

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Commissioner's Consent to
4 Paternity Suit Settlements

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6 Rules as Adopted

7 9500.1650 APPLICABILITY.

8 Parts 9500.1650 to 9500.1663 govern the procedures and the
9 standards applicable to the way in which the commissioner
10 decides, as a party under Minnesota Statutes, section 257.60,
11 whether to agree to a particular lump sum settlement or
12 compromise agreement in a paternity action under Minnesota
13 Statutes, sections 257.51 to 257.74. Parts 9500.1650 to
14 9500.1663 apply equally to lump sum settlements and compromise
15 agreements proposed as part of a maternity suit under Minnesota
16 Statutes, section 257.71.

17 9500.1655 DEFINITIONS.

18 Subpart 1. Scope. For the purposes of parts 9500.1650 to
19 9500.1663, the following terms have the meanings given to them
20 in this part.

21 Subp. 2. Admission of paternity. "Admission of paternity"
22 means a written acknowledgement by a male that he is the
23 biological father of a child.

24 Subp. 3. Aid to families with dependent children or AFDC.
25 "Aid to families with dependent children" or "AFDC" means the
26 program authorized by title IV-A of the Social Security Act to
27 provide financial assistance services to needy families with
28 dependent children.

29 Subp. 4. Alleged father. "Alleged father" means a male
30 alleged to be the biological father of a child.

31 Subp. 5. Blood test. "Blood test" means a test using
32 blood group identification of a mother, child, and alleged
33 father that is used to predict the probability or exclude the
34 possibility that the alleged father is the biological father of
35 the child.

1 Subp. 6. **Child.** "Child" means an individual under age 18
2 whose parental relationship with the alleged father is being
3 determined and whose legal rights and privileges are at issue.

4 Subp. 7. **Commissioner.** "Commissioner" means the
5 commissioner of the Department of Human Services or the
6 commissioner's designated representative.

7 Subp. 8. **Compromise agreement.** "Compromise agreement" has
8 the meaning given it by Minnesota Statutes, section 257.64,
9 subdivision 1, clause (b).

10 Subp. 9. **Costs.** "Costs" has the meaning given it under
11 Minnesota Statutes, section 257.69.

12 Subp. 10. **Department.** "Department" means the Minnesota
13 Department of Human Services.

14 Subp. 11. **Depository.** "Depository" means a person or
15 organization entrusted to safekeep a father's or an alleged
16 father's lump sum settlement or compromise agreement payments
17 and to make periodic payments of the money on behalf of the
18 child.

19 Subp. 12. **Guardian ad litem.** "Guardian ad litem" means
20 the person designated by the court to represent the interests of
21 a child in a paternity suit, according to Minnesota Statutes,
22 section 257.60.

23 Subp. 13. **Income.** "Income" has the meaning given it under
24 Minnesota Statutes, section 518.54, subdivision 6.

25 Subp. 14. **Interest rate.** "Interest rate" means the rate
26 of interest used to calculate the present value of periodic
27 payments a father is required to pay and is equal to the current
28 market rate of interest on a United States Treasury obligation
29 using as its maturity date the child's 18th birthdate.

30 Subp. 15. **Liability for past support.** "Liability for past
31 support" means the financial obligation of the noncustodial
32 parent to reimburse the local child support enforcement agency
33 for all or a portion of past expenses furnished on behalf of a
34 child under Minnesota Statutes, sections 257.66 and 257.67.

35 Subp. 16. **Local IV-D agency.** "Local IV-D agency" means
36 the county or multicounty agency that is authorized under

1 Minnesota Statutes, section 393.07, to administer the child
2 support enforcement program under the requirements of title IV-D
3 of the Social Security Act, United States Code, title 42,
4 sections 651 to 658, 660, 664, 666, 667, 1302, 1396(a)(25),
5 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

6 Subp. 17. **Lump sum settlement.** "Lump sum settlement"
7 means a single payment to satisfy the remaining obligations of a
8 noncustodial parent for support of the parent's minor child.

9 Subp. 18. **Medical support.** "Medical support" has the
10 meaning given it under Minnesota Statutes, section 518.171.

11 Subp. 19. **Mother.** "Mother" means a woman who was not
12 married to her child's father when the child was born or when
13 the child was conceived.

14 Subp. 20. **Office of Child Support Enforcement.** "Office of
15 Child Support Enforcement" means the office within the
16 department that administers the child support enforcement
17 program for the purposes of locating absent parents,
18 establishing paternity, and establishing and enforcing orders
19 for support under the requirements of title IV-D of the Social
20 Security Act, United States Code, title 42, sections 651 to 658,
21 660, 664, 666, 667, 1302, 1396(a)(25), 1396b(d)(2), 1396b(o),
22 1396b(p), and 1396(k).

23 Subp. 21. **Party.** "Party" means a person as defined in
24 Minnesota Statutes, sections 257.57 and 257.60, who is involved
25 in a paternity suit.

26 Subp. 22. **Paternity suit.** "Paternity suit" means a legal
27 action brought to establish that a man is the biological father
28 of a child and has legally enforceable duties and
29 responsibilities in regard to that child.

30 Subp. 23. **Periodic payments.** "Periodic payments" means
31 payments of support on a schedule established by the court under
32 Minnesota Statutes, section 518.551, subdivision 5.

33 Subp. 24. **Present value.** "Present value" means the
34 current monetary worth of future periodic payments. The formula
35 used to determine present value is $An = V \frac{1-(1+i)^{-n}}{i}$ where:

36 "An" means present value of the periodic payments,

1 "v" means value of the periodic payments,
2 "n" means number of periodic payments, and
3 "i" means interest rate.

4 Subp. 25. **Reimbursement.** "Reimbursement" means payment of
5 a sum for public funds expended for the care and support of a
6 child under Minnesota Statutes, sections 256.87; 257.66,
7 subdivisions 3 and 4; 257.69; and 393.07, subdivision 9.

8 Subp. 26. **Support.** "Support" has the meaning given to
9 "support money" under Minnesota Statutes, section 518.54,
10 subdivision 4.

11 9500.1656 CONSENT BY COMMISSIONER TO A COMPROMISE AGREEMENT.

12 The commissioner shall not consent to a compromise
13 agreement.

14 9500.1657 COMMISSIONER'S CONSENT TO A LUMP SUM SETTLEMENT.

15 The commissioner shall consider each proposed lump sum
16 settlement that is submitted to the commissioner. If a
17 submitted proposed lump sum settlement does not comply with
18 parts 9500.1650 to 9500.1663, the commissioner shall not consent
19 to the proposed lump sum settlement.

20 9500.1658 STANDARDS USED BY COMMISSIONER TO DETERMINE WHETHER TO
21 CONSENT TO A PROPOSED LUMP SUM SETTLEMENT.

22 Subpart 1. **Standards.** The commissioner shall consent to a
23 proposed lump sum settlement only if the conditions of subparts
24 2 to 6 are met.

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

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

33 Subp. 4. **Liability for past support and costs.** A
34 provision must be made for a partial or full reimbursement

1 consisting of the alleged father's liability for past support
2 and costs. The alleged father's liability for past support and
3 costs includes:

4 A. all or a proportion of the amount of assistance
5 furnished the child during the two years immediately preceding
6 the start of the paternity action under Minnesota Statutes,
7 section 256.66, subdivision 4;

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

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

12 If a reimbursement is to be made through payments to the
13 local IV-D agency, provisions for income withholding shall be
14 included in the proposed lump sum settlement agreement under
15 Minnesota Statutes, section 518.611.

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

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

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

27 C. provisions for making the periodic payments under
28 item B to the public agency, if the child receives AFDC or
29 becomes eligible to receive AFDC and rights to support are
30 assigned under Minnesota Statutes, section 256.74, subdivision 5;

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

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

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

1 Subp. 6. Medical benefits. The lump sum settlement must
2 provide for maintenance of health and dental insurance for the
3 child under Minnesota Statutes, section 518.171.

4 9500.1659 CONTENTS OF PROPOSED LUMP SUM SETTLEMENT AGREEMENT.

5 A proposed lump sum settlement must include:

6 A. the names and addresses of the parties to the
7 paternity suit;

8 B. a statement indicating whether there has been an
9 admission of paternity;

10 C. the amount of reimbursement agreed to be paid to
11 the local IV-D agency and the method by which payments will be
12 made as required under part 9500.1658, subpart 4;

13 D. the amount of the proposed lump sum settlement;

14 E. a plan for distributing the lump sum settlement
15 amount on behalf of the child under part 9500.1658, subpart 5;

16 F. a written statement showing compliance with part
17 9500.1658, subpart 6, by the responsible parent; and

18 G. a signature line for each of the parties and the
19 guardian ad litem.

20 9500.1660 DOCUMENTS THAT MUST ACCOMPANY A PROPOSED LUMP SUM
21 SETTLEMENT AGREEMENT

22 The documents in items A to G must accompany the proposed
23 lump sum settlement submitted to the commissioner:

24 A. the statement of blood test results or a statement
25 that blood tests were waived by the alleged father;

26 B. a statement of the reasons a lump sum settlement
27 is proposed rather than periodic payments;

28 C. a copy of the alleged father's affidavit of
29 earnings, income, and resources, including real and personal
30 property;

31 D. the mathematical calculation used to make the
32 computation required under part 9500.1658, subpart 3;

33 E. an itemization of amounts previously expended by
34 each public agency as support on behalf of the child, including
35 dates and amounts of AFDC expended, pregnancy and confinement

1 expenses, costs of blood tests, filing fees, service of process
2 fees, and county attorney's fees;

3 F. a written statement showing how the plan for
4 reimbursement of the alleged father's liability for support and
5 costs owed to the local IV-D agency was derived; and

6 G. a written, signed statement from the guardian ad
7 litem that indicates how the proposed lump sum settlement is in
8 the best interest of the child.

9 9500.1661 TIME FOR SUBMISSION OF PROPOSAL.

10 The proposed lump sum settlement agreement under part
11 9500.1659 and documents required under part 9500.1660 must be
12 submitted to the Office of Child Support Enforcement for review
13 at least 30 days before the date scheduled for the court hearing
14 on the proposed lump sum settlement. If the 30-day period is
15 not complied with, parties must not presume that the
16 commissioner has consented to the proposed lump sum settlement
17 unless a written statement to that effect is made by the
18 commissioner and submitted to the parties.

19 9500.1662 REVIEW PROCESS.

20 On receipt of a proposed lump sum settlement, the
21 commissioner shall review the submitted proposal and documents
22 for compliance with parts 9500.1650 to 9500.1663. If the
23 commissioner consents to the proposal, the commissioner will
24 sign the proposal and return it to the submitting party. If the
25 commissioner does not consent to the proposal, the commissioner
26 will send a letter to the submitting party indicating the
27 reasons for not consenting to the proposal. The commissioner
28 will send copies of either response to the court of
29 jurisdiction. The commissioner will also send copies of either
30 response to the other parties and guardian ad litem if addresses
31 for those parties are provided by the submitting party.

32 9500.1663 NOTIFICATION OF FINAL DISPOSITION.

33 If the lump sum settlement or compromise agreement is
34 approved by the court, a copy of the final order must be

1 provided to the commissioner within 30 days of the date of the
2 court order. If the submitted agreement is not approved by the
3 court, the commissioner must be notified in writing of any other
4 disposition made regarding the paternity suit. The parties
5 other than the commissioner must agree between themselves as to
6 the party responsible for notification to the commissioner in
7 accordance with this part.