment made by a county or administering agency directly to a provider of child care services on behalf of a recipient.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: 14 SR 519

9565.5020 NOTICE OF CHILD CARE FUND ALLOCATIONS.

By June 1 of each year, the commissioner shall notify all county and human services boards of their allocations under the child care fund.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: 14 SR 519

9565.5025 GENERAL ELIGIBILITY REQUIREMENTS AND ASSISTANCE STANDARDS FOR ALL APPLICANTS.

Subpart 1. Applicant requirements and standards. In addition to specific eligibility requirements under parts 9565.5030 and 9565.5060, all applicants for a child care subsidy shall be governed by the standards and requirements in subparts 2 to 9.

Subp. 2. Documentation of eligibility information. An applicant requesting a child care subsidy must document income eligibility, work, and education or training status. The county shall verify an applicant's eligibility to receive a child care subsidy at the time of the application; when there is a change in household status, family size, employment, income, education or training status; and at each redetermination under part 9565.5150. When contacting third parties to confirm eligibility information, the county shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13.

Subp. 3. Recipient reporting responsibilities. A recipient must follow the reporting procedures in items A to C.

A. A recipient of a child care subsidy must notify the county of any changes in marital or household status, address, employment, and any change in income from the amount reported on the application form or the last redetermination, whichever occurred later.

B. The recipient must report the changes listed in item A within ten calendar days after the change. In cases of an income change, the date of change begins on the day that the recipient receives payment at the new rate.

C. A recipient's failure to report any changes under this subpart or to update information for redetermination is just grounds to terminate a child care subsidy.

Subp. 4. Resident requirement. A recipient of a child care subsidy must be a Minnesota resident under part 8100.0300.

Subp. 5. Eligible applicants. An applicant must meet employment, education, or training requirements under the basic sliding fee program or the AFDC child care program unless the applicant is unable to care for the applicant's child

or dependent as determined by a medical doctor or by an assessment by the local social services agency.

Subp. 6. Maximum weekly child care assistance. Child care subsidies may not be received for more than 60 hours per child per week.

Subp. 7. Child care assistance during employment. Child care assistance during employment shall be granted for all hours of work including break and meal time and up to one hour per day for travel time.

Subp. 8. Child care assistance during education or training. Child care assistance during education or training shall be granted according to items A and B.

A. Full-time students shall receive the equivalent of full-time child care on the days of class for all hours of the education program including time in between nonconsecutive classes and up to one hour per day for travel time. Full-time students who do not have an open period between classes shall receive up to five hours per week for study and academic appointments.

B. Part-time students shall receive child care for all hours of actual class time and periods between nonconsecutive classes plus up to one hour per day for travel time and up to two hours per week for study and academic appointments if there are no open periods between classes in the student's schedule.

Subp. 9. Maximum education and training under child care fund. The maximum length of time a student is eligible for child care assistance under the child care fund for education and training is described in items A to E.

A. A student is eligible for a maximum of 48 months of child care subsidy for education or training from a single child care fund program or combination of programs within the child care fund. A four-year education or training program must be directed towards a baccalaureate degree.

B. A student may receive a child care subsidy for a second education or training program if:

(1) the total period of assistance under both programs does not exceed the equivalent of 48 calendar months;

(2) the student has been unable to find full-time employment in the student's first program; and

(3) at least one year has passed since the student completed the first program.

C. A student with a baccalaureate degree may obtain a child care subsidy for continuing education units or certification or coursework necessary to update credentials to obtain or retain employment.

D. A student who has once dropped out of an education or training program or who once failed to complete an education or training program while receiving a child care subsidy is eligible for child care assistance to enable the student to complete the program or begin a new program. A student applying for child care assistance under this item must be treated as a new applicant.

E. A student may receive a child care subsidy for a second baccalaureate degree if:

(1) the student did not receive child care assistance under the child care subsidy program for the first baccalaureate degree; and

(2) the student does not have marketable skills.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5030 BASIC SLIDING FEE PROGRAM.

Subpart 1. Basic sliding fee allocation. The commissioner shall allocate child care funds for the basic sliding fee program as provided in Minnesota Statutes, section 256H.03, subdivision 2.

Subp. 2. County allocation. The commissioner shall allocate basic sliding fee funds among the counties according to items A to C:

A. 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent special census.

B. 50 percent of the money shall be allocated among the counties on the basis of caseloads of AFDC for the preceding year.

C. If under the formula in items A and B, either the seven county area or the area made up of the greater Minnesota counties is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.

Subp. 3. County administrative expenses. A county may use up to seven percent of its allocation under subpart 2 for administrative expenses.

Subp. 4. AFDC federal program reimbursement. Counties shall claim, on forms prescribed by the commissioner, federal reimbursement under the AFDC special needs program and other appropriate federal programs for child care expenditures for all eligible AFDC recipients who are in education, training, or other preemployment activities allowed under the AFDC special needs program or other federal reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal reimbursement and the county shall use the earnings to expand funding for child care services under the basic sliding fee program.

Subp. 5. Reallocation of unexpended or unencumbered funds. The commissioner shall reallocate unexpended or unencumbered funds according to items A to D.

A. The commissioner may reallocate unexpended or unencumbered funds following the first, second, and third quarters as provided in Minnesota Statutes, section 256H.03, subdivision 3. Following the fourth quarter, the commissioner shall review county expenditures under the basic sliding fee program and shall reallocate unearned allocations to counties that earned their full allocation.

B. The amount reallocated to any county shall be based on earnings in excess of its allocation. The amount reallocated shall not be greater than the earnings in excess of allocation minus the county's maintenance of effort required under part 9565.5110, subpart 9.

C. If the amount of funds available for reallocation is less than total county earnings in excess of allocations, the reallocated funds shall be prorated to each county based on the ratio of the county's earnings in excess of its allocation to the total of all county earnings in excess of their allocation.

D. If the amount of funds available for reallocation is greater than total county earnings in excess of allocations under the basic sliding fee program, the funds remaining after the basic sliding fee reallocation shall be allocated to counties with excess earnings under the AFDC child care program based on the ratio of a county's earnings in excess of its allocation to all county earnings in excess of allocation under the AFDC child care program.

Subp. 6. Families eligible for subsidies under the basic sliding fee program. Eligibility for subsidies under the basic sliding fee program is determined according to items A and B.

A. To the extent of available allocations, a family is eligible for a child care subsidy under the basic sliding fee program if the applicant meets eligibility requirements under part 9565.5025 and the family:

(1) is receiving AFDC;

(2) is eligible for AFDC but is not receiving AFDC; or

(3) has annual gross income that is above the eligibility limit for AFDC but that does not exceed 75 percent of the state median income for a family of four, adjusted for family size.

B. If adequate funds become available, the commissioner may extend the eligibility limit to families with incomes greater than 75 percent of the state median income for a family of four, adjusted for family size, to use available funds.

Subp. 7. Basic sliding fee program waiting lists. Counties must keep a written record of families who have applied for a child care subsidy. When a family requests information about child care assistance, the county shall perform a preliminary determination of eligibility. If it appears that a family is eligible for a child care subsidy and funds are not immediately available, the family shall be placed on a child care subsidy waiting list. The county shall provide a means of identifying students placed on the basic sliding fee waiting list. If it appears that a family is eligible for a child care subsidy and funds are available or if a family requests an application, the family shall be given a child care subsidy application.

Subp. 8. Prioritizing child care assistance. If a county projects that its basic sliding fee allocation is insufficient to meet the needs of all families eligible under subpart 6, it shall prioritize funding among the groups to be served as provided in Minnesota Statutes, section 256H.03, subdivision 2b. The county's procedure for prioritizing basic sliding fee program funds between all eligible groups shall be contained in its annual allocation plan required under part 9565.5120.

Subp. 9. Application for child care assistance. A family that seeks a child care subsidy under the basic sliding fee program must apply for the child care subsidy in the family's county of residence.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5040 JOB SEARCH, EMPLOYMENT, AND EDUCATION OR TRAINING ELIGIBILITY UNDER BASIC SLIDING FEE PROGRAM.

Subpart 1. Child care subsidy during job search. To the extent of available allocations, counties shall provide persons eligible under part 9565.5030 who are seeking employment, the equivalent of one month of full-time child care during job search. At the option of the applicant and with prior county approval, child care may be used at a rate that is less than full-time for a period of up to four consecutive months provided the total child care subsidy does not exceed the equivalent of one month full-time child care. For the purpose of this subpart, job search includes locating, contacting, and interviewing with potential employers and preparing for job interviews.

Subp. 2. Child care subsidy during employment. To the extent of available allocations, counties shall provide child care subsidies to employed persons who are eligible under part 9565.5030, who work ten hours or more per week, and who receive at least the state minimum wage for all hours worked.

Subp. 3. Child care subsidy during education or training programs. To the extent of available allocations, counties shall provide child care subsidies to students eligible under part 9565.5030 and enrolled in part-time or full-time education or training programs.

A. Employed full-time or part-time students are eligible for child care for the hours of employment and education or training.

(1) An acceptable course of study for an AFDC caretaker is a training or education program described in the AFDC recipient's employability plan.

(2) An acceptable course of study for a non-AFDC student is an education or training program that will reasonably lead to full-time employment opportunities as determined by the county.

B. Subject to the limitation in part 9565.5025, subpart 9, counties shall pay child care subsidies to persons eligible under this subpart for the length of the education or training program if the student is making satisfactory progress in the educational or training program. Satisfactory progress in the education or training program means a student remains in good standing in the education or training program and meets the pertinent requirements of the recipient's employability plan. If the county determines that a student is not making satisfactory progress towards completion of an education program, it shall notify the student and shall discontinue the child care subsidy according to part 9565.5110, subpart 10.

C. Upon approval of an application for assistance under this subpart, a county must set aside funds from its current allocation to cover child care subsidies for the current program year. Counties may cover the funding for a child care subsidy for persons eligible under this subpart from funding sources other than the child care fund.

Subp. 4. **Changes in education or training programs; approvals required.** A change in an education or training program is permitted if approved by the county. An approved change in an AFDC recipient's education or training program must be included in the employability plan.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5050 CONTINUED ELIGIBILITY UNDER THE BASIC SLIDING FEE PROGRAM.

To the extent of available allocations, a county may not refuse continued child care assistance to a family receiving a subsidy under the basic sliding fee program when there is a change in the family's financial or household status. However, the family's annual gross income may not exceed 75 percent of the state median income for a family of four, adjusted for family size, and the family must meet all other eligibility requirements under the basic sliding fee program. Except for the education time limit under part 9565.5025, subpart 9, counties may not set a time limit for eligibility under the basic sliding fee program.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5060 AFDC CHILD CARE PROGRAM.

Subpart 1. **County allocation.** The commissioner shall allocate to the counties funds for the AFDC child care program as provided in Minnesota Statutes, section 256H.05, subdivision 1a. The county shall not use any of the allocation under this subpart for administrative expenses.

Subp. 2. **Families eligible under the AFDC child care program.** To the extent of available allocations, families eligible for a child care subsidy under the AFDC child care program are families receiving AFDC and former AFDC recipients who during their first year of employment continue to require a child care subsidy in order to retain employment.

Subp. 3. **Funding priority.** Priority for child care assistance under the AFDC child care program shall be given to AFDC priority groups who are engaged in an employment or education program consistent with their employability plan.

Subp. 4. **Agreements with employment and training service providers.** The county shall develop cooperative agreements with employment and training service providers to coordinate child care funding with employment, training, and education programs for all AFDC recipients. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan shall, to the extent of available allocations, be guaranteed set-aside money for child care assistance from the county of their residence to cover the recipient's employability plan.

Subp. 5. Child care subsidy during education or training programs under AFDC child care program. To the extent of available allocations, counties shall provide child care subsidies for full-time or part-time AFDC students.

A. Employed students are eligible for child care for the hours of employment and education or training. An acceptable course of study for an AFDC caretaker is a training or education program described in the AFDC recipient's employability plan.

B. Subject to the limitation in part 9565.5025, subpart 9, counties shall pay child care subsidies for persons eligible under this subpart for the length of the education or training program if the student is making satisfactory progress in an educational or training program. Satisfactory progress in an education or training program means a student remains in good standing in the education or training program and meets the pertinent requirements of the recipient's employability plan. The county of financial responsibility shall obtain reports on the student's progress for each grading period. If the county determines that the student is not making satisfactory progress toward completion of an education program, it shall notify the student and shall discontinue the child care subsidy according to part 9565.5110, subpart 10.

C. Upon approval of an application for assistance under this subpart, a county must set aside funds from its current allocation to cover child care subsidies for the current program year. Counties may cover the funding for a child care subsidy for persons eligible under this subpart from funding sources other than the child care fund.

Subp. 6. Changes in education or training programs; approvals required. A change in an education or training program is permitted if approved by the county. An approved change in an AFDC recipient's education or training program must be included in the employability plan.

Subp. 7. Reallocation of unearned AFDC child care program funds. The commissioner shall reallocate AFDC child care program funds as provided in Minnesota Statutes, section 256H.05, subdivision 3a.

Subp. 8. AFDC federal program reimbursement. Counties shall claim, on forms prescribed by the commissioner, federal reimbursement under the AFDC special needs program and other appropriate federal programs for child care expenditures for all eligible AFDC recipients who are in education, training, or other preemployment activities allowed under the AFDC special needs program or other federal reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal reimbursement. The county shall use the earnings to expand funding for child care services under the AFDC child care program.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5070 FAMILY COPAYMENT FEE SCHEDULE.

Subpart 1. Non-AFDC family copayment fees. Non-AFDC families participating in the sliding fee program must pay a family copayment fee for child care services as provided in subpart 3.

Subp. 2. AFDC family copayment fees. AFDC families participating in the sliding fee program shall be governed by AFDC program rules regarding child care costs. Employed AFDC recipients must use their dependent care disregard before using the child care fund except as federal and state waivers allow. The child care fund shall cover the cost of child care for unemployed AFDC recipients in education, training, or preemployment activities up to the maximum amount set by the county under part 9565.5100 without applying a disregard.

Subp. 3. Calculation of non-AFDC family copayment fee. A non-AFDC family's monthly copayment fee is a fixed percent of its annual gross income. The

fixed percent is based on the relationship of the family's annual gross income to 100 percent of state median income for a family of four, adjusted for family size. The fixed percent is set forth in item C.

Subject to the maximum provider rate established under part 9565.5100, if the family is eligible for AFDC but not receiving AFDC there is no family copayment fee. If the provider's charge for child care is greater than the maximum provider rate established by the county under part 9565.5100, the family shall pay the difference between the maximum provider rate and the provider charge.

The monthly family copayment fee for families with annual incomes greater than 185 percent of the AFDC family allowance for the assistance unit under part 9500.2440 is determined as follows:

A. The family's annual gross income is converted into a percentage of state median income for a family of four, adjusted for family size, by dividing the family's annual gross income by 100 percent of the state median income for a family of four, adjusted for family size. The percentage must be carried out to the nearest 100th of a percent.

B. If the family's annual gross income is greater than 185 percent of the maximum AFDC grant for a family of the same size but less than 42.01 percent of the state median income for a family of four, adjusted for family size, the family's monthly copayment fee is \$20.

C. If the family's annual gross income is between 42.01 and 75.00 percent of the state median income (SMI) for a family of four, adjusted for family size, the monthly copayment fee is the fixed percentage established for that income range in subitems (1) to (58) multiplied by the highest possible income within that income range, divided by 12, and rounded to the nearest whole dollar.

- (1) 42.01 to 43.00 percent of SMI — 2.60%
- (2) 43.01 to 44.00 percent of SMI — 2.80%
- (3) 44.01 to 45.00 percent of SMI — 3.00%
- (4) 45.01 to 46.00 percent of SMI — 3.20%
- (5) 46.01 to 47.00 percent of SMI — 3.40%
- (6) 47.01 to 48.00 percent of SMI — 3.60%
- (7) 48.01 to 49.00 percent of SMI — 3.80%
- (8) 49.01 to 50.00 percent of SMI — 4.00%
- (9) 50.01 to 50.50 percent of SMI — 4.20%
- (10) 50.51 to 51.00 percent of SMI — 4.40%
- (11) 51.01 to 51.50 percent of SMI — 4.60%
- (12) 51.51 to 52.00 percent of SMI — 4.80%
- (13) 52.01 to 52.50 percent of SMI — 5.00%
- (14) 52.51 to 53.00 percent of SMI — 5.20%
- (15) 53.01 to 53.50 percent of SMI — 5.40%
- (16) 53.51 to 54.00 percent of SMI — 5.60%
- (17) 54.01 to 54.50 percent of SMI — 5.80%
- (18) 54.51 to 55.00 percent of SMI — 6.00%
- (19) 55.01 to 55.50 percent of SMI — 6.25%
- (20) 55.51 to 56.00 percent of SMI — 6.50%
- (21) 56.01 to 56.50 percent of SMI — 6.75%
- (22) 56.51 to 57.00 percent of SMI — 7.00%
- (23) 57.01 to 57.50 percent of SMI — 7.25%
- (24) 57.51 to 58.00 percent of SMI — 7.50%
- (25) 58.01 to 58.50 percent of SMI — 7.75%
- (26) 58.51 to 59.00 percent of SMI — 8.00%

- (27) 59.01 to 59.50 percent of SMI — 8.25%
- (28) 59.51 to 60.00 percent of SMI — 8.50%
- (29) 60.01 to 60.50 percent of SMI — 8.75%
- (30) 60.51 to 61.00 percent of SMI — 9.00%
- (31) 61.01 to 61.50 percent of SMI — 9.25%
- (32) 61.51 to 62.00 percent of SMI — 9.50%
- (33) 62.01 to 62.50 percent of SMI — 9.75%
- (34) 62.51 to 63.00 percent of SMI — 10.00%
- (35) 63.01 to 63.50 percent of SMI — 10.30%
- (36) 63.51 to 64.00 percent of SMI — 10.60%
- (37) 64.01 to 64.50 percent of SMI — 10.90%
- (38) 64.51 to 65.00 percent of SMI — 11.20%
- (39) 65.01 to 65.50 percent of SMI — 11.50%
- (40) 65.51 to 66.00 percent of SMI — 11.80%
- (41) 66.01 to 66.50 percent of SMI — 12.10%
- (42) 66.51 to 67.00 percent of SMI — 12.40%
- (43) 67.01 to 67.50 percent of SMI — 12.70%
- (44) 67.51 to 68.00 percent of SMI — 13.00%
- (45) 68.01 to 68.50 percent of SMI — 13.30%
- (46) 68.51 to 69.00 percent of SMI — 13.60%
- (47) 69.01 to 69.50 percent of SMI — 13.90%
- (48) 69.51 to 70.00 percent of SMI — 14.20%
- (49) 70.01 to 70.50 percent of SMI — 14.50%
- (50) 70.51 to 71.00 percent of SMI — 14.80%
- (51) 71.01 to 71.50 percent of SMI — 15.10%
- (52) 71.51 to 72.00 percent of SMI — 15.40%
- (53) 72.01 to 72.50 percent of SMI — 15.70%
- (54) 72.51 to 73.00 percent of SMI — 16.00%
- (55) 73.01 to 73.50 percent of SMI — 16.30%
- (56) 73.51 to 74.00 percent of SMI — 16.60%
- (57) 74.01 to 74.50 percent of SMI — 16.90%
- (58) 74.51 to 75.00 percent of SMI — 17.20%

D. If the provider's charge for child care is greater than the maximum provider rate established by the county under part 9565.5100, families shall pay, in addition to the family copayment fee, the difference between the maximum provider rate and the provider charge.

E. If the remaining provider charge, up to the maximum provider rate established by the county under part 9565.5100, for child care services is less than \$20 upon payment of the family copayment fee, the family shall pay the remainder of the provider charge.

F. During the start-up month, the county may determine the family copayment fee but it may not establish a fee that is greater than 100 percent of the monthly copayment fee for families receiving assistance on or before the 15th of any month or greater than 50 percent of the monthly copayment fee for families receiving assistance on or after the 16th of any month.

Subp. 4. Publication of state median income and fee schedule in State Register. The department shall publish in the State Register the state median income for a family of four, adjusted for family size, and a fee schedule based on the formula in subpart 3, item C, within 120 days from the date of its publication in the Federal Register by the Department of Health and Human Services. Once pub-

lished in the State Register, the department shall distribute a copy of the fee schedule and the updated estimate of state median income to each county. The updated fee schedule shall be used by the county to determine the family copayment fee for new applications and at a participating family's next redetermination beginning on the first month of the first full quarter that follows publication of the state median income in the State Register.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5080 PAYMENT OF CHILD CARE SUBSIDY.

Subpart 1. Payment options. The county may make child care subsidy payments to the child care provider or directly to an eligible family to reimburse the family for child care expenditures. If the county makes child care subsidy payments directly to an eligible family, it shall establish appropriate documentation procedures to ensure that funds are used for child care.

Subp. 2. Notification of vendor payment procedures. If the method of payment is vendor payment, the county shall inform both the family and child care provider of the payment amount and how and when payment shall be received.

Subp. 3. County payment schedule. The county shall make payments at least monthly.

Subp. 4. Sick child care. Sick child care means child care services provided to children who as a result of illness cannot attend the family's regular provider. If required by the regular provider, child care payments shall go to the provider to hold a child care space for the sick child. In addition to making payments for regular child care, the county may pay sick child care on a limited basis. If the county chooses to pay sick child care, payment for sick child care shall be at a rate comparable to like care arrangements in the county. The county's sick child care rate shall be included in the county's annual allocation plan required under part 9565.5120.

Subp. 5. Payment during child absences. If required by the regular provider, child care payments shall go to the provider to hold a child care space for an absent child. Payments for child absences may be made for employer or school holidays and breaks. The total payment amount allowed to be paid from the child care fund under this subpart and subpart 4 shall not exceed ten days per child in a six-month period. Provider charges for absent days in excess of this amount are the responsibility of the family receiving the child care subsidy.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5090 ELIGIBLE PROVIDERS.

Providers eligible for payments under the child care fund are providers as defined in part 9565.5010, subpart 29. Parents may choose child care providers that best meet the needs of their family subject to the limitation in Minnesota Statutes, section 256H.10, subdivision 5.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5100 CHILD CARE PROVIDER RATES.

Subpart 1. Rate determination. Each year, the commissioner shall determine the median provider charge for infants, toddlers, preschool children, and school age children in day care centers and family day care homes in each county. When the sample size for determining provider rates is too small to provide a valid statistical sample, the commissioner may establish child care provider rates based on like care arrangements in similar areas.

Subp. 2. Establishment of maximum county child care subsidy. Counties shall pay the provider's charges to cover all eligible hours of child care up to the maximum of 60 hours per child per week. The county board may set a maximum rate that it will pay a child care provider according to items A to F.

A. The maximum rate for a legal nonlicensed caregiver may be set by the county but may not be less than the median rate in the county for family day care providers nor more than 125 percent of the median rate for family day care providers.

B. The rate for child care for a child with a handicap may be set by the county but not be less than the 110 percent or more than 125 percent of the median rate in the county for care of children with a handicap.

C. The maximum rate for a licensed provider may be set by the county but may not be lower than 110 percent or higher than 125 percent of the median rate determined by the department to exist for similar care arrangements in that county.

D. To be reimbursed for more than 110 percent of the median rate, a provider with employees must pay wages for teachers, assistants, and aides that are more than 110 percent of the county average rate for child care workers.

E. If the county chooses not to set a maximum rate, the maximum state participation is 125 percent of the median rate for similar care arrangements in the county. The county shall pay the difference between the provider charge and the amount of state participation.

F. If the county establishes a maximum rate, it must pay the provider's charge for each child in care up to the maximum rate. If a provider's child care rate is less than the county's maximum rate, the county must pay the lower rate.

Subp. 3. Maximum state participation. The state payment is limited to the difference between the family copayment fee and the provider's charge for care up to a maximum of 125 percent of the median rate determined by the department for similar care arrangements in the county. When the provider of child care services charges more than the maximum rate set for similar care arrangements in the county, the state's payment is limited to the difference between the maximum rate set for similar care arrangements in the county and the family's copayment fee.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5110 COUNTY RESPONSIBILITIES.

Subpart 1. County child care assistance policies and procedures. Counties shall adopt policies and procedures for providing child care subsidies to enable eligible applicants to seek or retain employment or to participate in education or training programs. All county policies applied to recipients of child care subsidies must be in writing and must be included in the county's annual allocation plan required under part 9565.5120.

Subp. 2. Child care subsidy information. The county shall provide information on child care subsidies to child care service providers, social service agencies, and the local news media as it deems necessary to ensure the full use of its child care fund allocation.

Subp. 3. County contracts and designation of administering agency. Counties may contract for the administration of the child care subsidy program or may arrange for child care subsidy funds to be used by other designated programs. The county shall designate the agency authorized to administer the child care fund.

Subp. 4. Local match. The county shall provide a local match equal to 15 percent of the basic sliding fee program allocation during the grant year. The local match may include in-kind materials and services furnished by the county and required for the administration of the program. The local match may not include the family copayment fee.

Subp. 5. Funding priorities. If a county's funding allocation for child care is insufficient to address all requests for a child care subsidy, the county shall prioritize funding among all the groups that remain to be served after the county has complied with the priority requirements set forth in Minnesota Statutes, sections 256H.03 and 256H.05. The county shall include its rationale for the prioritization in its annual allocation plan. To the extent of available allocations, no eligible family may be excluded from receiving a child care subsidy.

Subp. 6. Documentation required if group is disproportionately funded. If more than 75 percent of the child care funds are provided to any one of the groups described in Minnesota Statutes, sections 256H.03 and 256H.05, the county shall document to the commissioner the reason the group received a disproportionate share unless approved in the county's annual child care fund allocation plan.

Subp. 7. Funding waiting list and intermittent assistance. The county shall place on a waiting list eligible families that do not receive a child care subsidy due to insufficient funding. Families on the waiting list shall be moved into the child care subsidy program as funding permits based on the county funding priorities adopted under subpart 5. For no more than 90 days, the county may reserve a family's position in the child care subsidy program if the family has been receiving a child care subsidy but is temporarily ineligible for assistance due to a change in income or family status. The county's policy for reserving the position of families temporarily ineligible for child care assistance must be in writing and must be included in the annual allocation plan required in part 9565.5120.

Subp. 8. Child care fund reports. The county shall complete a child care fund program fiscal report each quarter on forms approved by the commissioner. The county must submit the child care fund program report to the commissioner no later than 20 calendar days following the end of a quarter.

Subp. 9. Maintenance of effort. The county shall provide the commissioner with a written statement that it has not reduced funding from other federal, state, and county sources available to it in state fiscal year 1987, that would have been available for child care services in absence of the child care fund, unless the county can demonstrate that no eligible family was refused a child care subsidy because of a shortage of funds. The county shall submit the written statement with the child care fund allocation plan.

Subp. 10. Termination of a child care subsidy. A county must follow the procedures in items A to D in terminating a child care subsidy.

A. The county shall notify a recipient, in writing, of termination of a child care subsidy. The notice must state the reason or reasons the assistance is being terminated. The notice shall inform the recipient of the right to contest the adverse action and the procedure for doing so. The notice shall inform the recipient that if the recipient appeals the proposed action before the effective date of termination, the action shall not be taken until the appeal has had a fair hearing and that benefits paid during the appeal process will be subject to recovery if the termination is upheld. Except for cases of suspected fraud, the notice must be mailed to the recipient's last known address at least 15 calendar days before terminating assistance. In cases of suspected fraud, the termination notice must be mailed at least five working days before the effective date of the termination.

B. Failure of a recipient to provide required information or documentation, to report changes required under part 9565.5025, subpart 3, to pay the family copayment fee or the provider charge if the state share of the subsidy is paid directly to the family is just cause for terminating assistance.

C. If the child care subsidy is made by vendor payment, the county shall inform the child care provider of the notice of termination and of the continuation of assistance pending a hearing if a recipient appeals the termination of assistance.

D. If the recipient appeals the proposed action before the effective date

of termination, the action shall not be taken until the appeal has had a fair hearing as provided under part 9565.5200, subpart 1. Child care assistance payments made pending a fair hearing are subject to recovery when, as a result of the hearing, the commissioner finds that the recipient was not eligible for the child care assistance paid in excess of the recipient's entitlement pending the appeal. The county shall seek voluntary repayment or initiate civil court proceedings to recover child care assistance payments under this subpart.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: 14 SR 519

9565.5120 CHILD CARE FUND ALLOCATION PLAN.

Subpart 1. Submittal of plan. By the date established by the commissioner each year, the county shall submit to the commissioner an annual child care fund allocation plan.

Subp. 2. Plan content. The allocation plan shall contain:

A. a narrative of the county's total program for child care services for job search, employment, and education or training purposes, including the amount and sources of all other funds used to provide child care services;

B. information regarding the number of families that requested a child care subsidy in the previous year, the number of eligible families the county is able to serve in each program, the county's procedure for prioritizing child care subsidies, and the number of families on a waiting list for child care subsidies;

C. methods the county uses to inform target groups of the availability of a child care subsidy and copies of county policies regarding child care services;

D. information on provider rates paid by provider type;

E. the county's policy for approving and extending child care subsidies for parents whose education programs change;

F. the county's policy for providing child care assistance to families needing intermittent child care assistance under part 9565.5110, subpart 7;

G. a statement that the county has not reduced child care funding as required under part 9565.5110, subpart 9; and

H. other information, as requested by the commissioner, that describes the county's policies and procedures used to administer the child care funds.

Subp. 3. Plan approval and amendments. The commissioner shall inform each county of the approval of its allocation plan within 60 calendar days after the submission deadline. If the plan is not approved, the commissioner shall inform the county why the plan was not approved. No child fund allocations shall be made to a county until it has an approved allocation plan. The county may request approval to amend its child care allocation plan at any time. If approved by the commissioner, the amendment is effective on the date requested by the county unless a different effective date is set by the commissioner. Plan amendments must be approved or disapproved by the commissioner within 60 days after receipt of the amendment request.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: 14 SR 519

9565.5130 DUTIES OF ADMINISTERING AGENCY.

Subpart 1. Application forms and child care subsidy information. The administering agency shall offer by hand or mail, a child care subsidy application form to an applicant if funds are available or the family requests an application. The administering agency shall provide the family with information supplied by the department regarding the availability of federal and state child care tax credits and federal earned income tax credits. At the time of the request, the administering agency shall inform the family of the following:

- A. the eligibility requirements for participating in the child care subsidy program and documentation necessary to confirm eligibility;
- B. the existence of a child care subsidy waiting list and the number of families on the waiting list;
- C. the procedure for applying for a child care subsidy; and
- D. the family copayment fee schedule and how the fee is computed.

Subp. 2. Application procedure. An administering agency must follow the application procedures in items A to D.

A. If it appears that a family is eligible for a child care subsidy and funds are available or if a family requests an application, the administering agency shall mail or hand the family a child care subsidy application.

B. If a family requests child care assistance and funds are not available, the administering agency shall inform the family of a waiting list, screen the family for potential eligibility, and place the family on the waiting list if they appear eligible.

C. If child care funds become available, the administering agency shall inform the family at the head of the waiting list and ask the family to complete an application. The administering agency shall accept signed and dated applications that are submitted by mail or delivered to the agency within 15 calendar days after the date of signature. The administering agency shall mail a notice of approval or denial of assistance to the applicant within 30 calendar days after receiving the application. With the consent of the applicant, the administering agency may extend the response time by 15 calendar days.

D. The administering agency shall document the reason or reasons for denying an application for child care assistance, shall inform the applicant of the reason for denial, and shall inform the applicant of the right to a fair hearing under part 9565.5200.

Subp. 3. Date of eligibility for assistance. The date of eligibility for child care assistance is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training programs under Minnesota Statutes, section 256.736. The notice of approval of the application must state the following:

- A. the beginning date of eligibility; and
- B. that any change in income, address, family size, and employment, education, or training status must be reported within ten calendar days from the date the change occurs.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5140 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subpart 1. Proof of income eligibility. An applicant requesting a child care subsidy must provide proof of income eligibility. For the purpose of determining income eligibility, annual income of the applicant family is the income of the family for the current month multiplied by 12, the income for the 12-month period immediately preceding the date of application, or the income for the time period that provides the most accurate assessment of annual income available to the family. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of income.

Subp. 2. Evaluation of income of AFDC families. The administering agency shall determine the income of AFDC families based on AFDC requirements under parts 9500.2000 to 9500.2880.

Subp. 3. Evaluation of income of non-AFDC families. The administering agency shall determine income received or available to a non-AFDC family according to subparts 4 to 13. All income, unless specifically excluded in subpart 6, must be counted as income.

Subp. 4. Determination of annual gross income. The income standard for determining eligibility for a child care subsidy is annual gross income. Annual gross income is the sum of gross earned income, self-employment income, unearned income, and lump sum payments. Gross earned income, self-employment income, unearned income, and lump sum payments must be calculated separately.

Subp. 5. Gross earned income of wage and salary employees. Gross earned income means earned income from employment before mandatory and voluntary payroll deductions. Gross earned income includes, but is not limited to, salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, and profits from other activity earned by an individual's effort or labor. Gross earned income includes uniform and meal allowances if federal income tax is deducted from the allowance. Gross earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash. Gross earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time. When housing is provided as part of the total work compensation, the fair market value of such housing shall be considered as if it were paid in cash.

Subp. 6. Excluded income. The administering agency shall exclude items A to G from annual gross income:

A. scholarships and grants that cover costs for tuition, fees, books, and educational supplies;

B. student loans for tuition, fees, books, supplies, and living expenses;

C. in-kind noncash public assistance income such as food stamps, energy assistance, medical assistance, and housing subsidies;

D. income from summer or part-time employment of 16, 17, and 18-year-old full-time secondary school students;

E. grant awards under the family subsidy program;

F. nonrecurring lump sum income that is earmarked and used for the purpose for which it is paid; and

G. child or spouse support paid to a person or persons who live outside of the household.

Subp. 7. Earned income from self-employment. In determining annual gross income for purposes of eligibility under this part, the administering agency shall determine earned income from self-employment. Earned income from self-employment is the difference between gross receipts and authorized self-employment expenses which may not include expenses under subpart 8. Self-employment business accounts must be kept separate from the family's personal checking and savings accounts. If the person's business is a partnership or a corporation and that person is drawing a salary, the salary shall be treated as gross earned income under subpart 5.

Subp. 8. Self-employment deductions which are not allowed. In determining eligibility under this part, self-employment expenses must be subtracted from gross receipts. However, the expenses listed in items A to M shall not be subtracted from gross receipts:

A. purchases of capital assets;

B. payments on the principal of loans for capital assets;

C. depreciation;

D. amortization;

E. the wholesale costs of items purchased, processed, or manufactured that are unsold inventory with a deduction for the costs of those items allowed at the time they are sold;

F. transportation costs that exceed the amount allowed for use of a personal car in the United States Internal Revenue Code;

G. the cost of transportation between the individual's home and his or her place of employment;

H. salaries and other employment deductions made for members of a family for whom an employer is legally responsible, provided family income is only counted once;

I. monthly expenses greater than \$71 for each roomer;

J. monthly expenses greater than \$86 for each boarder;

K. monthly expenses greater than \$157 for each roomer-boarder;

L. annual expenses greater than \$103 or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income; and

M. expenses not allowed by the United States Internal Revenue Code for self-employment income.

Subp. 9. Self-employment budget period. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month the expenses are paid except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred. However, gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 10. Determination of farm income. Farm income must be determined for a one-year period. Farm income is gross receipts minus operating expenses, except for expenses listed in subpart 8. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods.

Subp. 11. Determination of rental income. Income from rental property is considered self-employment earnings when the owner spends an average of ten or more hours per week on maintenance or management of the property. The administering agency shall deduct an amount for upkeep and repairs according to subpart 8, item L, for real estate taxes, insurance, utilities, and interest on principal payments. When a family lives on the rental property, the administering agency shall divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of units to determine the expense per unit. The administering agency shall deduct expenses from rental income only for the number of units rented, not for units occupied by family members. When an owner does not

spend an average of ten or more hours per week on maintenance or management of the property, income from rental property is considered unearned income. The deductions described in this subpart are subtracted from gross rental receipts.

Subp. 12. Determination of unearned income. Unearned income includes, but is not limited to, interest, dividends, unemployment compensation, disability insurance payments, veteran benefits, pension payments, child support and spousal support received or anticipated to be received by a family, insurance payments or settlements, and severance payments. Expenditures necessary to secure payment of unearned income are deducted from unearned income. Payments for illness or disability, except for those payments described as earned income in subpart 5, are considered unearned income whether the premium payments are made wholly or in part by an employer or by a recipient.

Subp. 13. Treatment of lump sum payments. Lump sum payments received by a family must be considered earned income under subparts 7 to 11 or unearned income according to subpart 12.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5150 REDETERMINATION OF ELIGIBILITY.

The county shall redetermine a family's eligibility for a child care subsidy and the family's copayment fee when notified by the family of a change in the information required to be reported in part 9565.5025, subpart 3, or at least every six months, whichever occurs first.

A-redetermination of eligibility shall not be treated as a new application for child care assistance. If, as a result of redetermination of eligibility, a family is found to be ineligible for further child care assistance, the county shall terminate the child care assistance as provided in part 9565.5110, subpart 10.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5160 QUARTERLY FINANCIAL AND PROGRAM ACTIVITY REPORTS.

Counties shall submit, on forms prescribed by the commissioner, a quarterly financial and program activity report. The report is due within 20 calendar days after the end of each quarter. The financial and program activity report must include:

A. a detailed accounting of the expenditures and revenues for the child care subsidy program during the preceding quarter by funding source and eligibility group;

B. a description of child care activities and expenditures that are federally reimbursable under the AFDC employment special needs program or other federal reimbursement programs;

C. a description of child care activities and expenditures of set-aside money;

D. information on money encumbered at the quarter's end but not yet reimbursable, for use in adjusting allocations as provided in parts 9565.5030, subpart 5; and 9565.5060, subpart 7; and

E. other information concerning financial or program activity as requested by the department.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5170 QUARTERLY PAYMENTS.

The commissioner shall make payments to the counties in quarterly install-

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ments. The commissioner may certify an advance to the counties for the first quarter of the fiscal year. Payments made to the counties after the first quarter shall be based on actual expenditures as reported by the counties in the quarterly financial and program activity report required under part 9565.5160.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5180 NOTICE OF NONCOMPLIANCE; FUNDING SANCTIONS.

If the commissioner finds that a county is not complying with parts 9565.5000 to 9565.5200, the procedures in items A to F apply.

A. The commissioner shall notify the county, by certified mail, of the rule part that the county has not complied with.

B. Within 30 days after receiving the notice, the county must demonstrate to the commissioner that it is in compliance with the rule or must develop a correction plan to address the noncompliance. If the county can demonstrate compliance, the commissioner shall not take any further action.

C. If the county submits a correction plan, the commissioner shall approve or disapprove the correction plan within 30 days after the date that it is received. If the commissioner approves the correction plan submitted by the county, the county shall have 90 days after the date of approval to implement the correction plan.

D. If the county fails to demonstrate compliance or fails to implement the correction plan approved by the commissioner, the commissioner may withhold the county's child care fund allocations until the county is in compliance with the statute or rule.

E. Funds withheld from a county under this part may be reallocated to other counties based on the formula in Minnesota Statutes, section 256H.03, subdivision 2.

F. Counties may appeal the sanction in accordance with Minnesota Statutes, chapter 14, for contested cases.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5190 AUDIT EXCEPTIONS.

The commissioner shall recover from counties state or federal money spent for child care that is ineligible under parts 9565.5000 to 9565.5200. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

9565.5200 FAIR HEARING PROCESS.

Subpart 1. Hearing request. An applicant or recipient of a child care subsidy adversely affected by an administering agency's action may request a fair hearing according to Minnesota Statutes, section 256.045, subdivision 3.

Subp. 2. Informal conference. The administering agency shall offer an informal conference to applicants or recipients adversely affected by an agency action to attempt to resolve the dispute. The administering agency shall advise adversely affected applicants and recipients that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing under subpart 1.

Statutory Authority: *MS s 256H.01 to 256H.19*

History: *14 SR 519*

**GRANTS FOR CHILD CARE RESOURCE AND REFERRAL PROGRAMS
AND CHILD CARE SERVICES****9565.5500 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 9565.5500 to 9565.5520, the following terms have the meanings given them in this part.

Subp. 2. **Child.** "Child" means a person 12 years old or younger or a person 14 years old or younger who is handicapped, as defined in Minnesota Statutes, section 120.03.

Subp. 3. **Child care.** "Child care" means the care of a child by someone other than a parent, legal guardian, or AFDC caretaker outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subp. 4. **Child care services.** "Child care services" means licensed child care provided in family day care homes, group family day care homes, nursery schools, day nurseries, child day care centers, head start, and school age child care programs legally exempt from licensure under Minnesota Statutes, section 245A.03, subdivision 2, clauses (5) and (12).

Subp. 5. **Child care worker.** "Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider, and a person who has applied for a license as a provider.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

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

Subp. 8. **Development region.** "Development region" means a development region as defined in Minnesota Statutes, section 462.384, subdivision 5.

Subp. 9. **Facility improvement expenses.** "Facility improvement expenses" means building improvements, equipment, toys, and supplies needed to establish, expand, or improve a licensed child care facility.

Subp. 10. **Interim financing.** "Interim financing" means funds to carry out activities necessary for family day care homes, group family day care homes, and child care centers to receive and maintain state licensing; to expand an existing program or to improve program quality; and to provide operating funds for no more than six consecutive months after a family day care home, group family day care home, or child care center has received a license from the commissioner.

Subp. 11. **Local match.** "Local match" means a nonstate source of funds used to match state grants-in-aid funds. Local match may include, but is not limited to, federal funds, fees for services, local tax levies, foundation money, or private contributions. In-kind donations or services are acceptable as local match provided the local match is directly related to the purpose of the state grant.

Subp. 12. **Mini-grant.** "Mini-grant" means a special category of funding under the child care services grants program that may be used by the grantee for facility improvements, start-up costs, interim financing, or staff training and development.

Subp. 13. **Resource and referral program.** "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services include parent education, technical assistance for providers and employers, information regarding staff development programs, and referrals to social services.

Subp. 14. **Staff training or development expenses.** "Staff training or development expenses" means the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.

Subp. 15. Training program. "Training program" means child development courses and training courses that meet the requirements of part 9502.0385 or 9503.0035. To qualify as a training program under this subpart, a course of study must teach specific skills that a child care worker needs to meet licensing requirements.

Statutory Authority: *MS s 245.872; 256H.20 subd 4; L 1988 c 689 art 2 s 266*

History: *14 SR 165*

9565.5510 CHILD CARE RESOURCE AND REFERRAL PROGRAM GRANTS.

Subpart 1. Availability of resource and referral program grants. As provided in Minnesota Statutes, sections 245.872 and 256H.20, resource and referral program grants are available to public or private nonprofit agencies for establishing, expanding, improving, or operating a resource and referral program and for planning a resource and referral program where no program currently exists.

Subp. 2. Federal funds; grant requirements. Federal funds received for planning, developing, establishing, expanding, or improving local resource and referral and school age child care services that are available as grants under subpart 1 must be expended according to federal requirements and, unless contrary to federal requirements, according to subparts 3 to 16. Applications for grants using federal funds shall include assurances that all federal grant requirements will be met.

Subp. 3. Grant proposals. Resource and referral program grant proposals must be submitted by a public or private nonprofit agency to the commissioner on or before the date specified by the commissioner in the grant announcement. A public or private nonprofit agency must submit proof of its nonprofit status at the time of its grant request and shall include in its grant proposal the dollar amount of any resource and referral grants received in the previous three years and any pending grant applications that, if received, would duplicate or complement the resource and referral grant.

Subp. 4. Geographical area of service. A public or private nonprofit agency receiving a resource and referral program grant must provide service to the geographical area identified in the grant proposal as approved by the commissioner. The commissioner shall only award funds to support the operation of one resource and referral program per service area.

Subp. 5. Requirements of grant recipients. A public or private nonprofit agency receiving resource and referral program grant funds must comply with the requirements in subparts 6 to 9.

Subp. 6. Development of resource file and referral process. A public or private nonprofit agency receiving a resource and referral grant shall:

A. maintain a resource file that includes the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, and transportation available to the program;

B. update the resources file at least every three months;

C. publicize its services through popular media sources, social service agencies, employers, and other appropriate methods approved by the commissioner;

D. design services to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources;

E. establish a referral process that responds to parental need while fully recognizing the confidentiality rights of parents;

F. afford parents maximum access to referral information including telephone referral services for 20 or more hours per week;

G. provide child care resource and referral information to all persons requesting services and technical assistance to all types of child care providers and employers;

H. demonstrate a commitment to continue the program after the state grant is discontinued; and

I. develop a resource file of child care services provided by all licensed or legally operating public and private agencies within its service area. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, toddler, preschool, and extended care programs; and programs for school age children. The resource file may also include information on legally unlicensed providers and in-home providers who are legally exempt from licensure.

Subp. 7. Documentation of service requests. The child care resource and referral agency must maintain a written record of the number of calls and contacts for service. Information documented must include the ages of children served; the time category of child care requested for each child; special time categories such as nights, weekends, and swing shifts; and the reason that child care is needed. The information must also contain the names and addresses of clients to allow follow-up evaluation of the resource and referral service.

Subp. 8. Educational information available to parents. The child care resource and referral agency shall have the following educational information available for parents:

A. information and criteria for assessing and evaluating the quality and suitability of child care services including licensing regulations, availability of financial assistance, child abuse reporting procedures, and child development information; and

B. information on available parent, early childhood, and family education programs in the community and community resources for developmental assessment of children.

Subp. 9. Technical assistance to providers and employers. The child care resource and referral agency shall provide technical assistance to employers and existing and potential providers of all types of child care services. The technical assistance shall include:

A. information on aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

B. information and resources that help existing child care providers to maximize their ability to serve the children and parents of their community including information to child care workers on child care training opportunities and child care courses and on financial aid available from postsecondary institutions;

C. dissemination of information on current public issues affecting the local and state delivery of child care services;

D. facilitation of communication between existing child care providers and child care-related services in the community served;

E. recruitment of licensed providers; and

F. identification of employer child care options, and the benefits available to employers using the various options to expand child care services to employees.

Subp. 10. Grant allocation. The commissioner may allocate up to 25 percent of the funds appropriated to develop child care services under Minnesota Statutes, section 245.872, for resource and referral programs.

Funds made available under Minnesota Statutes, section 245.872, for resource and referral program grants shall be allocated to development regions

according to the formula in Minnesota Statutes, section 245.872, subdivision 2. Funds allocated to a development region that exceed grant requests or that were not used for grants due to an applicant's failure to comply with requirements under the grant proposal may be used to fund grant proposals in other development regions. Child care services funds made available for resource and referral program grants in excess of grants approved by the commissioner shall be used for child care services under part 9565.5520.

The commissioner shall allocate funds appropriated or received under Minnesota Statutes, section 256H.20, for resource and referral programs. The commissioner may allocate up to 75 percent of the funds appropriated under Minnesota Statutes, section 256H.20, for grants to plan or start up resource and referral programs. The commissioner shall allocate the remaining funds for grants to expand, improve, or operate ongoing resource and referral programs. Resource and referral program grants available under Minnesota Statutes, section 256H.20 shall be awarded on a statewide basis based on the quality of the grant proposals. Funds allocated for planning and start-up grants in excess of grant requests may be used to fund grant proposals for ongoing programs.

Subp. 11. Maximum grant amount and match requirements. The maximum child care resource and referral program grant the commissioner may award an agency to establish, improve, expand, or operate an existing child care resource and referral service is \$60,000 per year. The maximum grant the commissioner may award a public or private nonprofit agency to plan a resource and referral program is \$10,000 per year. Except for planning grants, a public or private nonprofit agency receiving a child care resource and referral grant must match those funds with a local match of 25 percent and must demonstrate a commitment to continue the program after the state grant is discontinued. A public or private nonprofit agency receiving a grant to plan a resource and referral program must match those funds with a local match of 25 percent and must demonstrate that it has the expertise and organizational ability to complete the planning proposal within a maximum period of two years.

Subp. 12. Resource and referral grant proposal ranking. Grant proposals that meet the requirements of subparts 6 to 9 shall be ranked by an advisory task force established under Minnesota Statutes, section 245.872, subdivision 3. The advisory task force shall use the criteria in items A to G to rank the grant proposals.

A. The grant applicant's ability to demonstrate the need for a child care resource and referral program in the geographical area to be served under the grant. Grants shall be awarded to only one resource and referral program per service area.

B. The extent that the program budget and grant proposal is complete, reasonable, and able to achieve the program's stated objectives.

C. The ability of the grant applicant to demonstrate that the program and nonstate funding for the program will continue after the state grant is discontinued.

D. The ability of the grant applicant to demonstrate support from the county social services agency, parent groups, schools, licensed child care providers, and community child care organizations.

E. The organizational structure of the resource and referral program and its capability to achieve the goals of the resource and referral program.

F. The ability of the program to meet reporting and data collection requirements of the commissioner.

G. The detailed description of the grant proposal as it relates to the child care resource and referral program with particular emphasis on:

- (1) defining the geographical service area;
- (2) identifying existing child care services;
- (3) maintaining and updating the resource file;

(4) establishing a referral process that responds to parental need and recognizes the parents' right of confidentiality;

(5) documenting parental requests for service and education aids;

(6) providing technical assistance to employers and all existing and potential providers of child care; and

(7) announcing service availability through popular media sources, social agencies, employers, and child care providers.

Subp. 13. Restriction on grant recommendations by advisory task force. Members of the advisory task force with a direct financial interest in a pending resource and referral grant proposal may not provide a recommendation or participate in the ranking of that grant proposal. A direct financial interest includes, but is not limited to, employment with the program or a financial interest in the program, membership on the program's board of directors, or employment of a family member in or by the program. A family member employed in or by the program includes any person related to an advisory task force member by blood or marriage within the third degree of consanguinity.

Subp. 14. Awarding of grants. The commissioner shall award resource and referral program grants based on the recommendations of the grant advisory task force.

Subp. 15. Expenditure records. The recipient of a child care resource and referral grant shall maintain a record of all expenditures under the resource and referral program. The department is not liable for costs incurred by an applicant before issuance of a resource and referral grant contract signed by the commissioner or the commissioner's designated representative.

Subp. 16. Audit of grant expenditures. The commissioner may audit the expenses of a grant recipient during the grant period and during the 12 months immediately following the close of the grant period. The grantee shall provide the commissioner with copies of invoices and receipts of expenditures under the resource and referral grant. The grantee shall reimburse the department for any expenditure of grant funds unauthorized by the resource and referral grant contract.

Statutory Authority: *MS s 245.872; 256H.20 subd.4; L 1988 c 689 art 2 s 266*

History: *14 SR 165*

9565.5520 GRANTS FOR CHILD CARE SERVICES.

Subpart 1. Child care services grants. Child care services grants are available for facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. In addition, as provided under subparts 15 to 18, child care services grants of up to \$1,000 per grantee may be made available to help a grantee meet or exceed child care licensing requirements, to fund physical plant improvements, to expand or improve a licensed child care program, to purchase equipment, or to fund child care training.

Subp. 2. Allocation of funds. The commissioner shall allocate grant money appropriated for child care services as provided in Minnesota Statutes, section 245.872, subdivision 2. The commissioner may allocate up to 25 percent of the available funds for child care resource and referral programs as provided in part 9565.5510, subpart 10. The remaining funds shall be allocated for facility improvements, interim financing, child care staff training, and mini-grants. The commissioner shall not allocate more than 75 percent of the remaining funds for either child care facilities or staff training. Funds allocated to a development region in excess of a region's request for child care service development grants or where grants were not awarded due to an applicant's failure to comply with the requirements under the grant proposal may be used to fund child care service development grant proposals in other development regions. Funds allocated for child care service development program grants in excess of grants approved by

the commissioner may be used for child care resource and referral programs under part 9565.5510.

Subp. 3. Eligible grant recipients. Eligible recipients of child care service grants are licensed providers of child care, applicants in the process of obtaining licensure, and organizations providing child care services to providers. If a grant applicant is in the process of obtaining licensure, the applicant must provide assurance of being able to meet licensure requirements and must verify that a completed application has been received by the county social service agency's family day care licensor or by the Department of Human Services, Division of Licensing. With the exception of mini-grants, priority for awarding child care services grants shall be given to grant applicants in the order they appear below:

- A. public and private nonprofit agencies;
- B. employer-based day care centers;
- C. other for-profit day care centers; and
- D. family day care providers.

Subp. 4. Grant proposals. Child care services grant proposals must be submitted to the commissioner on or before the date specified in the child care services grant announcement and must include information on any previous grant received in the past three years and any other pending grant request. A nonprofit organization must include proof of its nonprofit status at the time of the grant request. For-profit businesses and corporations shall indicate whether they are an employer-based day care center, other for-profit day care center, or a family day care provider at the time of the grant request.

Subp. 5. Grant match requirements. Child care services grants for facility improvements, interim financing, and staff training and development require a 25 percent local match by the grant applicant. A local match is not required for a mini-grant.

Subp. 6. Grants for facility improvement expenses. Child care services grants for facility improvement expenses must be used by the grantee for building improvements, equipment, toys, or supplies needed to establish, expand, or improve a licensed child care facility.

Subp. 7. Grants for interim financing. Child care services grants for interim financing must be used by the grantee to carry out activities necessary for family day care homes, group family day care homes, and child care centers to receive and maintain state licensing; to expand an existing child care program; to improve program quality; or to provide operating funds following receipt of state licensing. Interim financing grants providing operating funds may not be awarded for more than six consecutive months following receipt of state licensing. Interim financing grants used by the grantee to meet conditions necessary to receive or maintain state licensing, to expand an existing program, or to improve program quality may not be awarded for more than 18 months.

Subp. 8. Grants for staff training and development. Child care services grants for staff training and development must be used by the grantee to upgrade staff qualifications with priority given to staff training and development necessary to meet licensure requirements. Staff training and development includes, but is not limited to, training to obtain child development associate certification, training of new and existing providers, recruiting new providers, and staff development to retain quality providers.

Subp. 9. Facility improvement and interim financing grant proposals. A proposal for a facility improvement grant or interim financing grant shall include:

- A. documentation of need for the grant;
- B. documentation of the number of children and the age groups the grant applicant is licensed to serve;
- C. the ages of children the provider currently serves;

D. the age group of children the provider intends to serve after the expenditure of the facility improvement or interim financing grant;

E. a schedule for making improvements or for expending the grant funds;

F. budget information submitted with the grant proposal that includes a line item budget specifying projected costs for:

- (1) building improvement;
- (2) staff salary and benefits;
- (3) supplies;
- (4) program materials;
- (5) rent, if applicable;
- (6) utilities;
- (7) equipment; and
- (8) the need for interim financing, if applicable; and

G. documentation of any state funding assistance received in the previous three years.

Subp. 10. Facility improvement and interim financing priorities. Facility improvement and interim financing grant proposals shall be evaluated by an advisory task force established under Minnesota Statutes, sections 245.872, subdivision 3. In evaluating proposals for facility improvement and interim financing grants, the advisory task force shall use the following priorities to rank grant proposals for each group listed in subpart 3:

- A. proposals submitted to meet licensure requirements;
- B. proposals submitted to start new programs or projects;
- C. proposals submitted to expand license spaces;

D. proposals submitted to fund programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;

E. proposals submitted for programs and projects that serve sick children, infants, toddlers, children with special needs, and children from low-income families;

F. proposals submitted to enrich existing programs or projects; and

G. other information requested by the commissioner in the request for proposals necessary to assess the quality of the proposal.

Subp. 11. Ranking facility improvement and interim financing grant proposals. Facility improvement and interim financing grant proposals shall be ranked by the advisory task force based on the priorities established under subpart 10 and the completeness of the documentation required under subpart 9 for each group listed in subpart 3. Nothing in this subpart shall require the task force to recommend or rank a facility improvement or interim financing grant proposal that does not meet the grant proposal requirements under subpart 9.

Subp. 12. Staff training and development grant proposals. A proposal for a staff training and development grant shall include:

A. the name of the provider or organization and the amount of grant funds the applicant is applying for;

B. an explanation of why the grant is needed and how the grant funds will be used;

C. a detailed description of the training course with an explanation of how the course work will meet licensure requirements or improve child care services;

D. a detailed budget estimate of the training expenses including the proposed schedule for expending the funds, local match, and other sources of funding the applicant has received or applied for;

E. the length of time the applicant has provided licensed child care, if applicable, and the number and ages of children served; and

F. the length of time the applicant intends to provide child care services, if applicable, after completing the staff training and development course.

Subp. 13. Staff training and development grant proposal priorities. Staff training and development grant proposals shall be evaluated by an advisory task force established under Minnesota Statutes, section 245.872, subdivision 3. In evaluating proposals for staff training and development grants, the advisory task force shall use the following priorities to rank grant proposals for each group listed in subpart 3:

A. staff training and development proposals from applicants who will work in geographic areas where there is a shortage of child care;

B. proposals from unlicensed providers who wish to become licensed;

C. proposals from public or private nonprofit agencies that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the public or private nonprofit agency;

D. proposals from child care providers seeking accreditation or child care credentials; and

E. proposals from applicants who will work in facilities caring for sick children, infants, toddlers, children with special needs, and children from low-income families.

Subp. 14. Ranking staff training and development grant proposals. Staff training and development grant proposals shall be ranked by the advisory task force based on the priorities established under subpart 13 and the completeness of the documentation required under subpart 12 for each group listed in subpart 3. Nothing in this subpart requires the task force to recommend or rank a staff training and development grant proposal that does not meet the grant proposal requirements under subpart 12.

Subp. 15. Mini-grants for child care service development. Mini-grants for child care service development must be used by the grantee for facility improvements, including, but not limited to, improvements to meet licensing requirements, improvements to expand the facility, and toys and equipment; start-up costs; interim financing; or staff training and development.

Subp. 16. Mini-grant proposals. A mini-grant proposal must contain the following information:

A. the name of the provider or organization and the amount of grant funds the applicant is applying for;

B. an explanation of why the grant is needed and how the grant funds will be used;

C. a detailed budget estimate including the proposed schedule for expending the funds and any other sources of funding including state funds the applicant has received or applied for in the previous three years;

D. the length of time the applicant has provided licensed child care, if applicable, and the number and ages of children served; and

E. the length of time the applicant intends to provide child care services.

Subp. 17. Mini-grant priorities. Priority for service development mini-grants shall be given to grant applicants in the following order:

A. family day care providers;

B. public and private nonprofit agencies;

C. employer-based day care centers; and

D. other for-profit day care centers.

Subp. 18. Ranking mini-grant proposals. Mini-grant proposals shall be evaluated by an advisory task force established under Minnesota Statutes, section

245.872, subdivision 3. In evaluating mini-grant proposals, the advisory task force shall consider the completeness of documentation for items A to D in ranking mini-grant proposals for each of the groups listed in subpart 17:

A. physical plant improvement, equipment, or training needed to meet or exceed licensure requirements;

B. budget information submitted with the grant request;

C. documentation of pending or past negative licensing action by the licensør, if any, and improvements required by the licensør; and

D. child care needs in the service area.

Subp. 19. Restriction on grant recommendations by advisory task force members. Members of the advisory task force with a direct interest in a pending child care service development grant proposal may not provide a recommendation or participate in the ranking of that grant proposal. A direct interest includes, but is not limited to, employment with the program or a financial interest in the program, membership on the program's board of directors, or a family member employed in or by the program. A family member employed in or by the program includes any person related to an advisory task force member by blood or marriage within the third degree of consanguinity.

Subp. 20. Awarding of grants. The commissioner shall award child care service development grants based on the recommendations of the grant advisory task force.

Subp. 21. Grant expenditure records. The recipient of a child care services grant shall maintain a record of all expenditures under the grant proposal. The department is not liable for costs incurred by an applicant before issuance of a child care services grant contract signed by the commissioner or the commissioner's designated representative or the letter of award for a mini-grant proposal.

Subp. 22. Audit of grant expenditures. The commissioner may audit the expenses of a grant recipient during the grant period and during the 12 months immediately following the close of the grant period. The grantee shall provide the commissioner access to records concerning grant expenditures. The grantee shall reimburse the department for any expenditure of grant funds unauthorized under the terms of the contract or for failing to meet the terms of the contract.

Statutory Authority: *MS s 245.872; 256H.20 subd 4; L 1988 c 689 art 2 s 266*

History: *14 SR 165*