

CHAPTER 9565

DEPARTMENT OF HUMAN SERVICES

INDIVIDUAL AND FAMILY SERVICES

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FAMILY PLANNING SERVICES

9565.0100 SCOPE.

Parts 9565.0100 to 9565.0900 govern the provision of family planning services by the local social service agency.

Statutory Authority: *MS s 144.342; 144.343; 256.08; 256B.01; 256B.02; 525.54; 525.591; 525.619*

9565.0200 PURPOSE.

The purpose of family planning services is to arrange for and provide social, educational, and medical services (including sterilization) and supplies to enable individuals to determine family size or prevent unplanned pregnancies.

Statutory Authority: *MS s 144.342; 144.343; 256.01 subd 2; 256B.01; 256E.05*

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INDIVIDUAL AND FAMILY SERVICES 9565.1100

9565.0300 LOCAL SOCIAL SERVICE AGENCY; DEFINITION.

"Local social service agency" means the local agency under the authority of the county welfare or human services board which is responsible for social services.

Statutory Authority: *MS s 144.342; 144.343; 256.08; 256B.01; 256B.02; 525.54; 525.591; 525.619*

9565.0400 SERVICE COMPONENTS.

The local social service agency's family planning service may include one or more of the following components:

A. counseling service to help clients decide whether they wish to use a family planning method;

B. facilitative service, such as transportation and child care, to enable clients to avail themselves of family planning services; and

C. information about where medical contraceptive service can be obtained, and assistance in obtaining the service.

Statutory Authority: *MS s 144.342; 144.343; 256.08; 256B.01; 256B.02; 525.54; 525.591; 525.619*

9565.0500 PUBLIC INFORMATION.

The local social service agency may establish public information programs to inform the community and potential clients about the availability of family planning services from the agency.

Statutory Authority: *MS s 144.342; 144.343; 256.08; 256B.01; 256B.02; 525.54; 525.591; 525.619*

9565.0600 INDIVIDUALS TO BE SERVED.

Family planning services may be offered to all recipients of Aid to Families with Dependent Children (AFDC) and may be provided to all such recipients who request it.

Statutory Authority: *MS s 144.342; 144.343; 256.01 subd 2; 256B.01; 256E.05*

9565.0700 DISCRIMINATION PROHIBITED.

Individuals may not be denied family planning services on the basis of age or marital status.

Statutory Authority: *MS s 144.342; 144.343; 256.08; 256B.01; 256B.02; 525.54; 525.591; 525.619*

9565.0800 VOLUNTARY PARTICIPATION.

Family planning shall be voluntary on the part of the client and may not be a prerequisite or impediment to eligibility for receipt of any other service or aid.

Statutory Authority: *MS s 144.342; 144.343; 256.01 subd 2; 256B.01; 256E.05*

9565.0900 INFORMATION ABOUT NONTHERAPEUTIC STERILIZATIONS.

At the request of any individuals served by Minnesota state institutions, local social service agencies, and mental health centers, information shall be provided relating to mandatory procedures governing consents for nontherapeutic sterilizations.

Statutory Authority: *MS s 144.342; 144.343; 256.08; 256B.01; 256B.02; 525.54; 525.591; 525.619*

HOMEMAKING SERVICES

9565.1000 SCOPE.

Parts 9565.1000 to 9565.1300 govern the administration, purchase, and provision of homemaking services.

Statutory Authority: *MS s 256.01 subd 2; 256E.05*

9565.1100 DEFINITIONS.

Subpart 1. **Homemaking service.** "Homemaking service" means the provision and/or teaching of child care, personal care, and home management to individuals and families.

Subp. 2. **Local service agency.** "Local service agency" means local agency under the authority of the county welfare board or human service board which is responsible for social services.

Statutory Authority: *MS s 256.01 subd 2; 256E.05*

9565.1200 STANDARDS OF SERVICES.

Subpart 1. **Availability of service.** Each local social service agency shall make homemaking services available to eligible families and adults, consistent with state and local social service plan requirements.

Subp. 2. **Qualified homemakers.** The local social service agency shall assure that each individual and family receiving homemaking services is served by a qualified homemaker.

The local social service agency shall assure that the recruitment, selection, and duties of homemakers are consistent with merit system standards.

The local social service agency shall provide for training for homemakers and staff responsible for homemaking services.

Each homemaker shall have a minimum of 24 hours of training (initial and ongoing) the first year of the homemaker's employment, and 24 hours training annually thereafter. Such training shall include courses in homemaker skills, child and personal care, human growth and development, the aging process, nutrition and home management; and training in working with mentally retarded, mentally ill, chemically dependent, physically handicapped, and family malfunction.

The assignment of homemakers shall be made on the basis of the particular abilities and skills of the homemaker.

Subp. 3. **Use of homemaker.** A homemaker is to be utilized only as indicated by the service plan developed by the client, social worker, and homemaker. The service plan shall be managed by the social worker.

Subp. 4. **Role of homemaker.** The role of the homemaker shall be either that of a surrogate caretaker or that of a demonstrator or teacher working with individuals and families to help them achieve self-support; self-care; home-based care; or remedy of neglect, abuse, or exploitation of family members. The tasks shall include assisting with or giving child care, personal care, home management, food planning and preparation, laundering, and general household duties.

Subp. 5. **Guidelines.** The local agency shall develop guidelines for the use of the homemaking service to assure quality of practice. These guidelines shall include the following:

A. client-social worker discussion of the case which suggests the need for a homemaker; and

B. client participation in the decision to use homemaking services.

Statutory Authority: *MS s 256.01 subd 2; 256E.05*

9565.1300 CONTRACTING FOR SERVICES.

Purchase homemaking services shall meet or surpass the same standards as the local service agency should it provide services directly.

The local social service agency shall assure that it purchases that part of the homemaking services that the vendor is qualified to provide.

When the local social service agency purchases homemaking services, it has the responsibility to develop the service plan, provide ongoing, counseling help to the client, supervise the homemaker's activities provided in the service plan, and periodically assess progress and continued need for service, unless the contractor is a recognized social service agency capable of performing these functions.

Statutory Authority: *MS s 256.01 subd 2; 256E.05*

COUNSELING SERVICES FOR FAMILIES AND INDIVIDUALS

9565.1400 SCOPE.

Parts 9565.1400 to 9565.1600 govern the provision of counseling services for families and individuals by local social service agencies.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9565.1500 DEFINITIONS.

Subpart 1. **Counseling services for families and individuals.** "Counseling services for families and individuals" means the utilization of a professional helping relationship to enable individuals and families to deal with and to resolve whatever intra or interpersonal relationship problems or stress is encountered by them.

Subp. 2. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9565.1600 STANDARDS OF SERVICE.

Subpart 1. **Annual social service plan.** The local social service agency electing to offer counseling services for individuals and families shall indicate in its annual social service plan the components of the service the agency intends to provide.

Subp. 2. **Services.** The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

- A. assistance to an individual in resolving problems in relationship with others or with problems in individual adjustment;
- B. assistance to families in resolving marriage problems;
- C. assistance to families in resolving family problems;
- D. assistance to unmarried parents in resolving problems related to an unwanted pregnancy or in planning for the care of the child; and
- E. family life educational programs.

Subp. 3. **Other components.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of counseling services for families and individuals as are consistent with state and federal laws.

Subp. 4. **Services required upon referral.** The local social service agency upon referral from a family or domestic relations court shall:

- A. provide premarriage counseling to individuals and prepare an evaluation for the court;
- B. provide counseling to parties in a divorce action; and
- C. conduct court-ordered custody studies.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

History: *L 1984 c 654 art 5 s 58*

EDUCATIONAL ASSISTANCE**9565.1700 SCOPE.**

Parts 9565.1700 to 9565.1900 govern the provision of educational assistance by local social service agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.1800 DEFINITIONS.

Subpart 1. **Educational assistance.** "Educational assistance" is those services which are designed to arrange and provide education and training, not directly related to employment, most appropriate to the individual's abilities, including special educational assistance to the blind, deaf, and other disability groups and individuals with school adjustment problems.

Subp. 2. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.1900 STANDARDS OF SERVICE.

Subpart 1. **Annual social service plan.** The local social service agency electing to offer educational assistance shall indicate in its annual social service plan the components of the service the agency intends to provide.

Subp. 2. **Services.** The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

- A. social service in a school setting;
- B. counseling to parents and children to facilitate school adjustment;
- C. assisting mentally ill/behaviorally disabled persons to obtain educational training opportunities; and
- D. assisting physically handicapped to obtain appropriate educational and training opportunities.

Subp. 3. **Other components.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of educational assistance services as are consistent with state and federal laws.

Statutory Authority: *MS s 256.01 subds 2,4*

History: *L 1984 c 654 art 5 s 58*

HOUSING SERVICES

9565.2000 SCOPE.

Parts 9565.2000 to 9565.2200 govern the provision of housing services by local social service agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2100 DEFINITIONS.

Subpart 1. **Housing services.** "Housing services" are those services which are designed to help individuals obtain, maintain, and improve housing and/or to modify existing housing.

Subp. 2. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2200 STANDARDS OF SERVICE.

Subpart 1. **Annual social service plan.** The local social service agency electing to offer housing services shall indicate in its annual social service plan the components of the service the agency intends to provide.

Subp. 2. **Services.** In the delivery of this service, the local social service agency may offer any one or combination of the following components:

- A. assisting individuals in finding rental or purchased housing;
- B. information on how to obtain technical assistance to make housing improvements;
- C. education concerning home purchase, rental, repairs, remodeling;
- D. assistance in resolving tenant-landlord conflict;
- E. assistance in maintaining or enforcing, or improving housing codes; and
- F. finding emergency shelter in crisis situations.

Subp. 3. **Other components.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of housing services as are consistent with state and federal laws.

Statutory Authority: *MS s 256.01 subds 2,4*

History: *L 1984 c 654 art 5 s 58*

INFORMATION AND REFERRAL SERVICES

9565.2300 SCOPE.

Parts 9565.2300 to 9565.2600 govern the provision of information and referral services by local social service agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2400 PURPOSE.

The purpose of this service is to provide accurate and up-to-date information about social and human services to individuals seeking such information, and to facilitate access to these services by individuals through a referral procedure.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2500 DEFINITIONS.

Subpart 1. **Escort.** "Escort" means the provision of a person to assist inquirer in gaining access to the service.

Subp. 2. **Follow-up.** "Follow-up" means the process of making contact with either the inquirer or the agency to which he or she was referred to determine what was the outcome of the referral.

Subp. 3. **Information and referral.** "Information and referral" means the provision of information to individuals seeking knowledge of social and human services, and the assistance to individuals in making contact with a resource that can respond to their need or problem.

Subp. 4. **Information giving.** "Information giving" means the provision of information about services and programs that may include a brief assessment of the need or problem and some effort to obtain sufficient background material about the inquirer to determine his/her potential eligibility for a specific service or agency.

Subp. 5. **Intake.** "Intake" means the process of providing help to clients in clarifying need, considering alternative services appropriate to need, defining goals client desires to achieve, and arrive at an understanding in regard to utilization of services or assistance.

Subp. 6. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Subp. 7. **Outreach.** "Outreach" means the activity in which an active effort is made to reach out to individuals to help them make use of existing services and agencies.

Subp. 8. **Referral.** "Referral" means the identification for a client of an agency or organization able and willing to provide the service needed and aiding the person in making contact with that agency or organization through such procedures as a written summary of the problem or request, telephone, or personal contact on behalf of the client.

Subp. 9. **Resource file.** "Resource file" means compilation of information that identifies the opportunities, resources, and services in a community, a region, or a state and the agencies and organizations through which they are available to a total consumer population.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2600 STANDARDS OF SERVICE.

Subpart 1. **Information and referral.** Information and referral may be provided as a separate and discrete service and/or as a function of the intake service of the agency.

Subp. 2. **Annual plan.** The local social service agency planning to offer information and referral services shall indicate in its annual plan whether information and referral is provided as a separate and discrete service or as a function of the intake service of the agency.

Subp. 3. **Requirements for separate service.** When information and referral is offered as a separate and discrete service, in addition to the standards set forth in subparts 4 to 8 the agency shall:

- A. maintain a separate telephone listing for information and referral services;
- B. make efforts to publicize through media and other forms of public information such services as a separate agency function; and
- C. have staff with identifiable tasks relating to information and referral.

Subp. 4. **Resource file.** Information and referral service shall include the maintenance of a comprehensive resource file. The resource file shall be updated and revised at least semi-annually.

Subp. 5. **Mandatory services.** Information and referral service shall include the offering of the following services: information giving, referral, and follow-up on at least a sample of referrals.

Subp. 6. **Supplementary services.** Information and referral service may include provision of the following supplementary services: escort to referral agency, and outreach services.

Subp. 7. **Recording data.** The information and referral service shall include the development and maintenance of a system for recording data that shall:

A. record the nature of calls received and of the agencies and organizations to which they are directed or referred;

B. indicate what follow-up activities were undertaken; and

C. maintain records of services which were needed but were not available.

Subp. 8. **Data privacy.** The information and referral service shall include the maintenance of records and reports in such a manner that the identity of persons using the service are not revealed or accessible to anyone other than the staff members undertaking to assist them.

Subp. 9. **Data for other agencies.** The agency may elect to offer data gathered in the delivery of information and referral services to appropriate community and state planning agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

LEGAL SERVICES

9565.2700 SCOPE.

Parts 9565.2700 to 9565.2900 govern the provision of legal service by local social service agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2800 DEFINITIONS.

Subpart 1. **Legal services.** "Legal services" are those services which are designed to arrange and provide for assistance in resolving civil legal matters and the protection of legal rights.

Subp. 2. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.2900 STANDARDS OF SERVICE.

Subpart 1. **Annual social service plan.** The local social service agency electing to offer legal services shall indicate in its annual social service plan the components of the service the agency intends to offer.

Subp. 2. **Services allowed.** The local social service agency, in the delivery of this service, may make available legal counsel for the following kinds of legal problems:

A. divorce proceedings;

B. custody hearings;

C. tenant-landlord disputes;

D. property purchase or sale;

E. contract problems;

F. appeals on behalf of clients challenging the actions or policies of federal, state, or local public welfare agencies;

G. consumer problems; and

H. actions on behalf of clients challenging the laws, rules, regulations, or policies of federal, state, or local public welfare agencies.

Subp. 3. **Other services.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of legal services as are consistent with state and federal laws.

Statutory Authority: *MS s 256.01 subds 2,4*

History: *L 1984 c 654 art 5 s 58*

MONEY MANAGEMENT SERVICES

9565.3000 SCOPE.

Parts 9565.3000 to 9565.3400 govern the provision of money management services by local social service agencies.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9565.3100 PURPOSE.

The purpose of this service is to assist eligible individuals in the management of their income so that they are able to obtain a stable level of economic functioning within the limits of their present financial resources.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9565.3200 DEFINITIONS.

Subpart 1. **Consumer education.** "Consumer education" is the offering of, on an individual or group basis, education in management of a household budget, food purchasing and preparation, credit buying, and other consumer related concerns.

Subp. 2. **Debt adjustment.** "Debt adjustment" is a service whereby the agency, with permission of the client, receives a portion or entire amount of his/her income and pays creditors an agreed upon prorated amount each month from the income received.

Subp. 3. **Financial counseling.** "Financial counseling" is a process whereby the client is assisted in developing a workable budget and is helped to change poor money management habits.

Subp. 4. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Subp. 5. **Money management services.** "Money management services" are those services that arrange and provide assistance in developing effective personal budgets and managing indebtedness.

Subp. 6. **Protective payment.** "Protective payment" is a procedure whereby a money payment is not given directly to the client, but rather, to an individual designated by the agency to assume responsibility for the client's expenditures.

Subp. 7. **Vendor payment.** "Vendor payment" is a procedure limited to public assistance recipients whereby a designated portion of the AFDC payment is made directly by the agency to a provider of goods or services.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

9565.3300 STANDARDS OF SERVICE.

Subpart 1. **Annual plan.** The local social service agency electing to offer money management services shall indicate in its annual social service plan the component or components of the service the agency intends to provide.

Subp. 2. **Services offered.** In the delivery of this service, the local social service agency may offer to potential clients any one or combination of the following components: consumer education, financial counseling, and debt adjustment service.

Subp. 3. **Other services.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of money management services as are consistent with state and federal laws.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

History: *L 1984 c 654 art 5 s 58*

9565.3400 PROTECTIVE AND VENDOR PAYMENTS.

Subpart 1. **Referral.** Upon referral from the income maintenance division of the local welfare agency, the local social service agency may determine the need for a protective or vendor payment arrangement for public welfare clients.

Subp. 2. **Determination of need.** In making such determinations, the local social service agency shall:

- A. make an assessment of the problem;
- B. offer money management services to resolve the problem; and
- C. determine if protective or vendor payments are needed.

Subp. 3. **Management.** Every effort shall be made to resolve money management problems through provision of services that leave the client with the greatest degree of control of his/her affairs consistent with the well-being of the individual and his family.

Subp. 4. **Recommendation.** When it is established that money management services are not adequate to resolve the problem, the local social service agency may recommend to the referring party the establishment of protective or vendor payments.

Subp. 5. **Procedures.** In making the recommendation the local social service agency shall:

A. Document that the client's present management of funds is threatening to his/her well-being or the well-being of his/her children.

B. Recommend the payment method (protective or vendor) most appropriate to the client's need.

C. Recommend the choice of a protective payee. The client is to be involved in the selection process. Excluded payees are county welfare directors, welfare board members, landlords, grocers, and vendors of goods and services who deal directly with clients. A local social service agency staff member may be the protective payee for clients if no other suitable payee can be found.

D. Define the respective responsibilities of the protective payee, agency, and client in writing with copies given to payee, the client, and the agency.

Subp. 6. **Continued money management services.** The local social service agency may continue to offer money management services to assist the client to resume total responsibility for managing his or her grant.

Subp. 7. **Quarterly review.** The local social service agency may review the need for protective or vendor payments quarterly and inform the referring party whether there is a need to continue protective or vendor payments.

Subp. 8. **Limitation; appeal.** Protective and vendor payments in AFDC cases may not continue for more than two years, and are subject to a fair hearing appeal by the recipient.

Subp. 9. **Guardian.** In AFDC cases, the local social service agency may recommend appointment of a guardian or other legal representative if money management problems are not resolved after two years of protective/vendor payments.

Statutory Authority: *MS s 256.01 subd 4; 256E.05*

RESIDENTIAL TREATMENT SERVICE

9565.3500 SCOPE.

Parts 9565.3500 to 9565.3700 govern the provision of residential treatment service by local social service agencies to individuals placed in residential programs.

Statutory Authority: *MS s 256.01 subd 1; 256E.05 subd 1; 257.175; 393.07*

History: *13 SR 1448*

9565.3600 DEFINITIONS.

Subpart 1. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Subp. 2. **Residential program.** "Residential program" means a residential program as defined in Minnesota Statutes, section 245A.02, subdivision 14. Residential programs, for purposes of these parts, do not include foster family homes.

Subp. 3. **Residential treatment service.** "Residential treatment service" means the arrangement for and provision of a therapeutic or developmental experience within a controlled 24-hour-a-day residential program.

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

Statutory Authority: *MS s 245A.09; 256.01 subd 1; 256E.05 subd 1; 257.175; 393.07*

History: *L 1984 c 654 art 5 s 58; 13 SR 1448*

9565.3700 STANDARDS OF SERVICE.

Subpart 1. **License or certification required.** The local social service agency shall utilize only those residential programs which meet all licensing or certification standards established by the state. If out-of-state facilities are utilized, the facility shall meet standards comparable to those established by Minnesota state agencies.

Subp. 2. **Selection of facility.** The local social service agency shall base its selection of a residential program on the facility's capacity to meet the client's individual needs. When there is more than one approved vendor who could meet the client's needs, the local agency shall help the client to participate in the selection of the most appropriate facility.

Subp. 3. **Information and release.** The local social service agency shall give the residential program that information which the program determines that it needs to provide appropriate care and treatment, provided that the information is accompanied by a signed release-of-information form from the client.

Subp. 4. **Client plans.** The local social service agency shall collaborate with the program in the development, ongoing evaluation, and implementation of the client social service plan and, to the extent possible, shall utilize the assistance of the program in developing postdischarge plans for the local agency's continuing services to the total family.

Subp. 5. **Agreement with facility.** The local social service agency shall establish a written agreement with the residential program which shall include, but not be limited to, the following:

- A. goals of the placement;
- B. specific responsibilities of the placing agency and the facility in the delivery of services to the client and/or the client's family;
- C. requirements for progress reports; and
- D. expectations of what services will be delivered, and by whom, when the client is discharged.

Subp. 6. **Assistance to client.** The local social service agency shall help the client:

- A. determine if the client needs a residential program;
- B. participate in the selection of a suitable residential program;
- C. determine what assistance the client may want from the agency;
- D. with adjustment to the program and to bring any concerns about conditions in the facility to the attention of the operator; and
- E. plan for disposition of belongings, if appropriate, or plan for the retention of the client's room, apartment, or house for that period of time that the client receives services in a residential program.

Subp. 7. **Other assistance to client.** The local social service agency shall assure that provision is made to help the client, to the extent possible, to:

- A. maintain family and community ties;
- B. make use of community resources, if appropriate, including social, health, and recreational opportunities;
- C. obtain regular health and dental evaluation, if needed, carry out any prescribed program of health care, and arrange for needed funding for such care;
- D. secure and utilize supportive services, such as transportation;
- E. move to an independent living arrangement or another program, when such a move is to occur; and
- F. achieve the objectives of the postdischarge plan.

Statutory Authority: *MS s 245A.09; 256.01 subd 1; 256E.05 subd 1; 257.175; 393.07*

History: *13 SR 1448; 17 SR 1279*

SOCIAL AND RECREATIONAL SERVICES

9565.3800 SCOPE.

Parts 9565.3800 to 9565.4000 govern the provision of social and recreational services by local social service agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.3900 DEFINITIONS.

Subpart 1. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Subp. 2. **Social and recreational services.** "Social and recreational services" are those services which are designed to arrange and provide opportunities for personal growth and development and which enable individuals to participate in activities that maintain physical and mental vitality.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.4000 STANDARDS OF SERVICE.

Subpart 1. **Annual social service plan.** The local social service agency electing to offer social and recreational services shall indicate in its annual social service plan the components of the service the agency intends to provide.

Subp. 2. **Services offered.** The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

A. activities that individuals participate in growth experiences such as camping, hobbies, and recreational social programs in the community;

B. programs that provide youth an opportunity for relationships with an adult; and

C. activities that involve senior citizens in special social recreational programs for the aged.

Subp. 3. **Other approved services.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of social and recreational services as are consistent with state and federal laws.

Statutory Authority: *MS s 256.01 subds 2,4*

History: *L 1984 c 654 art 5 s 58*

TRANSPORTATION SERVICES

9565.4100 SCOPE.

Parts 9565.4100 to 9565.4300 govern the provision of transportation services by local social service agencies.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.4200 DEFINITIONS.

Subpart 1. **Local social service agency.** "Local social service agency" means the local agency under the authority of the county welfare board or human service board which is responsible for social services.

Subp. 2. **Transportation services.** "Transportation services" are those services which are designed to arrange and provide travel and escort to and from community resources and facilities.

Statutory Authority: *MS s 256.01 subds 2,4*

9565.4300 STANDARDS OF SERVICE.

Subpart 1. **Annual social service plan.** The local social service agency electing to offer transportation services shall indicate in its annual social service plan the components of the service the agency intends to provide.

Subp. 2. **Services offered.** The local social service agency, in the delivery of this service, may offer any one or combination of the following components:

A. arranging for volunteer drivers to transport individuals to and from community resources and facilities;

B. reimbursement for transportation cost incurred in going to and from community resources and facilities; and

C. escorting individuals to and from community resources and facilities in agency-owned or -leased vehicle.

Subp. 3. **Other approved services.** The local social service agency may offer, upon approval of the Department of Human Services, such other components in the delivery of transportation services as are consistent with state and federal laws.

Subp. 4. **Drivers or carriers.** The local social service agency shall use for transportation services only drivers or carriers that have a valid driver's license and adequate insurance coverage including auto insurance required by the state.

Statutory Authority: *MS s 256.01 subds 2,4*

History: *L 1984 c 654 art 5 s 58*

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.** Parts 9565.5000 to 9565.5200 apply to all county and human service boards providing 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; 18 SR 1144*

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. 1a. **ACCESS child care program.** "ACCESS child care program" means the AFDC child care program authorized under Minnesota Statutes, section 256H.05, subdivision 6.

Subp. 1b. **ACCESS participant.** "ACCESS participant" means an individual participating in the ACCESS child care program.

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 fund.

Subp. 3. **Administrative expenses.** "Administrative expenses" means costs associated with the administration of the child care fund. Administrative expenses include:

A. salaries, wages, and related payroll expenses incurred in the administration of the child care fund 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 fund.

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" has the meaning given caretaker in Minnesota Statutes, section 256.736, subdivision 1a, clause (c).

Subp. 6. [Repealed, 18 SR 1144]

Subp. 7. [Repealed, 18 SR 1144]

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" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 1a.

Subp. 10. **Child.** "Child" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 3.

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, eligible relative caretaker, or their spouses.

Subp. 11a. **Child care assistance.** "Child care assistance" means financial assistance for child care that is funded under Minnesota Statutes, sections 256H.01 to 256H.19.

Subp. 11b. **Child care fund.** "Child care fund" means the child care assistance programs under Minnesota Statutes, sections 256H.01 to 256H.19.

Subp. 12. **Child care services.** "Child care services" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 2.

Subp. 13. [Repealed, 18 SR 1144]

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" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 6.

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" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 7.

Subp. 18a. **Eligible relative caretaker.** "Eligible relative caretaker" means a person identified under part 9500.2440, subpart 7, items A to D, who is a caretaker of a dependent child but who is not a member of the assistance unit.

Subp. 19. **Employability development plan or EDP.** "Employability development plan" or "EDP" 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 EDP defines the AFDC caretaker's employment and training goals and outlines the training, education, and support services the AFDC caretaker needs to achieve those goals. All employability development plans must receive county approval and meet the requirements of Public Law Number 100-485, Minnesota Statutes, sections 256H.01 to 256H.19, and parts 9565.5000 to 9565.5200.

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

Subp. 21. **Family.** "Family" has the meaning given it 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. 22a. **Full calendar month.** "Full calendar month" means from the first day of a month to the last day of that month.

Subp. 22b. **Full-day basis.** "Full-day basis" means child care provided by a provider for more than five hours per day.

Subp. 23. [Repealed, 18 SR 1144]

Subp. 24. [Repealed, 18 SR 1144]

Subp. 24a. **Half-day basis.** "Half-day basis" means child care provided by a provider for between one and five hours per day.

Subp. 24b. **Household status.** "Household status" means the number of individuals residing in the household and the relationship of the individuals to one another.

Subp. 25. **Human services board.** "Human services board" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 10.

Subp. 26. **Income.** "Income" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 11.

Subp. 27. **In kind service.** "In kind service" means a child care payment made on behalf of an AFDC caretaker by a third party to cover the difference between allowable child care costs and the dependent care deduction under part 9500.2580, for employed AFDC caretakers, or to cover the allowable cost of child care without a dependent care deduction for AFDC caretakers participating in education or training programs under Minnesota Statutes, section 256H.05.

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

Subp. 28a. **Overpayment.** "Overpayment" means the portion of a child care payment that is greater than the amount for which a recipient is eligible.

Subp. 29. **Provider.** "Provider" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 12.

Subp. 30. **Provider rate.** "Provider rate" means the amount the provider charges for child care.

Subp. 31. **Recipient.** "Recipient" means a family receiving child care assistance under the child care fund.

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 fund.

Subp. 32a. **Registration.** "Registration" means the process used by the county to obtain from a legal nonlicensed caregiver the information required under part 9565.5110, subpart 2c.

Subp. 33. [Repealed, 18 SR 1144]

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 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 development plan.

Subp. 35a. **Transition year child care.** "Transition year child care" means the transition child care assistance guaranteed under United States Code, title 42, section 602(g).

Subp. 35b. **Transition year families.** "Transition year families" has the meaning given it in Minnesota Statutes, section 256H.01, subdivision 16.

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.

Subp. 37. **Weekly basis.** "Weekly basis" means child care provided by a provider for more than 35 hours per week.

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

History: *14 SR 519; 18 SR 1144; L 1994 c 483 s 1*

9565.5020 NOTICE OF BASIC SLIDING FEE PROGRAM ALLOCATION.

By June 1 of each year, the commissioner shall notify all county and human services boards of their allocation under the basic sliding fee program.

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

History: *14 SR 519; 18 SR 1144*

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, 9565.5060, and 9565.5065, all applicants for child care assistance shall be governed by the standards and requirements in subparts 1a to 11.

Subp. 1a. **Informational release.** The county shall offer an applicant an opportunity to sign an informational release to permit the county to verify whether an applicant qualifies for child care assistance. The county shall indicate the purpose and intended use of the information, whether the individual may refuse or is legally required to supply the information, any known consequences from supplying or refusing to supply the information, and the identity of other agencies or individuals authorized to receive the data.

Subp. 2. **Documentation of eligibility information.** An applicant requesting child care assistance must document income eligibility, residence, work, and education or training status. The county shall verify an applicant's eligibility to receive child care assistance 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 must notify the county of any changes in marital or household status, address, employment or education status, provider, and any change in income from the amount reported on the application form or the last redetermination, whichever occurred later.

B. A 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 child care assistance.

Subp. 4. [Repealed, 18 SR 1144]

Subp. 5. **Eligible applicants.** In a family with a single parent, or unmarried legal guardian or eligible relative caretaker, the applicant must meet employment, education, or training requirements and other eligibility requirements under the basic sliding fee program or the AFDC child care program.

In a family with two parents, a parent and stepparent, a legal guardian and spouse, or an eligible relative caretaker and spouse, at least one parent, legal guardian, eligible relative caretaker, or spouse must meet employment, education, or training requirements and other eligibility requirements under the basic sliding fee program or the AFDC child care program. The other parent, legal guardian, eligible relative caretaker, or spouse must:

A. meet employment, education, or training requirements and other eligibility requirements under the basic sliding fee program or the AFDC child care program; or

B. be 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. 5a. **Selection of provider.** An applicant may select a provider at the time of application or within 30 calendar days after the application for child care assistance has been approved.

Subp. 6. **Maximum weekly child care assistance.** A family may not receive more than 60 hours of child care assistance per child per week.

Subp. 7. **Child care assistance during employment.** In addition to other eligibility requirements, employed persons eligible for child care assistance under part 9565.5030,

9565.5060, or 9565.5065 must work ten hours or more per week and receive at least the state minimum wage for all hours worked. Child care assistance during employment shall be granted for the number of hours worked including break and meal time and up to two hours per day for travel time.

Subp. 7a. **Child care assistance in support of employment.** A county may grant child care assistance in support of employment for nonwork hours when all of the following conditions exist:

A. child care assistance is not provided under the child care fund during working hours;

B. the family meets the eligibility requirements of part 9565.5025, subpart 5;

C. the employee cannot reasonably modify his or her nonwork schedule to provide child care; and

D. the child care assistance does not exceed the amount of assistance that would be granted under subpart 7 during employment.

Subp. 8. **Child care assistance during education or training.** To the extent of available allocations, counties shall provide child care assistance to students eligible under part 9565.5030 or 9565.5060 and enrolled in county-approved education or training programs according to items A to C.

A. Counties may grant full-time students:

(1) child care on a half-day or full-day basis for the days of class and on non-class days, if needed for study, as determined by the county;

(2) child care on a weekly basis; or

(3) child care according to the standards in item B.

Child care assistance granted under item A, subitem (1) shall not be less than the standard under item B and may not exceed 60 hours of child care per child per week.

B. Part-time students shall receive child care for:

(1) all hours of actual class time and credit hours for independent study and internships;

(2) time periods between nonconsecutive classes;

(3) up to two hours per day for travel time; and

(4) two hours per week per credit hour for postsecondary students for study and academic appointments.

When a part-time student has more than one hour between classes on any one day, the study and academic appointment time authorized under subitem (4) shall be reduced by the number of hours between classes.

C. Child care assistance for remedial classes is subject to county approval under subpart 8b. Upon county approval of the remedial class or classes, the county shall authorize child care assistance necessary to enable the student to attend class and to complete class assignments.

Subp. 8a. **Child care assistance during employment and education or training.** Employed students are eligible for child care assistance during employment and education or training. Counties shall use the standards in subparts 7 and 8 to determine the amount of child care assistance. Child care assistance during employment and education may not exceed 60 hours per child per week.

Subp. 8b. **Acceptable course of study.** An acceptable course of study for a student eligible under part 9565.5030 is an education or training program approved by the county that will reasonably lead to full-time employment opportunities as determined by the county. An acceptable course of study for a student eligible under part 9565.5060 is an education or training program described in the AFDC caretaker's EDP.

Subp. 8c. **Satisfactory progress in education program.** Subject to the limitation in subpart 9, a county shall provide child care assistance to students with an approved education or training program for the length of the education or training program if the student is making satisfactory progress in the education 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 requirements of the student's education plan under part 9565.5030 or employability development plan under part 9565.5060. If the county determines that a student is not making satisfactory progress towards completion of an education or training program, the county shall notify the student and discontinue child care assistance according to part 9565.5110, subpart 10.

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 assistance for education or training from the child care fund. A four-year education or training program must be directed towards a baccalaureate degree. The time limit under this item does not apply to basic or remedial educational programs needed to prepare for postsecondary education or employment. Basic or remedial education programs include high school, general equivalency diploma, and English as a second language. Basic or remedial programs that run concurrently with a postsecondary program are not exempt from the time limit under this item.

B. A student who has completed an education or training program under the child care fund may receive child care assistance for a second education or training program if:

(1) the child care assistance needed to complete the second program when combined with the child care assistance previously received does not exceed the equivalent of 48 months;

(2) the student has been unable to find full-time employment and the student does not have marketable skills; and

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

C. A student with a baccalaureate degree may obtain child care assistance 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 child care assistance is eligible for child care assistance to enable the student to complete the program or begin a new program if the child care assistance needed to complete the earlier program or new program when combined with the child care assistance previously received does not exceed 48 months. A student applying for child care assistance under this item must be treated as a new applicant.

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

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

(2) the student does not have marketable skills.

Subp. 10. Changes in education and training programs. A proposed change in an education or training program is subject to county approval before the change may be made.

Subp. 11. Ineligibility for failure to pay fees under the child care fund. A family that fails to pay the provider charge or family copayment fee under the child care fund shall lose eligibility for child care assistance as long as such fees are owed unless satisfactory arrangements for repayment are made that are acceptable to the provider and the county. If a county is aware that fees are owed under the child care fund and satisfactory repayment is not being made, the county shall not authorize child care assistance until satisfactory repayment arrangements are made.

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

History: *14 SR 519; 18 SR 1144*

9565.5027 JOB SEARCH.

To the extent of available allocations, counties shall provide persons eligible under part 9565.5030 who are seeking employment and persons eligible under part 9565.5060 who have an approved EDP including job search as an authorized activity, up to 240 hours of child care during job search. At the option of the individual in job search and with prior county approval, child care may be used at a rate that is less than full time provided the total child

care assistance does not exceed 240 hours of child care per calendar year. For the purpose of this part, job search includes locating, contacting, and interviewing with potential employers and preparing for job interviews.

Statutory Authority: *MS s 256H.02; 256H.035; 256H.055*

History: *18 SR 1144*

9565.5030 BASIC SLIDING FEE PROGRAM.

Subpart 1. **Basic sliding fee program; funding sources.** The basic sliding fee program includes funding from federal, state, and county sources. Federal funds available under United States Code, title 42, sections 602(i) and 9858, that are allocated to the basic sliding fee program shall be expended as provided in this part.

Subp. 1a. **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, subdivisions 4 to 6.

Subp. 2. [Repealed, 18 SR 1144]

Subp. 3. [Repealed, 18 SR 1144]

Subp. 4. **Federal funding.** Counties shall claim, in the manner prescribed by the commissioner, federal funding for child care expenditures for all eligible recipients who are in employment, education, training, or other preemployment activities allowed under the federal grant and reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal funding 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 Minnesota Statutes, section 256H.12, subdivision 3.

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 carried forward to the second year in the biennium in proportion to the county earnings.

Subp. 6. **Families eligible for assistance under the basic sliding fee program.** To the extent of available allocations, a family is eligible for child care assistance under the basic sliding fee program if:

A. the applicant meets eligibility requirements under part 9565.5025;

B. the applicant is not an AFDC caretaker; and

C. the family has an annual gross income that does not exceed 75 percent of the state median income for a family of four, adjusted for family size.

Subp. 7. **Basic sliding fee program waiting lists.** Counties must keep a written record of families who have requested child care assistance. 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 or will be eligible for child care assistance and funds are not immediately available, the family shall be placed on a child care 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 child care assistance and funds are available or if a family requests an application, the family shall be given a child care assistance application.

Subp. 7a. **Waiting list; transfer of transition year families to the basic sliding fee program.** The county shall place transition year families on the county's basic sliding fee program waiting list effective the earliest of the following dates:

- A. the date the family became eligible for transition year child care assistance;
- B. the date the family began participating in the ACCESS child care program under part 9565.5060, subpart 2a; or
- C. the date the family enrolled in Project STRIDE.

If a transition year family moves to a new county, the waiting list date established under items A to C shall transfer with the family. If a transition year family comes to the top of the county's basic sliding fee program waiting list before the transition year ends, the county shall encumber basic sliding fee program funds for those months remaining in the state fiscal year after the transition year ends. When the transition year ends, the county shall move the transition year family into the basic sliding fee program. A transition year family that does not come to the top of the county's basic sliding fee program waiting list before completion of the transition year shall be moved into the basic sliding fee program as funding becomes available according to the priority under Minnesota Statutes, section 256H.03, subdivision 2b.

Subp. 8. [Repealed, 18 SR 1144]

Subp. 9. **Application for child care assistance.** A family must apply for child care assistance in the family's county of residence.

Subp. 10. **County child care responsibility when family moves.** When a family that is receiving child care assistance from the basic sliding fee program moves to a new county within Minnesota, the original county must continue to provide child care assistance for two full calendar months if child care is needed and the family remains eligible for child care assistance under the basic sliding fee program. The new county shall treat a family that moves to the county and requests child care assistance as a new applicant.

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

History: *14 SR 519; 18 SR 1144*

9565.5040 [Repealed, 18 SR 1144]

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 assistance 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, and the job search time limit under part 9565.5027, 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; 18 SR 1144*

9565.5060 AFDC CHILD CARE PROGRAM.

Subpart 1. [Repealed, 18 SR 1144]

Subp. 2. **Families guaranteed child care assistance under the AFDC child care program.** Except as provided in subpart 2a, families eligible for guaranteed child care assistance under the AFDC child care program are families listed under Minnesota Statutes, section 256H.05.

Subp. 2a. **ACCESS child care program.** AFDC caretakers who are recipients of AFDC and not part of an assistance unit eligible or required to participate in Project STRIDE are eligible for child care assistance under the ACCESS child care program if enrolled in an education, training, or job search program authorized in their EDP. Each county shall enroll participants in the ACCESS child care program to the extent of the county's entitlement of family slots authorized under Minnesota Statutes, section 256H.05, subdivision 6. Counties

shall prioritize eligibility for child care assistance under the ACCESS child care program in the county's child care fund allocation plan under part 9565.5120.

Subp. 2b. Approved EDP required under ACCESS. Before a county may grant child care assistance under subpart 2a, the ACCESS participant must have an EDP approved by the county. The EDP must meet the requirements under Minnesota Statutes, section 256.736, subdivision 10.

Subp. 2c. Conversion to Project STRIDE. Subject to the time limitations of parts 9565.5025, subpart 9, and 9565.5027, child care assistance must continue under the ACCESS child care program until the participant loses AFDC eligibility or is enrolled in Project STRIDE. When an ACCESS participant is enrolled in Project STRIDE, the ACCESS participant's EDP shall continue as the approved EDP for Project STRIDE.

Subp. 3. [Repealed, 18 SR 1144]

Subp. 4. [Repealed, 18 SR 1144]

Subp. 4a. AFDC caretakers required to have EDP. All AFDC caretakers applying for child care assistance to support training or preemployment activities including job search must have an EDP authorizing the child care assistance.

Subp. 4b. Child care assistance in support of employment. AFDC caretakers applying for child care assistance to support employment are guaranteed assistance for allowable child care costs above any dependent care deductions if the provider is eligible for payment under the child care fund.

Subp. 5. [Repealed, 18 SR 1144]

Subp. 6. [Repealed, 18 SR 1144]

Subp. 7. [Repealed, 18 SR 1144]

Subp. 8. AFDC federal program reimbursement. Counties shall claim, in the manner prescribed by the commissioner, federal reimbursement under appropriate federal programs for child care expenditures for all eligible AFDC caretakers who are in activities allowed under the federal reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal reimbursement.

Subp. 9. County child care responsibility when a family moves to another county. Except for families with an EDP in effect, a county is responsible for providing child care assistance to an AFDC family that moves to another county within Minnesota according to Minnesota Statutes, section 256G.07.

If an EDP is in effect, the county responsible for the EDP must provide child care assistance, if needed and the family remains eligible, through completion of the EDP or two full calendar months, whichever is longer. After completion of the EDP or two full calendar months, whichever is longer, if the family has applied for and is eligible for child care assistance under the AFDC child care program, the family shall receive child care assistance from the new county.

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

History: *14 SR 519; 18 SR 1144*

9565.5065 TRANSITION YEAR CHILD CARE.

Subpart 1. Notice to family of eligibility. The department must notify a family, in writing, at the time the family becomes ineligible for AFDC of its potential eligibility for transition year child care under this part. The notification must include information on how to establish eligibility for transition year child care and on the family's rights and responsibilities under the transition year child care program.

Subp. 2. Eligibility. Transition year child care assistance may only be used to support employment-related expenses. A family is eligible for transition year child care if the conditions in items A to E are met.

A. The family is no longer eligible for AFDC due to increased hours of, or increased income from, employment or the loss of income disregards due to the time limitations.

B. The family received AFDC in at least three of the six months immediately preceding the first month of ineligibility and at least the last month of AFDC was paid by Minnesota.

C. The family requests transition year child care, provides the county information necessary for determining eligibility and fees, and the family's income does not exceed 75 percent of the state median income for a family of four, adjusted for family size.

D. The child retains its "dependent child" status throughout the transition year. A "dependent child" is one who meets an AFDC basis of eligibility due to an absent, incapacitated, or unemployed parent. Transition year child care may be paid only for the care of a child who would be a dependent child if the family was receiving an AFDC grant, or for children who would have been eligible for AFDC except for the child's receipt of SSI or Title IV-E foster care benefits.

E. The former AFDC caretaker who applies for transition year child care must continue to cooperate with child support enforcement throughout the transition year period.

Eligibility for transition year child care begins the first month the family is ineligible for AFDC for the reasons identified in item A, and continues for 12 consecutive months. A former AFDC caretaker may apply for transition year child care any time during the year after losing eligibility for AFDC and, notwithstanding the application date, shall receive transition year child care assistance for all eligible months. Eligibility for transition year child care cannot extend beyond 12 months after the initial date of eligibility for that transition year child care.

Subp. 3. Loss of transition year child care eligibility. A family is not eligible for transition year child care for any remaining portion of the 12-month period if the former AFDC caretaker fails to cooperate with the county to establish payments and enforce child support obligations, or the former AFDC caretaker terminates employment without good cause. Termination of employment for the reasons in items A to E is considered to be for good cause.

A. The job is not suited to the physical or mental capacity of the AFDC caretaker or it has had an adverse effect on the AFDC caretaker's physical or mental health. A claim made under this item must be documented by a licensed physician or licensed psychologist.

B. The job site is unsafe under health and safety standards established by the Occupational Safety and Health Administration and the Minnesota Department of Economic Security.

C. The former AFDC caretaker documents discrimination at the job site on the basis of age, sex, race, religion, or place of national origin.

D. The gross hourly employment earnings are less than the federal or state minimum wage, whichever applies, for that type of employment.

E. The former AFDC caretaker has accepted other employment that provides equal or better income or benefits.

Subp. 4. Reestablishment of AFDC eligibility during transition year period. If a transition year family reestablishes eligibility for AFDC during the transition year period and subsequently meets the conditions in subpart 2, the family qualifies for a new 12-month transition year period. If the family received AFDC for only one or two of the previous six months, but meets the requirements in subpart 2, items A and C to E, the family is entitled to the remaining months of the transition year, treating the month or months on AFDC as a suspension of the child care benefit but not the transition year period. To receive child care assistance while receiving AFDC, the family must meet the AFDC child care requirements under part 9565.5060.

Subp. 5. Breaks during transition year when child care is not needed. If there are breaks during the transition year when child care is not needed, there is a suspension of the child care benefit but not the transition year period.

Subp. 6. Family copayment fee. A transition year family must pay a family copayment fee based on the family's gross income according to the sliding fee program schedule established under part 9565.5070.

Subp. 7. County child care responsibility when a family moves to another county. Except for families with an EDP in effect, a county is responsible for providing child care assistance to a transition year family that moves to another county within Minnesota according to Minnesota Statutes, section 256G.07.

If an EDP is in effect, the county responsible for the EDP must provide child care assistance, if needed and the family remains eligible, through completion of the EDP or two full

calendar months, whichever is longer. After completion of the EDP or two full calendar months, whichever is longer, if the family has applied for and is eligible for child care assistance under the transition year program, the family shall receive child care assistance from the new county.

Subp. 8. County denial of transition year child care application. A county shall deny an application for transition year child care when the information submitted by the former AFDC caretaker is insufficient to determine eligibility or if the information indicates ineligibility. When an application is denied, the county must send a notice to the applicant. The notice must state the reason for denial and inform the applicant of the right to appeal under Minnesota Statutes, section 256.045.

Subp. 9. Continuation of child care pending appeal. If a transition year family appeals a suspension, reduction, discontinuation, or termination of child care assistance before the effective date of the proposed action, 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 transition year family was not eligible for continued child care assistance. The county shall recoup an overpayment under this subpart as provided in part 9565.5110, subpart 11.

Statutory Authority: *MS s 256H.02; 256H.035; 256H.055*

History: *18 SR 1144; L 1994 c 483 s 1*

9565.5070 FAMILY COPAYMENT FEE SCHEDULE.

Subpart 1. Non-AFDC family copayment fees. Non-AFDC families participating in the sliding fee program with an income greater than the federal poverty level must pay a family copayment fee for child care services as provided in subpart 3. Non-AFDC families participating in the sliding fee program with an income less than or equal to the federal poverty level must pay a family copayment fee for child care services as provided in subpart 2a.

Subp. 2. AFDC family copayment fees. AFDC families participating in the AFDC child care programs 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 under part 9565.5100 without applying a disregard. If the provider's charge for child care is greater than the maximum provider rate allowed under part 9565.5100, AFDC families shall pay, in addition to the dependent care disregard, the difference between the maximum provider rate allowed and the provider charge.

Subp. 2a. Non-AFDC family copayment fee for families with incomes less than or equal to the federal poverty level. Subject to the maximum provider rate established under part 9565.5100, a family whose income is less than or equal to the federal poverty level for a family of that size shall pay a monthly copayment fee as provided in items A and B.

A. If the family is a transition year family, the monthly family copayment fee is \$1. If federal regulations permit a state to waive a family's contribution, there is no family copayment fee.

B. If the family is not a transition year family, there is no family copayment fee.

If the provider's charge for child care is greater than the maximum provider rate allowed under part 9565.5100, non-AFDC families shall pay, in addition to any monthly copayment fee, the difference between the maximum provider rate allowed and the provider charge.

Subp. 3. Calculation of non-AFDC family copayment fee. Except as provided in subpart 2a, 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.

The monthly family copayment fee for families with annual incomes greater than the federal poverty level 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 the federal poverty level 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 50 percent of the rate under item C, subitem (1), rounded to the nearest whole dollar.

C. If the family's annual gross income is greater than the federal poverty level and 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 allowed 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. If the remaining monthly provider charge is less than \$20 per month upon payment of the family copayment fee, the family shall pay the remainder of the provider charge.

E. During the start-up month, the county shall prorate the copayment fee based on the number of calendar days remaining in the 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 the state median income is published in the Federal Register by the Department of Health and Human Services. Once published 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 day of the state fiscal year or, if published after July 1, the first day 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; 18 SR 1144*

9565.5080 CHILD CARE ASSISTANCE PAYMENTS.

Subpart 1. **Payment options.** The county may make child care 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 payments directly to an eligible family, it shall establish appropriate documentation procedures to ensure that funds are used for child care.

Subp. 1a. **Registration of legal nonlicensed caregivers.** Before a county makes a child care payment to a legal nonlicensed caregiver, the legal nonlicensed caregiver must be registered with the county. After the registration requirement for a legal nonlicensed caregiver is satisfied, payment shall be made retroactive to the beginning date of authorized child care for employment, education, or training; the date the child care application was signed; or the date the family began using the legal nonlicensed caregiver, whichever is later.

Subp. 1b. **County authorization of child care.** A county may authorize child care on an hourly, half-day, full-day, or weekly basis. Combinations of hourly, half-day, or full-day child care may be paid when 11 hours or more of child care are authorized in a 24-hour period. If a family selects a child care provider who charges for child care on a basis greater than

the amount of child care authorized by a county, the family is responsible for the cost of child care that exceeds the amount authorized by the county.

Subp. 1c. **Maximum child care payments.** Child care assistance payments under the child care fund may not exceed the 75th percentile rate for like care arrangements in the county. Payment for child care rates that exceed the 75th percentile is the responsibility of the family. When a provider's rate is less than the 75th percentile, the county shall pay the provider's rate.

Subp. 1d. **Standard for converting authorized care into hours used.** Under part 9565.5025, subpart 6, a family may not receive more than 60 hours of child care assistance per child per week. For the purpose of converting child care authorized on a half-day, full-day, or weekly basis into hours, the counties shall use the standards in items A to C.

A. When a county authorizes child care on a half-day basis, a half day is equal to five hours of child care.

B. When a county authorizes child care on a full-day basis, a full day is equal to ten hours of child care.

C. When a county authorizes child care on a weekly basis, a week is equal to 50 hours of 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. When a county sends a family a notice that child care assistance will be terminated, the county shall inform the vendor that unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made. The notice to a vendor shall not contain any private data on the family or information on why payments will no longer be made.

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. In addition to making payments for regular child care, the county may make payments for sick child care. 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 policy and rate shall be included in the county's biennial allocation plan required under part 9565.5120.

Subp. 5. **Payment during child absences.** Under Minnesota Statutes, section 256H.02, counties are authorized to establish policies for payment of child care spaces for absent children when the payment is required by the child's regular provider. If the county establishes policies for the payment of child care spaces for absent children, the county shall set limits and pay for the absences according to the prevailing market practice in the county. County policies for payment of absences shall be included in the county's allocation plan required under part 9565.5120. Provider charges for absent days in excess of the amount established by the county are the responsibility of the family receiving child care assistance.

Subp. 6. **Payment during medical leaves of absence.** Counties may establish policies for child care assistance during a parent's medical leave of absence from education or employment if the parent is incapable of providing child care during the medical leave of absence. Child care assistance provided under this subpart shall only be granted if:

A. the parent is expected to return to the parent's current employment or education or training program within 90 calendar days;

B. the necessity of the medical leave and the inability to provide child care is documented by a physician; and

C. the amount of child care during the leave of absence does not exceed the equivalent of one month of full-time child care.

The county's policy on medical leaves of absence shall be included in the allocation plan required under part 9565.5120.

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

History: *14 SR 519; 18 SR 1144*

9565.5090 ELIGIBLE PROVIDERS AND PROVIDER REQUIREMENTS.

Subpart 1. **Eligible providers.** Providers eligible for payments under the child care fund are providers as defined in Minnesota Statutes, section 256H.01, subdivision 12. 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.

Subp. 2. **Registration before payment.** A legal nonlicensed caregiver must be registered with the county before the caregiver may receive a provider payment under the child care fund.

Subp. 3. **Parental access to children in care.** Providers must permit parents unlimited access to their children and to the provider caring for their children during normal hours of provider operation and when the children are in the care of the provider.

Subp. 4. **Complaints, record, and disclosure.** Legal nonlicensed caregivers must permit counties to maintain a record of substantiated parental complaints concerning the health and safety of children in the legal nonlicensed caregiver's care and to allow the disclosure to the public on request of that information subject to Minnesota Statutes, chapter 13. Information governing maltreatment of minors shall be maintained and disclosed according to Minnesota Statutes, section 626.556.

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

History: *14 SR 519; 18 SR 1144*

9565.5100 CHILD CARE PROVIDER RATES.

Subpart 1. **Rate determination.** Not less than once every two years, the commissioner shall determine the 75th percentile provider rate for infants, toddlers, preschool children, and school age children in day care centers and family day care homes in each county. The rates surveyed shall include a survey of registration fees when it is usual and customary for a category of provider to charge registration fees. 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. 1a. **Rate determination for registered legal nonlicensed caregivers.** Beginning in 1994 and every two years thereafter, the counties shall conduct a survey of registered nonlicensed caregivers to determine the 75th percentile rate for infants, toddlers, preschool, and school age children. The survey shall be conducted in a manner prescribed by the commissioner.

Subp. 1b. **Rate determination; handicapped or special needs.** The county shall set the maximum child care rate for a provider providing child care to a handicapped or special needs child based on like care arrangements in the county. When four or more providers offer child care for children with a handicap or special needs, the county shall identify the 75th percentile rate. A rate established under this subpart must be included in the child care allocation plan.

Subp. 1c. **Payment rate differential, same category.** The differential between maximum payment rates for child care assistance in the same category of care may not exceed ten percent.

Subp. 1d. **Child care rate, provider's county of residence.** Child care payments shall be based on the allowable rates in the provider's county of residence when the provider resides in Minnesota.

Subp. 1e. **Provider rates under child care fund.** Providers may not charge families receiving assistance under Minnesota Statutes, chapter 256H, a provider rate that is higher than the private, full-paying client rate.

Subp. 1f. **Payment of registration fees.** If a licensed provider or license-exempt center charges families a registration fee to enroll children in the program and the registration fee is not included in the provider rate, the county shall pay the provider registration fee or the 75th percentile of the registration fees surveyed in subpart 1, whichever is less. The county may not pay for more than two registrations per child in a 12-month period. Registration fees greater than the standard set forth in this subpart are the responsibility of the family.

Subp. 1g. **Payment of activity fees.** If, in addition to a provider's base rate, a provider charges optional activity fees, the family is responsible for payment of the optional activity

fees. If the provider's activity fees are not optional, the activity fees shall be incorporated into the base rate and the provider may be paid up to the 75th percentile provider rate from the child care fund. When the combined base rate and the activity fees exceed the 75th percentile provider rate for like care arrangements, the family is responsible for the amount in excess of the 75th percentile provider rate.

Subp. 2. **Maximum county child care assistance rate.** Counties shall pay the provider's rate to cover all authorized hours of child care up to the maximum of 60 hours per child per week. The maximum rate that a county shall pay for child care assistance is the provider rate or the 75th percentile rate determined by the commissioner under subpart 1, whichever is less.

Subp. 3. **Maximum state participation.** The state payment is limited to the difference between the family copayment fee and the provider's rate up to a maximum of the 75th percentile rate determined by the department for like care arrangements in the county. When the provider's rate for each child in care is more than the 75th percentile rate for like care arrangements in the county, the state's payment is limited to the difference between the 75th percentile rate for like care arrangements in the county and the family's copayment fee.

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

History: *14 SR 519; 18 SR 1144*

9565.5110 COUNTY RESPONSIBILITIES.

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

Subp. 2. **Child care assistance information.** The county shall provide information on child care assistance 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. The county shall inform individuals who inquire about child care of the availability of child care assistance and child care resource and referral services.

Subp. 2a. **County termination of application approval for failure to select a provider.** A county may terminate approval of the child care assistance application for a family that fails to select a provider within 30 calendar days from the date the application is approved. The county must provide notice to a family under subpart 12 when terminating approval of the child care assistance application.

Subp. 2b. **Determination of providers eligible for payments.** The county's process for approving providers eligible for payments under the child care fund may not exceed 30 calendar days, or 45 calendar days with the approval of the applicant, from the date the child care application is approved or the date the child care provider is selected by the applicant, whichever is later. Reimbursement for child care expenses must begin retroactive to the date of the signed application for eligible services; the beginning date of participation in an authorized education or employment activity, or the date the applicant selected the eligible provider, whichever is later. If the county determines that a provider chosen by an applicant is not eligible to receive child care payments under the child care fund, the applicant may appeal the county's determination under part 9565.5200.

Subp. 2c. **Registration of legal nonlicensed caregivers.** Before the county issues a provider payment to a legal nonlicensed caregiver, the caregiver must be registered with the county. To be registered with the county, the provider is required to supply the county with the provider's name, social security number, age, and address of the caregiver, the provider rate, and a release to permit information on substantiated parental complaints concerning the health and safety of children in their care to be disclosed to the public subject to Minnesota Statutes, chapter 13. In addition to other registration requirements, legal nonlicensed caregivers must comply with state and local health ordinances and building and fire codes applicable to the premise where child care is provided. The county shall provide each registered caregiver health and safety material supplied by the department and shall refer the registered caregiver to the child care resources and referral agency. A county shall not authorize the payment of child care assistance to a legal nonlicensed caregiver who is not registered.

Subp. 2d. Parental complaints against legal nonlicensed caregivers. Within 24 hours of receiving a parental complaint concerning the health or safety of children under the care of a legal nonlicensed caregiver, a county must relay the complaint to:

A. the county's child protection agency if the parental complaint alleges child maltreatment as defined in Minnesota Statutes, section 626.556, subdivision 10e;

B. the county's public health agency if the parental complaint alleges a danger to public health due to communicable disease, unsafe water supply, sewage or waste disposal, or building structures;

C. local law enforcement if the parental complaint alleges criminal activity that may endanger the health or safety of children under care; or

D. other agencies with jurisdiction to investigate complaints relating to the health and safety of a child.

If a complaint is substantiated under item A, the county must keep a record of the substantiated complaint as provided in Minnesota Statutes, section 626.556. If a complaint is substantiated under items B to D, the county must keep a record of the substantiated complaint for three years. Upon request, information governing substantiated complaints shall be released to the public as authorized under Minnesota Statutes, chapter 13. Upon receiving notice of a substantiated complaint under items A to D, the county shall not make subsequent payments to that provider from the child care fund.

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

Subp. 3a. Agreement 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 Project STRIDE caretakers. The cooperative agreement shall specify that AFDC caretakers eligible for Project STRIDE who are receiving employment, training, and education services under an EDP shall be guaranteed child care assistance from the county responsible for the AFDC caretaker's EDP.

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. Eligibility priorities for beginning assistance. If a county's basic sliding fee program allocation for child care is insufficient to fund all applications for child care assistance, the county shall prioritize eligibility among the groups that remain to be served after the county has complied with the priority requirements set forth in Minnesota Statutes, section 256H.03, subdivision 2b. The county shall include its rationale for the prioritization of eligibility for beginning assistance in its biennial allocation plan. To the extent of available allocations, no eligible family may be excluded from receiving child care assistance.

Subp. 6. [Repealed, 18 SR 1144]

Subp. 7. Funding waiting list for basic sliding fee. If it appears that a family is or will be eligible for child care assistance and funds are not immediately available, the county shall place the family on a basic sliding fee waiting list. Families on the waiting list shall be moved into the basic sliding fee program as funding permits based on the county priorities adopted under subpart 5. Transition year child care families must be put on the basic sliding fee program waiting list as provided in part 9565.5030, subpart 7a.

Subp. 7a. Waiting list, non-STRIDE AFDC caretakers. Counties must keep a written list of AFDC caretakers not eligible for Project STRIDE who request ACCESS child care assistance.

Subp. 7b. Intermittent assistance. For no more than 90 days for employed recipients and one academic quarter for recipients in an education or training program, the county may reserve a family's position under the child care fund if the family has been receiving or is approved to receive child care assistance but is temporarily ineligible for assistance due to income, education, or family status. The county's policy for reserving the position of fami-

lies temporarily ineligible for child care assistance must be in writing and must be included in the biennial allocation plan required in part 9565.5120. If there are temporary breaks during the year when child care is not needed but the family remains eligible for child care assistance, there is a suspension of the child care benefit but not child care eligibility.

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. [Repealed, 18 SR 1144]

Subp. 10. [Repealed, 18 SR 1144]

Subp. 10a. Just cause for terminating child care assistance. Items A to C constitute just cause for terminating child care assistance.

A. The failure of a recipient to:

(1) select a provider within the time limit under part 9565.5025, subpart 5a;

(2) provide the administering agency required information or documentation;

(3) report changes required under part 9565.5025, subpart 3; or

(4) pay the provider charge if the state share of the child care assistance is paid directly to the family or to pay the family copayment fee if the state share of the child care assistance is vendor paid.

B. The recipient wrongfully obtains child care assistance due to fraud.

C. A county may terminate child care assistance if the county's child care allocation is insufficient to fund the child care needs of families currently receiving child care assistance. When available child care funds are insufficient to permit continued child care assistance to all families currently receiving assistance, the county may terminate assistance to families in the order of last on, first off. The county must consult with the commissioner before terminating assistance under this item. When funds become available, counties must reinstate families that remain eligible for child care assistance and whose child care assistance was terminated due to insufficient funds before the county accepts new applications. Those families whose child care assistance was most recently terminated due to insufficient funds shall be reinstated first.

Subp. 10b. Notice of termination of child care assistance to recipients. The county shall notify a recipient, in writing, of termination of child care assistance. The notice shall state the reason or reasons the assistance is being terminated. The notice shall inform the recipient of the right to appeal 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.

Subp. 10c. Notice of termination of child care assistance to vendors. If the child care assistance is made by vendor payment, the county shall inform the child care provider that unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made. The notice to a vendor shall not contain any private data on the family or information on why payments will no longer be made.

Subp. 10d. Child care payments when termination is appealed. 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 paid pending a fair hearing is subject to recovery to the extent that the commissioner finds on appeal that the recipient was not eligible for the amount of child care assistance paid. The county shall seek voluntary repayment or initiate civil court proceedings to recover child care assistance payments under this subpart. A recipient may appeal the termination of child care assistance and choose not to receive child care assistance pending the appeal. If the commissioner finds on appeal that child care assistance should not have been

terminated, the county shall reimburse the recipient for documented child care payments made pending the appeal.

Subp. 11. Recoupment of overpayments. When a county discovers that a family has received an overpayment for one or more months, the county shall recoup the overpayment even when the overpayment is due to agency error or to other circumstances outside the responsibility or control of the family. The county shall recoup overpayments that occurred up to 12 months before the month the overpayment is discovered according to items A to C. A county may pursue recovery of an overpayment that extends beyond the 12-month period through means of collection other than recoupment.

A. The county shall notify the family of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the family's right to appeal the county's recoupment of the overpayment.

B. The county shall redetermine the family's eligibility for child care assistance. If the family remains eligible for child care assistance, the county shall recoup the overpayment under subitem (1), (2), or (3).

(1) Except as provided in subitem (3), when the family's income is less than or equal to the federal poverty level, the county shall reduce child care assistance by \$20 per month until the debt is retired.

(2) Except as provided in subitem (3), if a family's income is greater than the federal poverty level the county shall reduce monthly child care assistance by the larger of eight percent of the overpayment or \$20, not to exceed two times the family copayment fee under part 9565.5070, subpart 3, until the debt is retired.

(3) A county shall reduce child care assistance by an amount equal to 16 percent of the overpayment until the debt is retired when an overpayment is due to a family's failure to provide accurate information on household status, income, or employment or education status; a family's failure to report a change under part 9565.5025, subpart 3, on two or more occasions and the failure to report caused the overpayment; or the amount of the overpayment is greater than \$1,000.

C. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayment less than \$50. When the amount of the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this item is not eligible for child care assistance until the debt is paid in full or satisfactory arrangements are made with the county to retire the debt.

Subp. 12. Notice to recipients of adverse actions. In addition to providing recipients notice of termination under subpart 10b, the county must give recipients notice of any adverse actions affecting the recipient. Actions requiring notice include:

- A. termination of an application for failure to select a provider;
- B. a reduction in hours of service;
- C. an increase in copayment;
- D. a denial of an education plan;
- E. an adverse determination of provider eligibility; and
- F. county intent to recoup an overpayment.

The notice shall describe the action and the reason the action is being taken. The notice shall be in writing and shall inform the recipient of the effective date of the change, the right to appeal any adverse action, and the procedure for doing so.

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

History: *14 SR 519; 18 SR 1144*

9565.5120 CHILD CARE FUND ALLOCATION PLAN.

Subpart 1. Submittal of plan. By the date established by the commissioner, the county shall submit to the commissioner a biennial child care fund allocation plan. The commission-

er may require updates of information in the allocation plan as necessary to comply with parts 9565.5000 to 9565.5200, Minnesota Statutes, sections 256H.01 to 256H.19, and federal law.

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 child care assistance in the year immediately preceding the period covered by the allocation plan, the number of eligible families the county is able to serve in each program, the county's procedure for prioritizing child care assistance, and the number of families on a waiting list for child care assistance;

C. methods the county uses to inform families of the availability of child care assistance and copies of county policies regarding child care services;

D. information, as requested, on provider rates paid by provider type;

E. the county's policy for approving and extending child care assistance 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 Minnesota Statutes, section 256H.12, subdivision 3;

H. copies of all subcontracts governing program administration if the administering agency is not the county;

I. the county's eligibility priority for ACCESS child care; and

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

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; 18 SR 1144*

9565.5130 DUTIES OF ADMINISTERING AGENCY.

Subpart 1. **Child care assistance information.** The administering agency shall provide families 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 for child care assistance, the administering agency shall inform the family of the following:

A. eligibility requirements under the child care fund and documentation necessary to confirm eligibility;

B. the existence of a child care assistance waiting list and the number of families on the waiting list;

C. the procedure for applying for child care assistance;

D. the family copayment fee schedule and how the fee is computed; and

E. the family's rights and responsibilities when choosing a provider.

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 child care assistance and funds are available or if a family requests an application, the administering agency shall mail or hand the family a child care assistance 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 under parts 9565.5030 and 9565.5060 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 part 9565.5060, subpart 2a or Minnesota Statutes, section 256.736. The date of eligibility for child care assistance under part 9565.5065 is the date the family ceased to be eligible for AFDC as a result of increased hours of employment, increased income from employment, or the loss of disregards due to time limitations. Upon approval of the application for assistance under part 9565.5065, child care assistance shall be made retroactive to the date the family ceased to be eligible for AFDC if all other provisions of parts 9565.5000 to 9565.5200 are met.

The notice of approval of the application must state the following:

- A. the beginning date of eligibility;
- B. that any change in income, address, family size, marital status, provider, or employment, education, or training status must be reported within ten calendar days from the date the change occurs; and
- C. that, if child care assistance is terminated, the recipient will be informed of the reason for the termination and providers who receive vendor payments will be informed that, unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made.

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

History: *14 SR 519; 18 SR 1144*

9565.5140 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subpart 1. **Proof of income eligibility.** An applicant requesting child care assistance must provide proof of income eligibility. For the purpose of determining income eligibility, annual income 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. The administering agency must use the method that provides the most accurate assessment of annual income currently 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 child care assistance 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, work-study income, and grants that cover costs for tuition, fees, books, and educational supplies;

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

C. earned income tax credits, in-kind noncash public assistance income such as food stamps, energy assistance, child care 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 20 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 20 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; 18 SR 1144*

9565.5150 REDETERMINATION OF ELIGIBILITY.

The county shall redetermine a family's eligibility for child care assistance 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; 18 SR 1144*

9565.5160 QUARTERLY FINANCIAL AND PROGRAM ACTIVITY REPORTS.

Counties shall submit, in the manner 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 fund during the preceding quarter by funding source and eligibility group;

B. a description of child care activities and expenditures that are reimbursable under state and federal reimbursement programs; and

C. 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; 18 SR 1144*

9565.5170 QUARTERLY PAYMENTS.

The commissioner shall make payments to the counties in quarterly installments. 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 tak-

en 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 child care assistance 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; 18 SR 1144*

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 non-profit 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 non-profit 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 pro-

gram 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 sta-

tus 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 licensor, if any, and improvements required by the licensor; 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*