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CHAPTER 9540

DEPARTMENT OF HUMAN SERVICES PROGRAM GRANTS; MENTALLY RETARDED

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EXPERIMENTAL PROGRAM FOR THE HOME CARE AND TRAINING OF MENTALLY RETARDED CHILDREN

9540.0100 DEFINITIONS.

Subpart 1. **Child.** "Child" means any person under the chronological age of 18 years.

Subp. 2. **Home.** "Home" means the home of the biological, adoptive or stepparent(s), or legal guardian, in which the child is or would be living for purposes of this experimental program.

Subp. 3. **Licensed community residential facility for persons with mental retardation or related conditions.** "Licensed community residential facility for persons with mental retardation or related conditions" means a facility which is licensed under Minnesota Statutes, section 252.28, and the Minnesota Department of Health rules for supervised living facilities, Minnesota Statutes, section 144.56.

Subp. 4. **Local board.** "Local board" means a county welfare/human service board established under the authority of Minnesota Statutes, chapter 393 or 402, as amended.

Subp. 5. **Mentally retarded person.** "Mentally retarded person" refers to any person who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and manifested during the developmental period.

Intellectual functioning shall be assessed by one or more of the professionally recognized standardized tests developed for that purpose; "significantly subaverage" refers to performance which is approximately two or more standard deviations from the mean or average of the tests.

Adaptive behavior shall be determined through the use of published scales, or by a combination of pertinent test data, professional observations, and the utilization of all available sources of information regarding the person's behavior which indicates the degree with which the individual meets the standards of personal independence and social responsibilities expected of his age and peer group.

Subp. 6. **Minnesota Developmental Programming System (MDPS) Behavioral Scales.** "Minnesota Developmental Programming System (MDPS) Behavioral Scales" means a tool used in assessing persons with mental retardation or related conditions to assess their behavioral skills, provide a basis for planning programs to increase their skills and consequently their independence, and determine what new behavioral skills have been acquired over a period of time.

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Subp. 7. **Parent.** "Parent" means a biological, adoptive or stepfather or mother, or a legal guardian.

Subp. 8. **State agency.** "State agency" means the Minnesota Department of Human Services.

Statutory Authority: *MS s 252.32*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148; L 1987 c 403 art 3 s 96*

9540.0200 SCOPE.

Parts 9540.0100 to 9540.0500 govern the administration of reimbursement to local boards for the cost of home care and training of children who have mental retardation or related conditions pursuant to this program of family subsidy, as provided in Minnesota Statutes, section 252.32.

Statutory Authority: *MS s 252.32*

History: *12 SR 1148; L 1986 c 414 s 5*

9540.0300 PROGRAM ELIGIBILITY.

Subpart 1. **Children who qualify.** The program shall be for those children who, at the time of application, are residing in Minnesota and who are living at home, or who are residing in a state hospital or in a licensed community residential facility for persons with mental retardation or related conditions who, under this program, would return to their own home. Those children living at home must also be determined by the local board eligible for placement in a state hospital or a licensed community residential facility for persons with mental retardation or related conditions.

Subp. 2. **Having mental retardation or related conditions diagnosis.** Each child considered for participation shall have been diagnosed as having mental retardation or a related condition.

Subp. 3. **Written consent required.** Parent(s) of children participating in this program shall be informed by the local board that this program is experimental in nature, and that due to its experimental nature, those parent(s) must consent, in writing, to the following conditions:

A. participation in the behavioral assessment of the child by means of the Minnesota Developmental Programming System which will be provided by the local board;

B. furnishing sociodemographic data about the home environment; and

C. participation in evaluating the child's progress toward meeting his goals in the individualized treatment plan on a quarterly schedule.

Parent(s) shall also be informed by the local board that the program is financed through June 30, 1977, and that continuation will be contingent upon success of the program and further appropriations by the Minnesota legislature.

The state agency and local board shall assure in writing to the parent(s) that his participation and furnishing information for the purposes of evaluation will be solely for the purposes of evaluating the program and that all data collected will be rigorously safeguarded with regard to confidentiality of data. All data accumulated on the child, his program, and his environment will be available to the parent(s).

Subp. 4. **Factors for approving applications.** Acceptance and approval of applications by the state agency with priority given on the basis of the following factors:

A. severely handicapped persons;

B. degree of need in family environment, i.e., single parent families; and

C. potential for greatest benefit, i.e., degree of developmental advancement as measured by the Minnesota Developmental Programming System.

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Statutory Authority: *MS s 252.32*

History: *12 SR 1148*

9540.0400 APPLICATION PROCESS.

Subpart 1. Submission. Application is submitted by the local board to: Commissioner, Department of Human Services, Mental Retardation Division, Centennial Office Building, Saint Paul, Minnesota 55155, Attention: Director.

Application must include:

- A. application for social services, DPW-1400;
- B. service plan and agreement, DPW-1950;
- C. diagnostic data;
- D. evidence of eligibility for institutionalization; and
- E. grant amount requested for services specified in item B.

Forms DPW-1400 and 1950 are not to be used to determine financial eligibility for grants but for identifying name and address information and defining needed services.

Subp. 2. Quarterly progress reports. The local board shall provide the state agency with quarterly progress reports concerning progress of the child. Quarterly progress report forms will be furnished by the state agency upon acceptance of the child into the program.

Subp. 3. Issuance of grants. Upon approval by the state agency, the local board shall make grants to the parent(s) of the child with mental retardation or a related condition. The grant shall be an amount equal to the direct costs of the services outlined in the service agreement subject to a maximum of \$250 per month. The costs shall include one or more of the services provided in Minnesota Statutes, section 252.32, or related services stipulated in the individual program plan. Reimbursable costs shall not include resources already available such as special education classes, daytime activity center programs, or medical costs covered by insurance if these resources are available at no cost to the child or parent(s).

Statutory Authority: *MS s 252.32*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148; L 1986 c 414 s 5*

9540.0500 REIMBURSEMENT BY STATE AGENCY.

Local boards shall receive quarterly reimbursements from the state agency by filing the prescribed claim forms.

Statutory Authority: *MS s 252.32*

COMMUNITY-BASED RESIDENTIAL SERVICES FOR MENTALLY RETARDED PERSONS

9540.1000 DEFINITIONS.

Subpart 1. Community mental health board. "Community mental health board" means a board organized under the authority of Minnesota Statutes, sections 245.61 to 245.69 to plan for and facilitate programs in mental retardation or related conditions and assure delivery of services.

Subp. 2. Human service board. "Human service board" means a single county or multicounty board established under the authority of Minnesota Statutes, chapter 402, as amended.

Subp. 3. County welfare board. "County welfare board" means a board established under the authority of Minnesota Statutes, chapter 393.

Subp. 4. Mentally retarded person. "Mentally retarded person" means any person who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior such as to require supervision and protection for his or the public welfare (Minnesota Statutes, section 253B.02, subdivision 13).

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Subp. 5. **Residential facility.** "Residential facility" means an out-of-family home setting for purposes of acquiring self-care, remedial, developmental or social skills, or for a long-term living arrangement.

Subp. 6. **State agency.** "State agency" means the Minnesota Department of Human Services.

Subp. 7. **State institution.** "State institution" means state-operated residential facilities for mentally retarded persons.

Subp. 8. **Supportive services.** "Supportive services" means any nonresidential services included in the treatment plan such as day activity centers, work activity program, and homemaker services.

Statutory Authority: *MS s 252.30; 252A.01; 252A.21 subd 2; 256.01 subds 2,7*

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

9540.1100 SCOPE.

Parts 9540.1000 to 9540.1500 govern state financing of the planning and placement of persons with mental retardation or related conditions into appropriate community alternative programs.

Statutory Authority: *MS s 252.30; 252A.01; 252A.21 subd 2; 256.01 subds 2,7*

History: *12 SR 1148*

9540.1200 PURPOSES OF GRANTS.

Joint application to the state agency for grants may be made by the county welfare board, community mental health board, or human service board to pay local costs in planning developing alternatives, making appropriate placements, and financing residential and supportive services for persons with mental retardation or related conditions in community based programs after existing state and federal resources are fully utilized.

Applications may be made for the following purposes:

A. The placement of residents of state institutions with mental retardation or related conditions into community based residential facilities. This may include:

(1) staff and consultation costs for individualized program planning and the planning of appropriate services in cooperation with state institution staff; and

(2) costs per individual to the county after federal and state resources are utilized. This may include costs now paid by the county because of the following reasons:

(a) reimbursement rate paid by the state agency is less than that authorized in law for placement of children under 12 MCAR S 2.030 (DPW 30);

(b) grant-in-aid paid by the state agency is less than authorized in law for daytime activity center (DAC) services; and

(c) federal title XIX medicaid and state supplementary appropriations do not pay all costs of ICF/MR placement. Remaining costs may be included after the federal share and the state supplement is paid.

B. The placement of residents of community based residential facilities who have mental retardation or related conditions into independent living. This may include costs of:

(1) multidisciplinary case planning in cooperation with residential facility operators;

(2) financing of residential and supportive services costs; and

(3) reduction of inappropriate placement of mentally retarded persons in skilled nursing facilities (SNF), and general intermediate care facilities (ICF/general). This may include:

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(a) implementing the recommendations of the Department of Human Services study, *Mentally Retarded Persons Reported To Be In Non-MR Residential Placement In Minnesota: A Report To The Minnesota Department of Public Welfare*, dated December 1975;

(b) assessing mentally retarded residents of certified SNF's, in order to determine whether they can be programmed more appropriately in a residential facility certified as an ICF/MR facility;

(c) to place mentally retarded persons in ICF/general facilities who are under 65 years of age into residential facilities certified as intermediate care facilities for mentally retarded (ICF/MR) if appropriate;

(d) assessing the needs of mentally retarded residents of ICF/general facilities who are over 65 years of age, in order to determine whether debilitating conditions warrant continued residence in ICF/general, or whether ICF/MR placement would be more appropriate; and

(e) to finance supportive services.

Statutory Authority: *MS s 252.28 subd 2; 252.30; 252A.01; 252A.21 subd 2; 256.01 subds 2,7; 256B.092 subd 6; 256B.503*

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

NOTE: 12 MCAR section 2.030 (DPW 30) has been repealed.

9540.1300 APPLICATION PROCESS.

All applications are to be made jointly between one or more county welfare boards and the community mental health board or human service board.

Applications are to be sent to: Commissioner, Department of Human Services, Attention: Director, Mental Retardation Division.

Applications are to include the following:

A. Identify the particular group of persons with mental retardation or related conditions affected by the project application.

B. A narrative description of the proposed project and a statement of expected results.

C. A budget plan which will be reviewed for its appropriateness in relation to the group of persons to be affected. It is recognized that the types of persons addressed in part 9540.1200 are more difficult to place in the community and may require more intense programming and highly specialized staff.

D. The number of persons with mental retardation or related conditions expected to be affected in each of the project purposes.

E. A design for the evaluation of the project.

Statutory Authority: *MS s 252.30; 252A.01; 252A.21 subd 2; 256.01 subds 2,7*

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

9540.1400 EVALUATION.

A report to the state agency shall be made by the applicants receiving grants. Such evaluation shall be submitted within 30 days of termination of the project, describing the impact and results of the project upon individuals.

Statutory Authority: *MS s 252.30; 252A.01; 252A.21 subd 2; 256.01 subds 2,7*

9540.1500 CRITERIA FOR DETERMINATION OF GRANT AWARD.

Subpart 1. Standards. Standards for the provision of services:

A. To provide the person who has mental retardation or a related condition with an existence as close to normal as possible. This includes making available the patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

B. To provide the person who has mental retardation or a related

condition with an individual service plan designed so that new and progressively difficult skills are acquired. Such plan must take into consideration the presentation of learning and developmental experiences appropriate to his adaptive behavior levels, physical condition, and degenerative status.

The individual service plan for the person with mental retardation or a related condition must be based on a comprehensive assessment of needs, and periodic evaluation to determine appropriateness and effectiveness of the individual service plan.

C. To implement the client's service plan, plans shall be made in a manner which least restricts personal freedom but carries out the goals and objectives for the individual. This shall mean:

(1) providing assistance to enable him to live in his home; and

(2) providing a community-based residential facility with appropriate services when the person with mental retardation or a related condition must leave his home for a specified purpose and period of time.

D. Providing placement in a state institution when the mentally retarded persons cannot be served at home or in a community facility for a specified purpose and period of time.

Subp. 2. **Other criteria.** Relevance of the application to:

A. priorities of the community mental health or human service board's plan for the mental retardation or related conditions target population;

B. priorities of the county welfare department's plan;

C. implementation of the Community Alternatives and Institutional Reform (CAIR) report recommendations (Developmental Disabilities Program Office, Minnesota State Planning Agency, 550 Cedar Street, Room 110, Saint Paul, Minnesota 55101);

D. community placement of current state institution residents; and

E. priority shall be given to proposals in accord with the above standards and expectations, relating to persons with mental retardation or related conditions in the Cambridge Regional Human Services Center or in its receiving district.

Statutory Authority: *MS s 252.30; 252A.01; 252A.21 subd 2; 256.01 subds 2,7*

History: *12 SR 1148; L 1987 c 384 art 1 s 49*

GRANTS-IN-AID TO RESIDENTIAL FACILITIES FOR MENTALLY RETARDED AND CEREBRAL PALSIED PERSONS

9540.2000 DEFINITIONS.

The terms used in parts 9540.2000 to 9540.2700 shall mean:

A. "Application for grant" means that any city, village, town, county, or nonprofit corporation, or any combination thereof, may apply to the commissioner for a grant under provision of Minnesota Statutes, chapter 673. Applicants must qualify according to licensing provision of Minnesota Statutes, section 252.28, and Minnesota Department of Health standards for supervised living facilities. The determination of need and location of proposed facility shall follow the criteria and procedures developed by the commissioner of human services.

B. "Board" means the governing body of the proposed residential facility.

C. "Commissioner" means the commissioner of human services.

Statutory Authority: *MS s 252.30*

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

9540.2100 STATUTORY AUTHORITY.

Minnesota Statutes 1973, chapter 673 established the authority of the com-

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missioner of human services to make grants to aid in the purchase, construction, or remodeling of community residential facilities for persons with mental retardation or related conditions.

Statutory Authority: *MS s 252.30*

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

9540.2200 PURPOSE.

Parts 9540.2000 to 9540.2700 are designed to aid in the development of community residential services for persons with mental retardation or related conditions which:

A. provide appropriate alternatives for such persons, including those currently in state institutions and nursing homes;

B. allow such persons to live in a homelike atmosphere near their families; and

C. comply with the provisions of Minnesota Statutes, section 252.28, and of the Minnesota Department of Health for the licensing of health and safety component of supervised living facilities when implemented.

Statutory Authority: *MS s 252.30*

History: *12 SR 1148*

9540.2300 SCOPE.

Parts 9540.2000 to 9540.2700 govern the making of grants to nonprofit organizations, municipalities, or local units of government.

Statutory Authority: *MS s 252.30*

9540.2400 BOARD.

Subpart 1. Requirement. There shall be a designated board for the facility.

Subp. 2. Representation. Where a private nonprofit corporation is the applicant for a grant, there shall be sufficient representation balanced among:

A. Parents of the residents.

B. Professional persons interested in and having responsibility for services to persons with mental retardation or related conditions. These professional persons may be representative of local health, education, and welfare departments; medical societies; area mental health-mental retardation program boards; state hospitals serving persons with mental retardation or related conditions; and associations concerned with handicapping conditions.

Subp. 3. Public or government board as applicant. Where a public or government board is the applicant for a grant, the facility shall provide for meaningful and extensive consumer representation and public participation in its operation. If consumer representatives, interested citizens, and relevantly qualified professionals are not represented on the governing body, an advisory body composed of such representation shall be appointed by the governing body.

Subp. 4. Required reports. Each board shall submit such reports as the commissioner may require.

Subp. 5. Cooperative planning. Each facility board is responsible for cooperative planning with other agencies in the community, such as special education, rehabilitation facilities, vocational training, county welfare departments, the area mental health mental retardation program boards, state institutions, and daytime activity centers.

Subp. 6. Application forms. Application shall be made on forms supplied by the Department of Human Services, which includes a statement of purpose and goals of the program.

Statutory Authority: *MS s 252.30*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148; L 1988 c 689 art 2 s 268*

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9540.2500 FINANCES AND BUDGET.

Subpart 1. **Funding purposes in general.** Applicants shall submit statements concerning the source of all funding for the construction, purchasing, or remodeling of the facility, including federal grants, local government funds, gifts, charitable sources, mortgages, and other information as required by the commissioner.

Subp. 2. **Use of grants.** Grants may be awarded to provide up to 25 percent of the cost of construction, purchasing, or remodeling, of which one-fifth of the grant may be used for equipment and initial staff costs.

Statutory Authority: *MS s 252.30*

9540.2600 CRITERIA FOR GRANT AWARDS.

Grant awards will be based on additional considerations, which include:

A. how grant money would work conjunctively with other funding sources;

B. how grant money would generate other funding sources, i.e., matching with federal funds, local tax contributions, community projects;

C. compliance with provisions for residents to live in homelike atmosphere, near their families, in facilities for no more than 16 persons, and no more than two such facilities located together; and

D. whether the application presents new, innovative, pilot, or demonstrational ideas regarding developmental programs, types of persons to be served, administrative organization, or other services to be provided to the community.

Statutory Authority: *MS s 252.30*

9540.2700 ADVISORY BOARD.

An advisory board will be appointed pursuant to provisions of Minnesota Statutes, chapter 673.

Statutory Authority: *MS s 252.30*