

9500.1658 STANDARDS USED BY COMMISSIONER TO DETERMINE WHETHER TO CONSENT TO A PROPOSED LUMP-SUM SETTLEMENT.

Subpart 1. **Standards.** The commissioner shall consent to a proposed lump-sum settlement only if the conditions of subparts 1a to 6 are met.

Subp. 1a. **Parties.** Under Minnesota Statutes, section 257.60, when the child is a minor, the child and the commissioner must be made parties to the action. The court must appoint a general guardian or a guardian ad litem to represent the child.

Subp. 2. **Admission of paternity.** The alleged father must admit paternity and either waive blood tests or the results of blood tests indicate a likelihood of more than 92 percent that the alleged father is the biological father of the child.

Subp. 3. **Comparison of proposed lump-sum settlement to present value of periodic payments.** The proposed lump-sum settlement must be equal to or greater than the present value of periodic payments.

Subp. 4. **Liability for past support and costs.** A provision must be made for a partial or full reimbursement consisting of the alleged father's liability for past support and costs. The alleged father's liability for past support and costs includes:

A. all or a proportion of the amount of assistance furnished the child during the two years immediately preceding the start of the paternity action under Minnesota Statutes, section 257.66, subdivision 4;

B. expenses of the mother's pregnancy and confinement under Minnesota Statutes, section 257.66, subdivision 3; and

C. all or a proportion of costs and fees detailed under Minnesota Statutes, section 257.69, subdivision 2.

If a reimbursement is to be made through payments to the local IV-D agency, provisions for income withholding shall be included in the proposed lump-sum settlement agreement under Minnesota Statutes, section 518A.53.

Subp. 5. **Protection over lump-sum settlement amount.** A plan to invest the lump-sum settlement to meet the child's future needs and to prevent rapid depletion of the lump-sum settlement must be made part of the lump-sum settlement. The plan to invest the lump-sum settlement must include:

A. an agreement to deposit the lump-sum settlement amount in an interest bearing account with a rate of interest based on a United States Treasury obligation that matures on the date of the child's 18th birthday;

B. provisions for making periodic payments to the child until the child is 18 years of age;

C. provisions for making the periodic payments under item B to the public agency, if the child receives public assistance or becomes eligible to receive public assistance and rights to support are assigned under Minnesota Statutes, section 256.741;

D. the name of the depository that will hold and disburse the lump-sum settlement under this subpart;

E. the name of the person or agency designated to make decisions on managing the lump-sum settlement account; and

F. the amounts charged by the depository for the costs of administering the lump-sum settlement account.

Subp. 6. **Medical benefits.** The lump-sum settlement must provide for maintenance of health and dental insurance for the child under Minnesota Statutes, section 518A.41.

Statutory Authority: *MS s 257.60*

History: *11 SR 957; L 1997 c 203 art 6 s 92; L 2005 c 164 s 29; L 2005 1Sp7 s 28; L 2006 c 280 s 46; 32 SR 565*

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