

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Aid to Families With
4 Dependent Children; Employment and Training

5

6 Rules as Adopted

7 9500.2720 DEFINITIONS.

8 Subpart 1. **Applicability.** The terms used in parts
9 9500.2720 to 9500.2730 have the meanings given them in this part
10 and in part 9500.2060 unless otherwise indicated.

11 Subp. 2. **Employability plan.** "Employability plan" means a
12 plan written for a registrant by an employment and training
13 provider in consultation with the registrant that defines the
14 registrant's employment and training goals and outlines the
15 training, education, and support services the registrant needs
16 to achieve these goals.

17 Subp. 3. **Employment search.** "Employment search" means the
18 program authorized under the Code of Federal Regulations, title
19 45, part 240, which provides AFDC recipients with training and
20 assistance in finding and securing regular, unsubsidized
21 employment.

22 Subp. 4. **Employment and training services.** "Employment
23 and training services" means programs, activities, and services
24 as defined in Minnesota Statutes, section 256.736, subdivision
25 1a, paragraph (d).

26 Subp. 5. **Employment and training service provider or**
27 **service provider.** "Employment and training service provider" or
28 "service provider" means a provider certified by the
29 commissioner of jobs and training under Minnesota Statutes,
30 section 268.0122, subdivision 3, to deliver employment and
31 training services.

32 Subp. 6. **Priority caretaker.** "Priority caretaker" means a
33 caretaker who:

34 A. is under age 21;

35 B. has not graduated from high school or received a

1 general equivalency diploma; or

2 C. has received AFDC for 24 or more months out of the
3 last 36 consecutive calendar months.

4 9500.2722 ORIENTATION REQUIREMENT.

5 Subpart. 1. Local agency responsibilities. Each local
6 agency shall:

7 A. provide or contract with another entity to provide
8 orientation to AFDC caretakers residing in the local agency's
9 jurisdiction who are required to attend orientation under
10 subpart 2; and

11 B. provide or pay the reasonable cost of child care
12 and transportation needed to enable a caretaker to attend
13 orientation. A local agency is not required to pay child care
14 costs that exceed limits established by the local agency under
15 Minnesota Statutes, section 268.91, subdivision 8.

16 Subp. 2. Mandatory participants. A recipient shall attend
17 an orientation session if the recipient is:

18 A. a caretaker who is a principal wage earner in an
19 assistance unit whose eligibility is based on the unemployment
20 of a parent under part 9500.2300;

21 B. a priority caretaker; or

22 C. a caretaker who is determined eligible for AFDC on
23 or after July 1, 1988, and who has not attended an orientation
24 within the previous 12 calendar months.

25 Subp. 3. Orientation content. Orientation must consist of
26 a presentation that tells a recipient of the identity, location,
27 and phone number of available employment and training services,
28 and support services relevant to the recipient's circumstances.
29 Orientation must encourage recipients to view AFDC as a
30 temporary program providing grants and services to clients who
31 set goals and develop strategies for supporting their families
32 without AFDC assistance. The content of orientation must not
33 imply that a recipient's eligibility for AFDC is time
34 limited. The presentation must also inform recipients of the
35 headstart program and encourage caretakers to have their

1 children screened for enrollment in the program where
2 appropriate.

3 Subp. 4. Orientation format. Videotaped presentations may
4 be used, but orientation must include the opportunity for
5 face-to-face interaction between the recipient and staff of the
6 local agency or the entity providing orientation.

7 Subp. 5. Good cause for failure to attend orientation.

8 Good cause for failure to attend orientation exists when a
9 recipient cannot attend because of:

10 A. illness or injury of the recipient;

11 B. illness or injury of a member of the recipient's
12 family that requires the recipient's care during the hours when
13 orientation is offered;

14 C. an inability to obtain the necessary child care
15 and or transportation; ~~or~~

16 D. employment, school, or employment and training
17 service obligations that are scheduled during the hours when
18 orientation is offered and that cannot be changed to allow
19 participation in orientation;

20 E. a judicial proceeding that requires the
21 recipient's presence in court during the hours when orientation
22 is scheduled; or

23 F. a nonmedical emergency that requires the
24 recipient's presence at a different location during the hours
25 when orientation is scheduled. "Emergency" under this item
26 means a sudden, unexpected occurrence or situation of a serious
27 or urgent nature that requires immediate action.

28 Subp. 6. Notice to mandatory participants. Except as
29 provided in subpart 7, the local agency shall provide written
30 notice of the orientation requirement to a recipient required to
31 attend orientation under subpart 2. The notice must tell the
32 recipient the time, date, and location of the orientation that
33 the recipient is scheduled to attend, the consequences of
34 failing to attend on the scheduled date, and the recipient's
35 appeal rights in part 9500.2740, subparts 8 to 10. The notice
36 must be mailed or delivered to the recipient at least ten days

1 before the recipient's scheduled orientation date.

2 Subp. 7. Voluntary early participation in orientation. If
3 the local agency and the applicant or recipient agree to have
4 ~~the recipient's orientation occur within ten days after the~~
5 ~~recipient is determined eligible for AFDC, no notice of,~~
6 orientation is required may be provided before issuance of the
7 notice under subpart 6. If the applicant or recipient fails to
8 attend orientation ~~within ten days immediately following the~~
9 ~~eligibility determination as~~ on the agreed upon date, the local
10 agency shall schedule the recipient for orientation under
11 subpart 8 and issue a notice under subpart 6.

12 Subp. 8. Timing of orientation. A recipient required to
13 attend orientation under subpart 2 must attend orientation on
14 the date scheduled by the local agency under this subpart unless
15 the recipient has good cause for not attending on that date or
16 the local agency and recipient agree on a different date. The
17 local agency must schedule a recipient required to attend
18 orientation under subpart 2, item A or B, for an orientation
19 session to be held before January 1, 1989. The local agency
20 must schedule a recipient required to attend orientation under
21 subpart 2, item C, for an orientation session to be held within
22 60 days after the local agency mails the recipient's notice of
23 eligibility.

24 Subp. 9. Sanctions for failure to attend orientation. If
25 a recipient who is required to attend orientation under subpart
26 2 fails, without good cause, to attend orientation on a
27 scheduled or agreed upon date after issuance of the notice
28 required under subpart 6, the recipient must be sanctioned under
29 items A to C and B. Before imposing sanctions under item A or
30 B, the local agency must provide the notice required under part
31 9500.2740, subpart 6.

32 A. When a recipient fails for the first time to
33 attend an orientation session, the local agency shall issue a
34 maximum of 50 percent of the next monthly payment to which the
35 assistance unit is entitled in the form of a vendor or
36 protective payment. The local agency shall schedule the

1 recipient for another orientation session to be held during the
 2 payment month for which the sanction under this item is imposed
 3 and shall notify the recipient of the date, time, and location
 4 of the session under subpart 6.

5 B. When a recipient fails for the second time to
 6 attend an orientation session, the local agency shall issue 100
 7 percent of the next monthly payment to which the assistance unit
 8 is entitled in the form of a vendor or protective payment. The
 9 ~~local agency shall schedule the recipient for another~~
 10 ~~orientation session to be held during the payment month for~~
 11 ~~which the sanction under this item is imposed and shall notify~~
 12 ~~the recipient of the date, time, and location of the session~~
 13 ~~under subpart 6.~~ The local agency's notice of sanction under
 14 this item must include an offer to schedule the recipient for an
 15 orientation session. If the recipient contacts the local agency
 16 and asks to be scheduled for orientation, the local agency must
 17 schedule the recipient's orientation to be held within 30 days
 18 of the request. The sanction under this item ends when the
 19 recipient attends the orientation. The local agency shall then
 20 issue to the recipient any remaining benefits being held for
 21 vendor or protective payments.

22 C. ~~When a recipient fails for the third time to~~
 23 ~~attend an orientation session, the local agency shall not take~~
 24 ~~the recipient's needs into account when determining the amount~~
 25 ~~of the next monthly payment to the assistance unit. The amount~~
 26 ~~of the monthly payment to which the rest of the assistance unit~~
 27 ~~is entitled, if any, must be issued in the form of a vendor or~~
 28 ~~protective payment. The recipient's needs must not be~~
 29 ~~considered again until the recipient has attended an orientation~~
 30 ~~session. The local agency's notice of sanction under this item~~
 31 ~~must include an offer to schedule the recipient for an~~
 32 ~~orientation session. The recipient must contact the local~~
 33 ~~agency to schedule an orientation session. If the recipient~~
 34 ~~contacts the local agency and asks to be scheduled for~~
 35 ~~orientation, the local agency must schedule the recipient's~~
 36 ~~orientation to be held within 30 days of the request. The~~

1 ~~sanction under this item ends when the recipient attends the~~
2 ~~orientation, and the local agency shall issue prorated benefits~~
3 ~~for the rest of the payment month following the date the~~
4 ~~recipient attends the orientation.~~ When a vendor payment is
5 required under item A or B, the local agency may continue
6 payments to the caretaker to the extent that no vendor is
7 available.

8 9500.2724 GENERAL EMPLOYMENT AND TRAINING REQUIREMENTS.

9 Subpart 1. **Registration and referral for employment and**
10 **training services.** Except for registration with the local job
11 service office under part 9500.2300, item F, or subpart 2 of
12 this part, completion of the AFDC application form automatically
13 registers the applicant for WIN and for other mandatory
14 employment and training services that require registration. The
15 local agency shall refer to the local WIN office recipients
16 residing in WIN counties who are not exempt from mandatory WIN
17 registration under part 9500.2726, subpart 1. The local agency
18 shall refer to the local job service office recipients who are
19 principal wage earners residing in non-WIN counties whose
20 program eligibility is based on the unemployment of a parent
21 under part 9500.2300.

22 Subp. 2. **Mandatory employment and training participation.**
23 Recipients shall participate in WIN if required under part
24 9500.2726, subpart 1, in employment search if required under
25 part 9500.2728, subpart 1, and in CWEP if required under parts
26 9505.1050 to 9505.1065 [Emergency]. When A principal wage
27 earner who resides in a non-WIN county and who whose program
28 eligibility is eligible based on the basis of unemployment of a
29 parent under part 9500.2300 does not register must be currently
30 registered with the local job service office. If an applicant
31 or recipient does not comply with this requirement, the person's
32 entire assistance unit shall be ineligible.

33 9500.2726 WIN REQUIREMENTS.

34 Subpart 1. **Participation in WIN.** A recipient living in a
35 WIN county, regardless of the recipient's basis of program

1 eligibility under parts 9500.2180 to 9500.2300, shall cooperate
2 with the local WIN office as a condition of AFDC eligibility
3 unless the local agency determines that the applicant or
4 recipient is exempt. A recipient who is exempt from mandatory
5 WIN registrant status is:

6 A. A child under the age of 16.

7 B. A student who is at least 16 but less than 18
8 years of age and meets the conditions of part 9500.2060, subpart
9 58, item A, B, C, or F.

10 C. A person who is 18 years of age and meets the
11 conditions of part 9500.2060, subpart 39, items B and C.

12 D. A person who, for up to 90 consecutive days, is
13 ill or injured to the extent that the illness or injury
14 temporarily prevents participation in training or employment.
15 Determination of an exemption under this item must be made by
16 the AFDC unit and may be allowed without medical documentation
17 when the illness or injury is evident. An exemption for an
18 illness or injury that extends for 90 days or more must be
19 documented by medical evidence described in item E.

20 E. A person who, for at least 90 consecutive days, is
21 physically or mentally incapacitated when the incapacitating
22 factors, by themselves or with the person's age, prevent
23 participation in training or employment. The incapacity must be
24 documented by medical evidence. The medical evidence must
25 include a prognosis and diagnosis of the impairment from at
26 least one licensed physician or licensed psychologist. The
27 local agency shall give the applicant or recipient voluntary
28 referral to the Minnesota Department of Vocational
29 Rehabilitation upon determination of the exemption.

30 F. A person 65 years of age or older.

31 G. A person whose round trip commuting time from the
32 person's residence to the local WIN office is more than two
33 hours by the means of transportation available to the recipient
34 and exclusive of the time needed to transport children to and
35 from child care.

36 H. A person needed in the home to care for a

1 physically or mentally incapacitated person living in the
2 household. The incapacity and the need for care must be
3 documented by medical evidence from a licensed physician or
4 licensed psychologist.

5 I. A parent or caretaker of a child under age six who
6 is providing full-time care for that child. A person who is
7 anticipated to be absent from the child for an average of at
8 least 30 hours per week during the current and following month,
9 exclusive of absences related to providing care for the child,
10 does not qualify for this exemption.

11 J. A person who is currently employed in unsubsidized
12 employment that is expected to last at least 30 days and that
13 provides a monthly average of at least 30 hours of employment
14 per week.

15 K. A parent who is not a principal wage earner but
16 who is in an assistance unit whose program eligibility is based
17 on the unemployment of a parent, provided the principal wage
18 earner in the assistance unit is not exempt under the other
19 items of this subpart and is cooperating with WIN.

20 L. A person, who after applying for AFDC, volunteered
21 to participate under the Volunteers in Service to America
22 (VISTA) program as provided by United States Code, title 42,
23 sections 4951 to 4959 as amended through December 31, 1987.

24 M. A pregnant woman when the pregnancy has entered
25 the third trimester.

26 N. A person employed under a work supplement program
27 established under the Code of Federal Regulations, title 45,
28 part 239.

29 Subp. 2. Good cause for noncooperation with WIN. A
30 recipient who has good cause for not cooperating with WIN shall
31 not be sanctioned. Good cause for not cooperating with WIN must
32 be determined under the Code of Federal Regulations, title 45,
33 section 224.34.

34 Subp. 3. Determination of noncooperation. The WIN office
35 shall determine whether a WIN registrant has, without good
36 cause, failed to cooperate with WIN. The WIN office shall

1 notify the local agency of a deregistration action taken against
2 a registrant for noncooperation. When notified of
3 deregistration, the local agency shall sanction the recipient
4 under part 9500.2730, beginning with the first payment month
5 following deregistration in which notification and appeal rights
6 under part 9500.2740, subparts 5 to 10, allow application of
7 those sanctions.

8 9500.2728 EMPLOYMENT SEARCH REQUIREMENTS.

9 Subpart 1. Participation in employment search. A Each
10 local agency shall provide a mandatory employment search program
11 for recipients whose participation is mandatory under item A. A
12 local agency may provide a voluntary employment search program
13 for recipients who are not required to participate under item
14 A. The employment search program must be administered in
15 accordance with items A to C.

16 A. A caretaker who is the principal wage earner in an
17 assistance unit whose program eligibility is based on the
18 unemployment of a parent under part 9500.2300 must participate
19 in employment search as a condition of AFDC eligibility unless:

20 (1) the caretaker is exempt from WIN
21 participation under part 9500.2726, subpart 1, items A to F or H
22 to N;

23 (2) the caretaker is currently participating in
24 another employment and training service, ~~other than the~~
25 ~~employment-search-component-of-WIN~~, which can reasonably be
26 expected to improve the recipient's ability to obtain and keep
27 employment;

28 (3) the caretaker's employability plan specifies
29 other activities that ~~prevent-or-contraindicate~~ conflict with
30 participation in employment search; or

31 (4) the caretaker cannot secure employment
32 because of an inability to communicate in the English language
33 as determined by the local agency, a specialist in English as a
34 second language, or a vocational specialist as defined in part
35 9500.1206, subpart 33, and the recipient is attending a program

1 in English as a second language, if available.

2 B. In the third month after determining that a
3 recipient is required to participate in employment search, the
4 local agency shall refer the recipient to the employment search
5 service provider and inform the recipient of the consequences of
6 failure to participate and of the recipient's appeal rights.

7 C. The employment search service provider shall
8 specify the number of weeks and hours that a recipient must
9 participate in employment search. The service provider shall
10 not require a recipient to participate in employment search for
11 more than eight weeks in any 12 consecutive calendar months and
12 for more than 32 hours during any week.

13 D. A WIN registrant who is suspended from WIN and
14 referred to the employment search program by the local WIN
15 office is not exempt from the employment search program under
16 item A, subitem (2).

17 Subp. 2. **Offers of employment.** A recipient who is the
18 principal wage earner in an assistance unit whose program
19 eligibility is based on the unemployment of a parent under
20 9500.2300 must, as a condition of AFDC eligibility, accept any
21 bona fide offer of employment made by an employer.

22 Subp. 3. **Good cause for refusing or terminating employment**
23 **or failing to comply with employment search requirements.** A
24 recipient who fails to participate in employment search required
25 under subpart 1 or accept employment as required under subpart 2
26 shall not be sanctioned if the recipient has good cause for the
27 failure. ~~A local agency shall determine~~ Good cause shall be
28 determined by applying the conditions in items A to I.

29 A. Good cause exists when a job or employment search
30 is not suited to the physical or mental capacity of the person
31 or when it will have an adverse effect on that person's physical
32 or mental health. Evidence from a licensed physician or
33 licensed psychologist must document a claim under this item.

34 B. Good cause exists when the round trip commuting
35 time from a person's residence to the employment search or job
36 site is more than two hours by available means of

1 transportation, exclusive of the time to transport children to
2 and from child care.

3 C. Good cause exists when licensed child care is
4 required but not available.

5 D. Good cause exists when the work or employment
6 search site is unsafe under health and safety standards
7 established by the Occupational Safety and Health Administration
8 and the Minnesota Department of Jobs and Training.

9 E. Good cause exists when a person documents
10 discrimination at the job or employment search site on the basis
11 of age, sex, race, religion, or place of national origin.

12 F. Good cause exists when the hourly gross employment
13 earnings are less than the federal or state minimum wage for
14 that type of employment, whichever applies.

15 G. Good cause exists when the gross monthly
16 employment earnings are less than 185 percent of the AFDC family
17 allowance for the recipient's assistance unit.

18 H. Good cause exists when the job that is offered is
19 vacant due to a strike, lockout, or other bona fide labor
20 dispute.

21 I. Good cause exists when the recipient incurs
22 unreimbursed out-of-pocket expenses to participate in employment
23 search.

24 Subp. 4. Determination of failure to accept employment or
25 participate in employment search. The employment search service
26 provider shall determine whether a recipient has failed, without
27 good cause, to comply with employment search requirements under
28 subpart 1 or accept employment as required under subpart 2. If
29 the employment search or employment offer is provided through
30 WIN, the WIN office shall make the determination. If the
31 service provider determines that a recipient has failed, without
32 good cause, to comply with the participation or employment
33 requirements of subpart 1 or 2, the provider shall notify the
34 recipient under subpart 5.

35 Subp. 5. Notice of failure to participate or accept
36 employment. If a service provider determines under subpart 4

1 that a recipient has failed, without good cause, to participate
2 in employment search or accept employment as required, the
3 provider shall mail a written notice of its determination to the
4 recipient at the recipient's last known mailing address. The
5 notice shall provide a detailed explanation of the reasons for
6 the determination, the consequences of failure to participate or
7 accept employment, the actions the service provider believes are
8 necessary for the recipient to comply with the employment and
9 training requirements, the right to request a conciliation
10 conference within 15 days after the date the notice is mailed,
11 and the right to request a hearing under part 9500.2740, subpart
12 8.

13 **Subp. 6. Conciliation conference.** A service provider
14 shall, according to its contract with the local agency, provide
15 a conciliation conference to recipients who request a conference
16 within 15 days after the notice under subpart 5 is mailed. The
17 conciliation conference must be conducted according to items A
18 to D.

19 A. If a recipient requests a conciliation conference,
20 the service provider shall provide the conference within 30 days
21 after receiving the recipient's written request for a
22 conference. The service provider shall notify the recipient of
23 the conference date at least ten days before the date of the
24 conference.

25 B. The local agency shall reimburse the recipient for
26 the recipient's reasonable and necessary child care and
27 transportation expenses incurred as a result of the recipient's
28 attendance of the conciliation conference.

29 C. The service provider shall hold the conciliation
30 conference during regular working hours at the service
31 provider's office. If the service provider and the recipient
32 agree, the conciliation conference may be conducted over the
33 telephone.

34 D. If a conciliation conference is not requested or
35 if the dispute is not resolved at the conference, the service
36 provider shall provide to the local agency and to the recipient

1 written notification of its determination that the recipient
2 failed or refused without good cause to participate in
3 employment search or accept employment.

4 Subp. 7. Final determination before sanction. When WIN
5 does not sanction a recipient for failure to accept employment
6 assigned by WIN or participate in an employment and training
7 service provided through WIN, a local agency shall not apply
8 sanctions for the same failure. The local agency shall make a
9 final determination of whether the recipient has failed, without
10 good cause, to accept employment that has not been assigned by
11 WIN or to participate in employment search program that has not
12 been provided through WIN. Upon final determination of failure
13 to participate or accept employment, the local agency shall
14 apply the sanctions under part 9500.2730.

15 9500.2730 SANCTIONS FOR FAILURE TO PARTICIPATE IN A MANDATORY
16 EMPLOYMENT AND TRAINING SERVICE OR ACCEPT EMPLOYMENT.

17 Subpart 1. Notice. If a local agency is notified of WIN
18 deregistration under part 9500.2726, subpart 3, or if a local
19 agency determines under part 9500.2728, subpart 7, that a
20 recipient has failed, without good cause, to participate in
21 employment search or accept employment, the local agency shall
22 notify the recipient that the local agency will impose the
23 sanctions of subpart 2, beginning with the first payment month
24 following deregistration or noncompliance in which notification
25 and appeal rights under part 9500.2740, subparts 5 to 10, allow
26 application of those sanctions.

27 Subp. 2. Sanctions. The following sanctions apply to
28 recipients who do not comply with WIN, employment search, or
29 employment requirements:

30 A. When a recipient is also the principal wage earner
31 under part 9500.2300, the entire assistance unit is ineligible
32 for three payment months for the first failure to comply or for
33 six payment months for later failures to comply. When, during
34 the period of sanction, the principal wage earner leaves the
35 home or when either parent becomes incapacitated and eligibility

1 is established under parts 9500.2180 to 9500.2260, the sanction
2 period ends for the remaining members of the assistance unit.

3 B. When a recipient in an assistance unit that
4 qualifies under part 9500.2300 is the parent who is not the
5 principal wage earner, or when the recipient is a parent
6 caretaker in an assistance unit that qualifies under part
7 9500.2180, 9500.2220, or 9500.2260, the parent caretaker shall
8 be removed from the assistance unit. The parent caretaker shall
9 be ineligible for a period of three payment months for the first
10 failure to comply or for six payment months for later failures
11 to comply. Protective or vendor payments shall be issued for
12 the needs of the remaining members of the assistance unit under
13 part 9500.2680, subpart 2, item A until the period of the
14 sanction ends or the recipient who is under sanction is no
15 longer a member of the assistance unit.

16 C. When a recipient who is under sanction is a
17 caretaker relative other than a parent or is one of several
18 dependent children, that person must be removed from the
19 assistance unit for three payment months for the first failure
20 to comply or for six payment months for subsequent failures to
21 comply. When the recipient is the only dependent child in the
22 assistance unit, the assistance unit shall be ineligible for
23 AFDC for three payment months following the first occasion of
24 noncompliance or for six payment months following later
25 occasions of noncompliance.

26

27 REPEALER. Minnesota Rules, part 9500.2700, subparts 13,
28 14, 15, 16, 17, 18, and 19, are repealed.