

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Parental Fees

4

5 Rules as Adopted

6 9505.0075 RESPONSIBILITY OF RELATIVES.

7 Subpart 1. General requirements; financial obligation of  
8 responsible relative. A responsible relative has an obligation  
9 to contribute partial or complete repayment of medical  
10 assistance given to a recipient for whom he or she is  
11 responsible. The financial obligation of a responsible spouse  
12 must be determined under subpart 3 and the financial obligation  
13 of parents must be determined according to parts 9550.6200 to  
14 9550.6240 if the responsible spouse or parents provide the  
15 information needed to make the determination. The responsible  
16 spouse who refuses to provide information needed to determine  
17 the financial obligation under subpart 3 is obligated to  
18 reimburse the local agency for the full amount of medical  
19 assistance paid for health services provided to the recipient.  
20 Refusal of responsible parents to provide information needed to  
21 determine financial obligation shall result in ~~the determination~~  
22 ~~that the parents are able to pay the full cost of services under~~  
23 ~~part 9550.62267-subpart-2~~ notification to the parents that the  
24 department or county board may institute civil action to recover  
25 the required reimbursement under Minnesota Statutes, sections  
26 252.27, subdivision 3, and 256B.14, subdivision 2. The local  
27 agency may reduce the amount to be paid on the financial  
28 obligation determined under subpart 3 if payment of the  
29 financial obligation will cause the responsible spouse undue  
30 hardship. Undue hardship to responsible parents is governed by  
31 part 9550.6230. In no case shall the financial obligation  
32 determined under subpart 3 ~~or parts 9550.6220 to 9550.6240~~ for  
33 the responsible spouse ~~or parents~~ exceed the amount of medical  
34 assistance provided the recipient.

35

[For text of subs 2 and 3, see M.R.]

1 Subp. 4. [See repealer.]

2 Subp. 5. **Consideration of parental income.** The income of  
3 parents must be considered available in determining a child's  
4 eligibility for medical assistance as provided in items A to G.  
5 For purposes of this subpart, parents shall be responsible for a  
6 parental fee determined under part 9550.6220, unless excluded  
7 under part 9550.6200, subpart 2.

8 A. If the child is under age 18 and lives together  
9 with the parents, the parents' income and assets must be  
10 considered available in determining the child's eligibility,  
11 unless the child is under 18 and living together with the  
12 parents and the child's eligibility for medical assistance was  
13 determined without consideration of the parents' income and  
14 assets as:

15 (1) part of a home- and community-based waiver  
16 under Minnesota Statutes, ~~sections~~ section 256B.092, 256B.49  
17 and, or 256B.491; or

18 (2) a disabled child under Minnesota Statutes,  
19 section 256B.055, subdivision 12.

20 The income of parents whose child's eligibility for medical  
21 assistance was determined without consideration of the parents'  
22 income and assets must be considered in regard to an obligation  
23 under parts 9550.6200 to 9550.6240.

24 B. If a child under age 18 lives together with the  
25 parents and is an eligible recipient of supplemental security  
26 income, parental income must ~~not~~ be considered available in  
27 determining the child's eligibility. ~~The parents' income must~~  
28 ~~be considered only in regard to a financial obligation to~~  
29 ~~contribute under part 9550.6220.~~

30 C. If the child is under age 18 and living with one  
31 parent, the child's eligibility must be based on the child's  
32 income and assets and the income and assets of the parent living  
33 with the child. The parent not living with the child is  
34 obligated to provide medical support under Minnesota Statutes,  
35 section 518.171.

36 D. If the child is under 18 and not living together

1 with either parent, the child's eligibility must be based on the  
2 child's income and assets. The parents' income must be  
3 considered only in regard to a financial obligation to  
4 contribute under parts 9550.6200 to 9550.6240.

5 E. If the child is between 18 and 21 years of age,  
6 and is living together with the parents or not living together  
7 with the parents to attend a high school, college, university,  
8 postsecondary technical college, or private business, trade,  
9 vocational, or technical college accredited, licensed, or  
10 approved under state laws and rules, and is a dependent of the  
11 parents for federal income tax purposes, the child is considered  
12 to live together with the parents. The parents' income and  
13 assets must be considered available in determining the child's  
14 eligibility.

15 F. If the child is age 18 or older, is living  
16 together with the parents and is determined to be disabled under  
17 Minnesota Statutes, section 256B.055, subdivision 7, or is not  
18 living together with the parents, and is not claimed as a tax  
19 dependent while attending a high school, college, university,  
20 postsecondary technical college, or a private business, trade,  
21 vocational, or technical college accredited, licensed, or  
22 approved under state laws and rules, the parents have no  
23 financial obligation.

24 Subp. 6. **Parental financial obligation.** When the parents  
25 have a financial obligation under subpart 5, the parents'  
26 financial obligation to reimburse the medical assistance program  
27 for the costs of services provided by medical assistance to the  
28 child recipient must be determined according to parts 9550.6200  
29 to 9550.6240.

30 Subp. 7. **Change in living arrangement.** Spousal or  
31 parental income and assets must be considered available in the  
32 month after the month in which the spouses or parents and child  
33 begin living together. Consideration of spousal or parental  
34 income and assets must end in the month after the month in which  
35 the spouses or parents and child stop living together. A change  
36 in living arrangement must be reported as required in part

1 9505.0115, subpart 1.

2 Subp. 8. **Notice to responsible spouse or parent.** When  
3 making an initial determination of eligibility, the local agency  
4 shall give written notice to the responsible spouse within 30  
5 days of the date of notice of the person's eligibility.  
6 Further, the local agency shall notify the responsible spouse 30  
7 days before the effective date of an increase in the obligation  
8 to be paid by the responsible spouse. A decrease in the  
9 obligation to be paid by the responsible spouse is effective the  
10 month following the month of the change in the cost of care or  
11 the responsible spouse's income or household size. The notice  
12 shall state the amount of the obligation to be paid, to whom the  
13 payment shall be made, the time a payment is due, penalties for  
14 refusing or failing to pay, and the right to appeal.

15 At the time eligibility is being determined, notice to the  
16 responsible parents shall be given according to part 9550.6220,  
17 subpart 1. Review and redetermination of parental fees are  
18 governed by part 9550.6228. Notice to the responsible parents  
19 of an increase or a decrease in the amount of the parental fee  
20 must be given according to part 9550.6229.

21 Subp. 9. **Appeals.** A responsible spouse has the right to  
22 appeal the determination of an obligation to pay under Minnesota  
23 Statutes, section 256.045. The appeal must be made in writing  
24 to the local agency within 30 days of the date of the notice  
25 required in subpart 8. Appeals by responsible parents are  
26 governed by part 9550.6235.

27 Subp. 10. **Refusal or failure to pay.** If a responsible  
28 spouse refuses or fails to pay the obligated amount within 30  
29 days of the date specified in the notice under subpart 8, a  
30 cause of action exists against the responsible spouse for the  
31 portion of medical assistance granted after the date of the  
32 notice to a responsible relative of a payment obligation. The  
33 county of financial responsibility shall refer the refusal or  
34 failure to pay to the county attorney for action to enforce  
35 payment of the obligation.

36 Unless the responsible spouse's income and assets is deemed

1 available to the applicant or recipient, the refusal or failure  
 2 of a responsible spouse to pay the obligated amount does not  
 3 affect the recipient's medical assistance eligibility. If the  
 4 medical assistance payment to the long-term care facility has  
 5 been reduced by the expected amount of the responsible spouse's  
 6 obligation and the relative fails to pay within 60 days, the  
 7 local agency shall adjust the payment to the long-term care  
 8 facility so that the facility is paid the facility's per diem  
 9 rate less the recipient's monthly spend down from the time of  
 10 the responsible relative's refusal or failure to pay. Refusal  
 11 or failure of responsible parents to pay the obligated amount is  
 12 governed by part 9550.6226, subpart 5.

13 PARENTAL FEES FOR CERTAIN CHILDREN PLACED IN  
 14 24-HOUR CARE OUTSIDE THE HOME OR WHOSE ELIGIBILITY  
 15 FOR MEDICAL ASSISTANCE WAS DETERMINED WITHOUT  
 16 CONSIDERATION OF PARENTAL INCOME OR ASSETS

17 9550.6200 SCOPE.

18 Subpart 1. **Applicability.** Parts 9550.6200 to 9550.6240  
 19 govern the assessment and collection of parental fees by county  
 20 boards or the Department of Human Services from parents of  
 21 children in 24-hour care outside the home, including respite  
 22 care, in a facility licensed by the commissioner, who:

- 23 A. have mental retardation or a related condition;
- 24 B. have a severe emotional disturbance;
- 25 C. have a physical disability; or
- 26 D. are in a state facility.

27 Parts 9550.6200 to 9550.6240 also specify parental  
 28 responsibility for the cost of services of children who are not  
 29 specified in items A to D, who are living in or out of their  
 30 parents' home, and whose eligibility for medical assistance was  
 31 determined without considering parental resources or income as  
 32 specified in Minnesota Statutes, section 256B.14, subdivision 2.

33 Subp. 2. **Exclusion.** Children who are under court order  
 34 and subject to Minnesota Statutes, section 260.251, subdivision  
 35 1, and who also do not fall under the provisions of Minnesota  
 36 Statutes, section 252.27, are excluded from the scope of parts  
 37 9550.6200 to 9550.6240.

1 Parents of a minor child identified in subpart 1 must  
2 contribute monthly to the cost of services unless the child is  
3 married or has been married, parental rights have been  
4 terminated, or the child's adoption is subsidized according to  
5 Minnesota Statutes, section 259.40, or through title IV-E of the  
6 Social Security Act, or the parents are determined not to owe a  
7 fee under the formula in Minnesota Statutes, section 252.27,  
8 subdivision 2a.

9 9550.6210 DEFINITIONS.

10 Subpart 1. **Applicability.** As used in parts 9550.6200 to  
11 9550.6240, the following terms have the meanings given them.

12 Subp. 2. **Child or children.** "Child" or "children" means a  
13 person or persons under 18 years of age.

14 Subp. 3. **Commissioner.** "Commissioner" means the  
15 commissioner of the Department of Human Services or the  
16 commissioner's designated representative.

17 Subp. 4. **Cost of services.** "Cost of services" means the  
18 cost for:

19 A. the per diem rate established by the department or  
20 the per diem and negotiated monthly rate adopted by the county  
21 board for the 24-hour care outside the home, treatment, and  
22 training of a child provided in a facility licensed by the  
23 Department of Health, Department of Human Services, or approved  
24 by the commissioner according to the interstate placement  
25 compacts of Minnesota Statutes, sections 245.51 to 245.53,  
26 257.40 to 257.48, and 260.51 to 260.57; and

27 B. services to children whose eligibility for medical  
28 assistance was determined without consideration of parental  
29 income or assets as specified in part 9550.6200, subpart 1.

30 Subp. 5. **County board.** "County board" means the county  
31 board of commissioners in each county. When a Human Services  
32 Board has been established under Minnesota Statutes, sections  
33 402.02 to 402.10, it shall be considered to be the county board  
34 for purposes of parts 9550.6200 to 9550.6240.

35 Subp. 6. **County of financial responsibility.** "County of

1 financial responsibility" has the meaning given it in Minnesota  
2 Statutes, section 256G.02, subdivision 4.

3 Subp. 7. **Department.** "Department" means the Minnesota  
4 Department of Human Services.

5 Subp. 8. **Emotional handicap or emotional disturbance.**  
6 "Emotional handicap" or "emotional disturbance" has the meaning  
7 given it in Minnesota Statutes, section 245.4871, subdivision 15.

8 Subp. 9. **Income.** "Income" means the adjusted gross income  
9 of the natural or adoptive parents determined according to the  
10 previous year's federal tax form as specified in Minnesota  
11 Statutes, section 252.27, subdivision 2a, paragraph (d), or a  
12 verified statement of the adjusted gross income if no tax forms  
13 are available.

14 Subp. 10. **Medical assistance.** "Medical assistance" means  
15 the program which provides for the health service needs of  
16 eligible clients, as specified in Minnesota Statutes, chapter  
17 256B, and title XIX of the Social Security Act, United States  
18 Code, title 42, section 1396.

19 Subp. 11. **Mental retardation or a related condition.**  
20 "Mental retardation or a related condition" has the meaning of  
21 "mental retardation" under part 9525.0015, subpart 20, items A  
22 and B, and the meaning of "related condition" given in Minnesota  
23 Statutes, section 252.27, subdivision 1a.

24 Subp. 12. **Parents.** "Parents" means the natural or  
25 adoptive parents.

26 Subp. 13. **Physical handicap or physical disability.**  
27 "Physical handicap" or "physical disability" has the meaning  
28 given it in part 9570.2200, subpart 7.

29 Subp. 13a. **Respite care.** "Respite care" means short-term  
30 supervision and care provided to a child due to temporary  
31 absence or need for relief of the child's parents. Respite care  
32 may include day, overnight, in-home, or out-of-home services, as  
33 needed.

34 Subp. 14. [See repealer.]

35 Subp. 15. **Severe emotional disturbance.** "Severe emotional  
36 disturbance" means an emotional disturbance that has:

1           A. resulted in the child's admission within the last  
2 three years or the child's being at risk of admission to  
3 inpatient treatment or residential treatment for an emotional  
4 disturbance;

5           B. required the child to receive inpatient treatment  
6 or residential treatment for an emotional disturbance as a  
7 Minnesota resident through the interstate compact; or

8           C. resulted in a determination by a mental health  
9 professional that the child has one of the following conditions:

10                   (1) psychosis or clinical depression;

11                   (2) risk of harming self or others as a result of  
12 an emotional disturbance;

13                   (3) psychopathological symptoms as a result of  
14 being a victim of physical or sexual abuse or of psychic trauma  
15 within the past year; or

16                   (4) resulted in the child's having significantly  
17 impaired home, school, or community functioning that has lasted  
18 at least one year or that, in the written opinion of a mental  
19 health professional, presents substantial risk of lasting at  
20 least one year.

21           Subp. 16. **State facility.** "State facility" means any  
22 facility owned or operated by the state of Minnesota that is  
23 under the programmatic direction or fiscal control of the  
24 commissioner. State facility includes regional treatment  
25 centers; the state nursing homes; state-operated community-based  
26 programs; and other facilities owned or operated by the state  
27 and under the commissioner's control.

28 9550.6220 DETERMINATION OF PARENTAL FEE.

29           Subpart 1. **Parental responsibility.** The extent to which  
30 parents are responsible for reimbursing the county of financial  
31 responsibility or the department for the cost of services must  
32 be determined according to subparts 2 to 13. Parents have no  
33 obligation to contribute assets. The parental responsibility  
34 and the role of the agency responsible for collection of the  
35 parental fee shall be explained in writing to the parents at the



1 time eligibility for services is being determined. The parental  
 2 fee shall be retroactive to the first date covered services are  
 3 received, including any services received in months of  
 4 retroactive eligibility.

5 Subp. 2. Determination of household size. Natural and  
 6 adoptive parents and their dependents under the age of 21, as  
 7 specified in Minnesota Statutes, section 290A.03, subdivision 7,  
 8 including the child receiving services, shall be counted as  
 9 members of the household when determining the fee, except that a  
 10 stepparent shall not be included.

11 Subp. 3. Determination of income. Income must be  
 12 determined according to Minnesota Statutes, section 252.27,  
 13 subdivision 2a, paragraph (d).

14 Subp. 4. Percentage schedule. Pursuant to Minnesota  
 15 Statutes, ~~section 252.27, subdivision 2a, paragraph (b),~~ The  
 16 parental fee shall be computed by ~~applying to the adjusted gross~~  
 17 ~~income of the parents that exceeds 200 percent of the federal~~  
 18 ~~poverty guidelines for the applicable household size the~~  
 19 ~~following percentages:~~ according to the formula specified in  
 20 Minnesota Statutes, section 252.27, subdivision 2a, paragraph  
 21 (b).

22 ~~A. on the amount of adjusted gross income over 200~~  
 23 ~~percent of poverty, but not over \$50,000, ten percent;~~

24 ~~B. on the amount of adjusted gross income over 200~~  
 25 ~~percent of poverty, and over \$50,000 but not over \$60,000, 12~~  
 26 ~~percent;~~

27 ~~C. on the amount of adjusted gross income over 200~~  
 28 ~~percent of poverty, and over \$60,000 but not over \$75,000, 14~~  
 29 ~~percent; and~~

30 ~~D. on all adjusted gross income amounts over 200~~  
 31 ~~percent of poverty, and over \$75,000, 15 percent.~~

32 The fee amounts obtained ~~in items A to D~~ from Minnesota  
 33 Statutes, section 252.27, subdivision 2a, paragraph (b), are  
 34 added to equal the annual parental fee. The annual fee is then  
 35 divided into 12 monthly payments as specified in subpart 6, item  
 36 E.

1 Subp. 5. Annual revision of federal poverty guidelines.

2 The parental fee shall be revised annually on July 1 to reflect  
3 changes in the federal poverty guidelines. The revised  
4 guidelines are effective on the first day of July following the  
5 publication of changes in the Federal Register.

6 Subp. 5a. Parental income deduction. The parental income  
7 deduction amount is determined by using the applicable figure  
8 from the annual federal poverty guidelines under subpart 5, and  
9 multiplying that amount by two.

10 Subp. 6. Determination of monthly parental fee. The  
11 monthly parental fee assessed must be determined according to  
12 parts 9550.6200 to 9550.6240 and the following formula:

13 A. Household size must be determined as specified in  
14 subpart 2.

15 B. Income must be determined as specified in subpart  
16 3.

17 C. The parental income deduction amount must be  
18 determined as specified in subpart 5a.

19 D. Using the household size, income figures, and  
20 parental income deduction in items A, B, and C, refer to the  
21 percentage schedule in ~~subpart-4~~ Minnesota Statutes, section  
22 252.27, subdivision 2a, paragraph (b), and determine the  
23 applicable percentages to be applied to the parents' income.

24 E. The monthly parental fee must be determined  
25 according to the following steps:

26 (1) start with the parents' adjusted gross income  
27 from last year's federal Income Tax Form 1040, line 31, or  
28 1040A, line 13, or, if no tax form is available, then a verified  
29 statement regarding the previous year's income;

30 (2) subtract the parental income deduction as  
31 determined in subpart 5a;

32 (3) multiply remaining income by each applicable  
33 percentage from the percentage schedule in ~~subpart-4, items-A-to~~  
34 B Minnesota Statutes, section 252.27, subdivision 2a, paragraph  
35 (b);

36 (4) add the amounts in subitem (3) and add five

1 percent to the percentage if health insurance was available to  
 2 the parents, as specified in part 9550.6225, but was not taken,  
 3 to determine the annual parental fee;

4 (5) divide by 12 to determine the monthly  
 5 parental fee;

6 (6) subtract \$200 if the child receiving services  
 7 lives with the parents; and

8 (7) subtract the monthly amount of any  
 9 court-ordered child support payments ~~made~~ actually paid by the  
 10 parent for the child receiving services and received by the  
 11 obligee.

12 Subp. 7. [See repealer.]

13 ~~Subp. 8. Payment in excess of fee. Parents may~~  
 14 ~~voluntarily pay a fee greater than that determined by the~~  
 15 ~~formula in subpart 6.~~

16 Subp. 9. Parental responsibility for clothing or personal  
 17 needs. Payment of the parental fee specified in subpart 6 does  
 18 not exempt the parents from responsibility for the child's  
 19 clothing and personal needs not included in the cost of  
 20 services, except as specified in Minnesota Statutes, section  
 21 256B.35, subdivision 1.

22 Subp. 10. Discharge. Except as provided in subpart 10a,  
 23 the full monthly parental fee must be assessed unless services  
 24 are terminated before the end of a calendar month. In this  
 25 case, the full fee must be reduced only if the actual cost of  
 26 services during that month is less than the regular fee.

27 Subp. 10a. Parental fee for respite care. When a child is  
 28 receiving respite care services, the parental fee must be a per  
 29 diem fee multiplied by the number of days the child receives  
 30 respite care. The parental fee for respite care shall be used  
 31 only when respite care is the single service the child is  
 32 receiving. When the child is receiving additional services  
 33 governed by parts 9550.6200 to 9550.6240, the parental fee  
 34 determined under part 9550.6220 shall apply. The per diem fee  
 35 must be determined in the following manner:

36 A. Household size must be determined as specified in

1 subpart 2.

2 B. Income must be determined as specified in subpart  
3 3.

4 C. Using the household size and income figures in  
5 items A and B, the percentage schedule in ~~subpart-4~~ Minnesota  
6 Statutes, section 252.27, subdivision 2a, paragraph (b), must be  
7 used to determine the applicable percent to be applied to the  
8 parents' income.

9 D. Determine the per diem fee by multiplying the  
10 income from item B by the percent from item C and divide the  
11 product by 365.

12 E. Any part of a day spent in respite care must be  
13 counted as a full day for purposes of this fee.

14 F. The parental fee must be determined at the end of  
15 a month when respite care is used.

16 Subp. 11. **Number of fees.** As specified in Minnesota  
17 Statutes, section 252.27, subdivision 2, parents who have more  
18 than one child receiving services who meet the criteria  
19 identified in part 9550.6200, subpart 1, shall not be required  
20 to pay more than the amount for the child with the highest  
21 expenditures.

22 Subp. 12. **Parents not living with each other.** Parents of  
23 a minor child who do not live with each other as specified in  
24 Minnesota Statutes, section 252.27, subdivision 2a, paragraph  
25 (g), shall each pay a fee using the formula in subpart 6.

26 Subp. 13. **Child support payments.** A court-ordered child  
27 support payment actually paid on behalf of the child receiving  
28 services shall reduce the fee of the parent making the payment.

29 Subp. 14. **Fees in excess of cost.** The total amount  
30 parents must pay between the time the first monthly payment is  
31 due under either the initial determination of the fee amount or  
32 notice of an increase in the fee amount, and the end of the  
33 state's fiscal year in June of each year cannot be higher than  
34 the cost of services the child receives during the fiscal year.  
35 At the end of each state fiscal year, the department or county  
36 board shall review the total amount that the parent paid in fees

1 during the fiscal year and the total cost of services paid by  
 2 the department or county board, not including payments made to  
 3 school districts for medical services identified in an  
 4 individualized education plan and covered under the medical  
 5 assistance state plan, that the child received during the fiscal  
 6 year. If the total amount of fees paid by the parents exceeds  
 7 the total cost of services, the department or county board  
 8 shall: (1) reimburse the parents the excess amount if their  
 9 child is no longer receiving services; or (2) apply the excess  
 10 amount to parental fees due starting July 1 of ~~the-next~~ that  
 11 year, until the excess amount is exhausted.

12 9550.6225 HEALTH INSURANCE BENEFITS.

13 The parental fee determined under part 9550.6220 shall be  
 14 increased by an additional five percent if the department or  
 15 local agency determines that insurance coverage is available to  
 16 the parents, but not obtained for the child receiving services.  
 17 For purposes of this part, "available" and "insurance" have  
 18 following meanings.

19 A. "Available" means the insurance is a benefit of  
 20 employment for a family member at an annual cost of no more than  
 21 five percent of the family's annual income.

22 B. "Insurance" means health and accident insurance  
 23 coverage, enrollment in a nonprofit health service plan, health  
 24 maintenance organization, self-insured plan, or preferred  
 25 provider organization.

26 9550.6226 RESPONSIBILITY OF PARENTS TO COOPERATE.

27 Subpart 1. **Request for information.** The department or  
 28 county board shall send the parents a form **requesting**  
 29 **information-when describing:**

30 A. the formula used to determine the fee;

31 B. how to obtain information on possible variances  
 32 from the fee amount;

33 C. information on the circumstances under which a fee  
 34 may be reviewed or redetermined;

35 D. the right to appeal a fee determination; and

1           E. the consequences for not complying with a request  
 2 to provide information when a request for information is sent in  
 3 the following instances:

4                   (1) when making an initial determination of the  
 5 amount of the parental fee under part 9550.6220; and

6                   B- (2) when a review and redetermination of the  
 7 parental fee is required under part 9550.6228.

8           Parents shall provide any and all information that is  
 9 required by the department or county board as necessary to  
 10 determine or review the parental fee.

11           Subp. 2. Determination of parental fees. Parents shall  
 12 attach to the form requesting financial information, a copy of  
 13 their previous year's federal income tax return or a verified  
 14 statement concerning their income if no federal income tax form  
 15 is available. Failure or refusal by the parents to provide to  
 16 the department or county board within 30 calendar days after the  
 17 date the request is postmarked, the financial information needed  
 18 to determine parental responsibility for a fee shall result in  
 19 ~~the-determination-that-the-parents-are-able-to-pay-the-full-cost~~  
 20 ~~of-services~~ notification to the parents that the department or  
 21 county board may institute civil action to recover the required  
 22 reimbursement under Minnesota Statutes, sections 252.27,  
 23 subdivision 3, and 256B.14, subdivision 2.

24           Subp. 3. Review and redetermination of parental fees.  
 25 When parents are requesting a review or redetermination of the  
 26 fee under part 9550.6228, a request for information shall be  
 27 sent to the parents within ten calendar days after the  
 28 department or county board receives the parents' request for  
 29 review. Parents shall:

30                   A. notify the department or county board within 30  
 31 calendar days of a gain in income or a loss of a household  
 32 member; and

33                   B. provide to the department or county board all  
 34 information required under part 9550.6228, subpart 3, to verify  
 35 the need for redetermination of the fee.

36           No action shall be taken on a review or redetermination of

1 the parental fee until the required information is received by  
2 the department or county board.

3 Subp. 4. **Variance requests.** No action shall be taken by  
4 the department or county board on a request for a variance until  
5 the department or county board receives all information required  
6 under part 9550.6230. Failure of the parents to cooperate by  
7 completing and returning the form requesting parental  
8 information to the department or county board within 30 calendar  
9 days after the date the request is postmarked, will result in a  
10 final written notice to the parents stating that the request for  
11 a variance will be denied unless the parents complete and return  
12 this information within ten calendar days after the date this  
13 final notice is postmarked.

14 Subp. 5. **Refusal or failure to pay.** If the parents refuse  
15 or fail to pay the fee as determined under parts 9550.6200 to  
16 9550.6240, the department or county board may institute civil  
17 action to enforce payment of the required amount when the action  
18 is cost effective.

19 9550.6228 REVIEW AND REDETERMINATION OF FEES.

20 Subpart 1. **Review.** Parental fees must be reviewed by the  
21 county board or the department according to Minnesota Statutes,  
22 section 252.27, subdivision 2a, paragraph (f), in any of the  
23 following situations:

24 A. at least once every 12 months;

25 B. when there is a change in household size as  
26 specified in part 9550.6220, subpart 2;

27 C. when the department or county billing records, on  
28 the history of service use, indicate a disparity between the fee  
29 amount and the cost of services provided of 60 percent or more;  
30 or

31 D. when there is a loss of or gain in income from one  
32 month to another in excess of ten percent.

33 For self-employed individuals, the following conditions  
34 shall apply to the verification of loss or gain of income under  
35 item D:

1           (1) the loss or gain in income shall be  
2 documented over a three-month period;

3           (2) paystubs, signed statements from employers  
4 and contractors, and/or bank statements or verified statements  
5 from the parents shall be furnished to support the request for  
6 redetermination; and

7           (3) the county or department may require other  
8 information which is necessary to support the request for  
9 redetermination.

10       Subp. 2. [See repealer.]

11       Subp. 3. **Procedures for review.** In reviewing the parental  
12 fees under this part, the department or county board shall use  
13 the following procedures:

14           A. The annual review of parental fees under subpart  
15 1, item A, shall be done according to procedures in part  
16 9550.6220, subpart 14.

17           B. The review of parental fees under subpart 1, item  
18 B, shall be done within ten calendar days after the department  
19 or county board receives a copy of the certificate of birth or  
20 other supporting documents as verification of the change in  
21 household size.

22           C. The review of parental fees under subpart 1, item  
23 C, shall consist of a review of historical department or county  
24 billing records. Parents whose fee is adjusted under subpart 1,  
25 item C, shall sign a written agreement in which the parents  
26 agree to report to the department or county board any increase  
27 in the amount of services provided and to make up any shortfall  
28 at the end of the fiscal year based upon the increase in the  
29 amount of services provided.

30           D. The review of parental fees under subpart 1, item  
31 E D, shall be done within ten calendar days after the department  
32 or county board receives completed information that verifies a  
33 loss or gain in income in excess of ten percent.

34 9550.6229 NOTIFICATION OF CHANGE IN FEE.

35       Subpart 1. **Increase in fee.** Notice of an increase in the



1 parental fee amount shall be mailed by the department or county  
2 board to the parents of children currently receiving services,  
3 30 calendar days before the increased fee is effective. An  
4 increase in the parental fee is effective in the month in which  
5 the decrease in household size or increase in parental income  
6 occurs for parents who fail to comply with part 9550.6226,  
7 subpart 3.

8 Subp. 2. **Decrease in fee.** A decrease in the parental fee  
9 is effective in the month that the parents verify a reduction in  
10 income or a change in household size occurred, retroactive to no  
11 earlier than the beginning of the current fiscal year.

12 9550.6230 VARIANCE FOR UNDUE HARDSHIP.

13 Subpart 1. **Definition; limitations on variance.** For  
14 purposes of this part, "variance" means any modification of the  
15 parental fee as determined by Minnesota Statutes, section  
16 252.27, subdivision 2a, when it is determined that strict  
17 enforcement of the parental fee would cause undue hardship. All  
18 variances shall be granted for a term not to exceed 12 months,  
19 unless otherwise determined by the department or county board.  
20 The parents' liability to pay under Minnesota Statutes, section  
21 252.27, subdivision 2a, shall be modified only by the provisions  
22 in subparts 1a and 2.

23 Subp. 1a. **Variance for undue hardship.** A variance of the  
24 parental fee determined according to Minnesota Statutes, section  
25 252.27, subdivision 2a, and parts 9550.6220 to 9550.6240 may be  
26 requested when expenditures for items A through D are made by  
27 the parents and the expenditures are not reimbursable by any  
28 public or private source. Each expenditure may be the basis for  
29 a variance only one time. The total amount of items A, B, C,  
30 and D shall be deducted from income as defined in part  
31 9550.6210, subpart 9.

32 A. Payments made since the last review of the fee or  
33 within the last 12 months for medical expenditures for the child  
34 receiving services or for that child's immediate-family-members  
35 living-with-the-child parents and parents' other dependents when

1 the medical expenditures are not covered by medical assistance  
2 or health insurance and are a type, irrespective of amount,  
3 which would be allowable as a federal tax deduction under the  
4 Internal Revenue Code.

5 B. Expenditures since the last review of the fee or  
6 within the last 12 months for adaptations to the parents'  
7 vehicle which are necessary to accommodate the child's medical  
8 needs and are a type, irrespective of amount, which would be  
9 allowable as a federal tax deduction under the Internal Revenue  
10 Code.

11 C. Expenditures since the last review of the fee or  
12 within the last 12 months for physical adaptations to the  
13 child's home which are necessary to accommodate the child's  
14 physical, behavioral, or sensory needs and are a type,  
15 irrespective of amount, that would be allowable as a deductible  
16 medical expense under the Internal Revenue Code. A variance for  
17 physical adaptations to the child's home will be granted only  
18 for that portion of the adaptation that does not increase the  
19 value of the property.

20 D. Unexpected, sudden, or unusual expenditures by the  
21 parents since the last review or within the past 12 months that  
22 are not reimbursed by any type of insurance or civil action and  
23 which are a type, irrespective of amount, which would be  
24 allowable as a casualty loss deduction under the Internal  
25 Revenue Code.

26 Subp. 2. **Variance for tax status.** A variance shall be  
27 granted, in the form of a deduction from income, as defined in  
28 part 9550.6210, subpart 9, if the parents can show that, as a  
29 result of the parents' peculiar tax status, there is a gross  
30 disparity between the amount of income, as defined in part  
31 9550.6210, subpart 9, allocated to the parents and the amount of  
32 the cash distributions made to the parents.

33 A. The disparity must adversely affect the parents'  
34 actual ability to pay.

35 B. A variance shall not be granted in cases where the  
36 tax status was created in whole or in part for the purpose of

1 avoiding liability under parts 9550.6200 to 9550.6240.

2 C. Income to be deducted under this subpart shall be  
3 deducted only if:

4 (1) the income has never been legally available  
5 to the parents as a cash distribution; and

6 (2) the parents have no authority to alter the  
7 amount of cash distributed during a given year, or the method  
8 whereby the cash is distributed.

9 ~~D. If the parents' peculiar tax status resulted in a  
10 reduced fee under parts 9550.6200 to 9550.6240 in prior years  
11 due to losses reported under Minnesota Statutes, section  
12 290A.03, the amount of income deducted in any variance shall be  
13 adjusted to recoup the prior years' reduced fees.~~

14 ~~E.~~ A variance granted under this subpart shall only  
15 be made on the recommendation of the department or county board  
16 according to subpart 5.

17 F E. Parents who are granted a variance under this  
18 subpart must sign a written agreement in which the parents agree  
19 to report any change in the circumstances which gave rise to the  
20 tax status variance, such as an increased distribution, a sale,  
21 transfer, or any other transaction affecting the parents'  
22 ability to pay within 30 days of that change.

23 Subp. 3. **Exceptions.** The following expenses shall not be  
24 considered to constitute undue hardship and shall not reduce the  
25 parental fee or income as defined in part 9550.6210, subpart 9:

26 A. new home purchases, other than that portion of the  
27 cost of a new home that is directly attributable to the  
28 physical, behavioral, or sensory needs of the child receiving  
29 services and that is a type, irrespective of amount, which would  
30 be allowable as a deductible medical expense under the Internal  
31 Revenue Code;

32 B. college education expenses;

33 C. clothing and personal expenses, other than  
34 expenses allowed in subpart 1a such as specialized clothing  
35 needed by the child receiving services due to their disability;  
36 or

1 D. any expenditures that are usual and typical, other  
2 than those which are allowable under subpart 1a.

3 Subp. 4. Procedures for requesting a variance. Parents  
4 may request a variance from parts 9550.6200 to 9550.6240 by  
5 submitting a written request to the department or county board  
6 that states why compliance with parts 9550.6200 to 9550.6240  
7 would cause undue hardship.

8 The department or county board shall forward to the parents  
9 a request for financial information within ten calendar days  
10 after receiving a written request for a variance. Parents must  
11 provide the department or county board with the requested  
12 financial information, including the previous year's tax forms,  
13 and verification of any physical adaptations to the home or  
14 vehicle, medical expenditures, casualty losses, or peculiar tax  
15 status. The information supplied must be sufficient to verify  
16 the existence of undue hardship necessitating a variance.  
17 Parents must cooperate by completing and returning all  
18 information requested by the department or the county board as  
19 necessary to determine or review the parental fee. If parents  
20 fail to cooperate by providing this required information, part  
21 9550.6226, subpart 4, applies.

22 Subp. 5. Department and county authority to grant  
23 variances.

24 A. The commissioner shall delegate to the county  
25 board the authority to grant variances according to parts  
26 9550.6200 to 9550.6240 for children in 24-hour care outside the  
27 home, other than a state facility, where only social services  
28 funds are expended for the cost of services.

29 B. The department shall grant variances according to  
30 parts 9550.6200 to 9550.6240 for parents of children who have  
31 mental retardation or a related condition, a severe emotional  
32 disturbance, or a physical disability and who are:

- 33 (1) residing in state facilities;  
34 (2) residing outside the home where medical  
35 assistance funds are expended for the costs of services;  
36 (3) residing outside the home when both medical

1 assistance and social services funds are expended for the cost  
2 of services; and

3 (4) determined eligible for medical assistance  
4 without consideration of parental income or assets.

5 Subp. 6. **Payment pending determination of variance**  
6 **request.** Those parents requesting a variance from a notice of  
7 an increase in the amount of the parental fee shall continue to  
8 make monthly payments at the lower amount pending determination  
9 of the variance request. Those parents requesting a variance  
10 from an initial determination of the parental fee amount shall  
11 not be required to make payment pending determination of the  
12 variance request. However, these parents may make payments as  
13 desired during the determination. If the variance is granted,  
14 any payments made pending outcome of the request that result in  
15 overpayment, shall be: (1) reimbursed to the parents if the  
16 child is no longer receiving services; or (2) applied to the  
17 parental fees remaining in the current fiscal year and the  
18 remainder of the excess amount applied to the parental fees due  
19 starting in the next fiscal year, if the child is still  
20 receiving services. If the variance is denied, the parents  
21 shall pay to the department or county board:

22 A. the additional amount due from the effective date  
23 of the increase in the parental fee; or

24 B. the total amount due from the effective date of  
25 the original notice of determination of the parental fee as  
26 specified in part 9550.6235, subpart 3.

27 Subp. 7. **Insurance settlements; settlements in civil**  
28 **actions.** Parents who are granted a variance under subpart 1a,  
29 item D, shall sign a written agreement in which the parents  
30 agree to report to the department or the county board any  
31 changes in circumstances that gave rise to the undue hardship  
32 variance, such as subsequent payment by the insurer on a medical  
33 or casualty claim or receipt of settlement in a civil action.  
34 Failure by the parents to sign this agreement will result in  
35 denial of the variance. The variance shall terminate or be  
36 adjusted effective on the date of the parents' receipt of any

1 such settlement.

2       Subp. 8. **Grant or denial of variance.** When the department  
3 or county board receives a request for a variance, written  
4 notice of a grant or denial of the variance shall be mailed to  
5 the parents within 30 calendar days after the department or  
6 county board receives the financial information required under  
7 subpart 4. A grant will necessitate a written agreement between  
8 the parents and the department or county board with regard to  
9 the specific terms of the variance. The variance will not  
10 become effective until the written agreement is signed by the  
11 parents. If the department or the county board denies in whole  
12 or in part the parents' request for a variance, the denial  
13 notice shall set forth in writing the reasons for the denial  
14 that address the specific hardship raised by the parents and of  
15 the parents' right to appeal under part 9550.6235.

16 9550.6235 APPEALS.

17       Subpart 1. **Right of appeal.** Parents aggrieved by an  
18 action under parts 9550.6200 to 9550.6240 have the right to  
19 appeal according to Minnesota Statutes, section 256.045.

20       Subp. 2. **Appeal process.** Parents may appeal an action  
21 under parts 9550.6200 to 9550.6240 by submitting a written  
22 request for a hearing to the department within 30 calendar days  
23 after the aggrieved action, or within 90 calendar days if an  
24 appeals referee finds that the parents have good cause for  
25 failing to request a hearing within 30 calendar days. The  
26 hearing is governed by Minnesota Statutes, section 256.045.

27       Subp. 3. **Rights pending hearing.** If parents appeal on or  
28 before the effective date of the increase in the parental fee,  
29 the parents shall continue to make payments to the department or  
30 the county board in the lower amount while the appeal is  
31 pending. Parents appealing an initial determination of a  
32 parental fee shall not be required to make monthly payments  
33 pending an appeal decision. However, parents may continue to  
34 make monthly payments as desired during the appeal process. Any  
35 payments made that result in an overpayment shall be: (1)

1 reimbursed to the parents if their child is no longer receiving  
2 services; or (2) applied to the parental fees remaining in the  
3 current fiscal year and the remainder of the excess amount  
4 applied to the parental fees due starting in the next fiscal  
5 year.

6 If the department's or county board's determination is  
7 affirmed, the parents shall pay to the department or the county  
8 board, within 90 calendar days after the date of the order, the  
9 total amount due from the effective date of the original notice  
10 of determination of the parental fee. ~~Cost-of-services-provided~~  
11 ~~pending-a-fair-hearing-are-subject-to-recovery-under-Minnesota~~  
12 ~~Statutes, section 252.277, subdivision 3, when, as a result of~~  
13 ~~the-fair-hearing, the commissioner finds that the amount of the~~  
14 ~~parental-fee-is-proper-as-originally-determined-by-the~~  
15 ~~department-or-county-board.~~ The commissioner's order is binding  
16 on the parents and the department or county board and shall be  
17 implemented subject to Minnesota Statutes, section 256.045,  
18 subdivision 7. No additional notice is required to enforce the  
19 commissioner's order.

20 9550.6240 COLLECTIONS.

21 Subpart 1. **County responsibility.** The county board shall  
22 be responsible for the assessment and collection of parental  
23 fees for children in 24-hour care outside the home other than  
24 state facilities, where only social services funds are expended  
25 for the cost of services.

26 Subp. 2. **Department responsibility.** The department shall  
27 be responsible for the assessment and collection of fees for  
28 children who have mental retardation or a related condition, a  
29 severe emotional disturbance, or a physical disability and who  
30 are:

31 A. residing in state facilities;

32 B. residing outside the home when medical assistance  
33 funds are expended for the cost of services;

34 C. residing outside the home when both medical

35 assistance and social services funds are expended for the costs

1 of services; and

2 D. determined eligible for medical assistance without  
3 consideration of parental income or assets.

4 If the parental fee is for reimbursement for the cost of  
5 services to both the local agency and medical assistance, the  
6 department shall reimburse the local agency for its expenses  
7 first and the remainder shall be reimbursed to the medical  
8 assistance account.

9 REPEALER. Minnesota Rules, parts 9505.0075, subpart 4;  
10 9550.6210, subpart 14; 9550.6220, ~~subpart~~ subparts 7 and 8; and  
11 9550.6228, subpart 2, are repealed.