

9500.1272 ASSIGNMENT OF REPRESENTATIVE PAYEE FOR RECIPIENTS WHO ARE DRUG DEPENDENT.

Subpart 1. **Definitions.** As used in this part, the following terms have the meanings given them in this subpart.

A. "Basic needs" means the minimum personal requirements of subsistence and is restricted to:

- (1) shelter;
- (2) utilities;
- (3) food;
- (4) clothing; and

(5) other items the loss or lack of which is determined by the county agency to pose a direct, immediate threat to the physical health or safety of the applicant or recipient.

B. "Chemical use assessment" means the assessment defined in part 9530.6605, subpart 8.

C. "Client" means an applicant for or recipient of general assistance.

D. "Detoxification" means the program of services provided under Minnesota Statutes, section 254A.08.

E. "Disconjugate gaze" means an inability to move both eyes in unison.

F. "Drug abuse" means chemical abuse as defined in part 9530.6605, subpart 6.

G. "Drug dependency" means chemical dependency as defined in part 9530.6605, subpart 7.

H. "Representative payee" means a person or agency selected to receive and manage general assistance benefits provided by the county agency on behalf of a general assistance recipient.

I. "Vendor payment" means a payment made by a county agency directly to a provider of goods or services.

Subp. 2. **Referral for chemical use assessment.** A county agency may refer an applicant or a recipient for a chemical use assessment by an assessor as defined in part 9530.6605, subpart 4, when there is a reasonable basis for questioning whether a person is drug dependent. A reasonable basis for referral exists when:

A. The person has required detoxification two or more times in the last 12 months;

B. The person appears intoxicated at the county agency as indicated by two or more of the following:

- (1) odor of alcohol;
- (2) slurred speech;
- (3) disconjugate gaze;
- (4) impaired balance;
- (5) difficulty in remaining awake;
- (6) consumption of a chemical;
- (7) responding to sights or sounds that are not actually present; and
- (8) extreme restlessness, fast speech, or unusual belligerence;

C. The person has been involuntarily committed for drug dependency at least once in the past 12 months; or

D. The person has received treatment, including domiciliary care, for drug abuse or dependency at least twice in the past 12 months.

Subp. 3. **Referral procedures for chemical use assessment.** A referral for a chemical use assessment must be made according to items A and B.

A. When the county agency decides to refer a client for a chemical use assessment, the county agency shall notify the client of the referral in writing. The notice must inform the client of:

- (1) the basis for the referral;
- (2) the name, address, and phone number of the individual to contact to schedule the assessment, or the time, date, and location of the chemical use assessment if one has already been scheduled by the county agency;
- (3) the fact that the applicant's general assistance benefits will be paid in the form of vendor payments or emergency general assistance as specified in subpart 4 until the local agency decides whether to assign a representative payee under subpart 8;
- (4) the fact that if the recipient has been receiving cash general assistance that those benefits will be changed to emergency general assistance payments or general assistance vendor payments under subpart 4 until the county agency decides whether to assign a representative payee under subpart 8;
- (5) the effect under subpart 8 of failing to participate in the chemical use assessment within 30 days of the date of referral;

(6) the client's right to appeal the county agency's decision to refer the client for an assessment, and the right to appeal the assessment results when the assessment has been completed; and

(7) the need to contact the county agency and consult with the county agency concerning the choice of representative payee.

B. The client must be given the opportunity to participate in a chemical use assessment within 15 days after the date the notice of referral is mailed or delivered to the client.

Subp. 4. **Form of payment pending completion of assessment.** A county agency shall provide only emergency general assistance (EGA) or general assistance vendor payments to a client who has been referred for a chemical use assessment under subpart 2. EGA may be provided to clients only in emergency situations as provided in part 9500.1261. All other payments made under this subpart must be general assistance vendor payments.

Subp. 5. **Timing and duration of general assistance vendor payments or EGA.** A county agency shall not change the form of a recipient's benefit payments from cash general assistance to general assistance vendor payments under subpart 4 until ten days after the notice of referral under subpart 3 is mailed or delivered to the recipient. If the client meets the criteria for assignment of a representative payee under subpart 8, the county agency shall continue to provide EGA or general assistance vendor payments until the county agency begins making general assistance payments through the client's representative payee. If the client does not meet the criteria under subpart 8 for assignment of a representative payee, the county agency shall provide future general assistance benefits to which the client is entitled in cash beginning on the first day of the payment month immediately following the date of the determination that the client does not meet the criteria for assignment of a representative payee.

Subp. 6. **Amount of vendor payments.** EGA or general assistance vendor payments may be provided only to the extent needed to meet the client's basic needs. If the county agency is unable to vendor pay the entire standard of assistance to which the client is entitled, the remaining amount of the standard of assistance must not be issued until a representative payee is assigned or until the county agency decides not to assign a representative payee. If a representative payee is assigned, the unissued amount must be provided to the representative payee within 15 days after the date the county agency begins making payments through the representative payee. If the client does not meet the criteria under subpart 8 for assignment of a representative payee, the unissued amount must be provided directly to the client within 15 days after the date of the determination that the client does not meet the criteria for assignment of a representative payee.

Subp. 7. **Assessment.** The chemical use assessment must be conducted according to parts 9530.6600 to 9530.6655.

Subp. 8. **Criteria governing assignment of representative payee.** The county agency may assign a representative payee to manage a client's general assistance if the client fails, without good cause as defined in part 9500.1206, subpart 15, to participate in a chemical use assessment within 30 days after referral under subparts 2 and 3; or if an assessment performed within the last six months indicates that the client is drug dependent and eligible for placement in extended care under part 9530.6640.

Subp. 9. **Procedures governing assignment of representative payee after referral.** A representative payee must be assigned according to items A to C.

A. The county agency shall provide the client with an opportunity to consult with the county agency in selecting a representative payee. The county agency shall consider the client's preferences for particular individuals to serve as payees but the county agency's preference must prevail.

B. The county agency shall notify the client in writing of:

- (1) its decision to assign a representative payee;
- (2) the basis for its decision to assign a representative payee;
- (3) the identity, address, and phone number of the representative payee;
- (4) the date the county agency will begin making payments through the representative payee;
- (5) the circumstances under which a representative payee may be removed or replaced; and
- (6) the client's right to appeal the assignment under Minnesota Statutes, section 256.045.

C. The notice under item B must be mailed or delivered to the client or the client's last known address within 15 days after the date of the chemical use assessment on which the assignment is based, or within 30 days after the date of the referral under subparts 2 and 3 if a representative payee is assigned because of the client's failure to participate in an assessment. The notice must also be mailed or delivered at least ten days before the county agency begins making payments through the representative payee.

Subp. 10. **Procedures governing assignment of representative payee without referral.** A county agency may assign a representative payee to a client who meets the criteria for assignment under subpart 8 but who has not been referred for a chemical use

assessment under subparts 2 and 3. A representative payee assigned under this subpart must be assigned according to items A to E.

A. The county agency may provide only emergency general assistance or general assistance vendor payments to a client who meets the criteria for assignment of a representative payee under subpart 8 until the county agency begins making general assistance payments through the client's representative payee or until the first day of the payment month following a determination that the client does not meet the criteria for assignment of a representative payee. Payments under this item shall be made according to subparts 4 and 6 and shall not begin until the date the county agency mails or delivers the notice under item C.

B. The county agency shall provide a client with an opportunity to consult with the county agency on the choice of representative payee as provided in subpart 9, item A.

C. The county agency shall notify a client in writing of:

- (1) its decision to assign a representative payee;
- (2) the basis for its decision to assign a representative payee;
- (3) the client's right to consult with the county agency on the choice of representative payee;
- (4) the date by which the county agency must select a representative payee under item D; and
- (5) the fact that the county agency will provide the client's general assistance benefits in the form of emergency assistance or vendor payments until the county agency begins making payments through a representative payee.

D. The county agency shall notify a client in writing of its selection of a representative payee within 15 days after issuing the notice required under item C. The notice shall inform the client of:

- (1) the identity, address, and phone number of the representative payee assigned to the client;
- (2) the date the county agency will begin making payments through the representative payee;
- (3) the circumstances under which a representative payee may be removed or replaced; and
- (4) the client's right to appeal the assignment of a representative payee under Minnesota Statutes, section 256.045.

E. The county agency shall not begin making payments through a representative payee until at least ten days after the notice under item D is mailed or delivered to the client.

Subp. 11. **Criteria governing the choice of representative payee.** A county agency shall appoint as representative payee an individual or agency who is likely to manage the client's income and resources in a manner that meets the client's basic needs. A county agency shall not appoint as representative payee any individual to whom the client is in financial debt. In selecting the representative payee, the county agency shall consider all factors relevant to the prospective payee's ability to manage the client's general assistance to meet the client's basic needs, including the following factors:

- A. the prospective payee's experience and training in managing the finances of others;
- B. the prospective payee's familiarity with the geographic area and the community resources available to meet the client's basic needs; and
- C. the relationship between the prospective payee and the client, including any legal authority the prospective payee has to act on behalf of the client.

Subp. 12. **Responsibilities of the representative payee.** The representative payee assigned to a client must:

- A. use the client's general assistance benefits to meet the client's current basic needs;
- B. maintain clear and current records of all expenditures made on behalf of the client; and
- C. complete a report every six months containing the client's general assistance financial records and a recommendation as to whether the client continues to require a representative payee. The report must be provided to the county agency and the client on request.

Subp. 13. **Review of client's representative payee status.** The county agency shall conduct a review of a client's need to continue receiving benefits through a representative payee within 12 months of the client's previous chemical use assessment. The county agency shall conduct the review under this subpart no earlier than six months after the client's previous chemical use assessment. A review requested by a client must be conducted within 15 days of the client's request. Each review conducted under this subpart must include a chemical use assessment to determine whether the recipient remains drug dependent and eligible for placement in extended care and an examination of the representative payee's report required under subpart 12.

Subp. 14. **Discontinuing a client's representative payee status.** A county agency shall discontinue the use of a representative payee only if a review conducted under subpart 13 indicates that the client is no longer eligible for placement in extended care. A county agency shall not discontinue the use of a representative payee until at least six months have

elapsed since the client last underwent a chemical use assessment showing the client to be chemically dependent and eligible for placement in extended care.

Subp. 15. **Investigating need for change in representative payee.** The county agency shall review a representative payee's performance and determine whether to appoint a new representative payee if the client alleges or the county agency has reason to believe that the representative payee is not complying with the requirements of subpart 12. When an investigation is initiated in response to a client's complaint, the county agency's decision to retain the current representative payee or appoint a new one must be made within 30 days of the date the complaint is received by the county agency. An investigation conducted under this subpart must include a review of all financial records maintained by the representative payee concerning the use of the client's general assistance benefits and any other relevant evidence.

Subp. 16. **Duration of a representative payee designation.** Notwithstanding any gaps in the receipt of general assistance, the designation of a specific representative payee shall continue for at least six months unless:

A. the client no longer meets the criteria for assignment of a representative payee under subpart 8;

B. the representative payee is not fulfilling the responsibilities under subpart 12;
or

C. the representative payee requests to discontinue serving as the client's representative payee.

Subp. 17. **Change in representative payee.** The county agency shall appoint a new representative payee if the current representative payee fails to comply with the requirements of subpart 12 or requests that the county agency appoint a new representative payee.

Subp. 18. **Appealable issues.** A client may appeal:

A. the proposed assignment of a representative payee, including the results of the chemical use assessment upon which the assignment is based;

B. the county agency's choice of representative payee; and

C. the decision to refer a person for an assessment.

However, notwithstanding any provision of Minnesota Statutes, section 256.045 to the contrary, an applicant or recipient who is referred for an assessment and is otherwise eligible to receive a general assistance benefit may only be provided with emergency general assistance or vendor payments pending the outcome of an administrative or judicial review.

If a representative payee is assigned under subpart 8 without a chemical use assessment, the client may appeal the county agency's determination that the client did not have good cause for failing to participate in the chemical use assessment.

Subp. 19. **Appeal procedures and timing of appeals.** If the client appeals before the date the representative payee is scheduled to begin receiving the client's general assistance benefits, the county agency shall continue to vendor pay the client's general assistance and shall not make general assistance payments through the representative payee until after the appeal is decided unless the client requests in writing to have payments made through the representative payee pending the outcome of the appeal.

Statutory Authority: *MS s 256D.01; 256D.04; 256D.051; 256D.06; 256D.08; 256D.09; 256D.111*

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