

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to the Child Care Fund

4

5 Rules as Adopted

6 9565.5000 PURPOSE AND APPLICABILITY.

7 [For text of subpart 1, see M.R.]

8 Subp. 2. **Applicability.** Parts 9565.5000 to 9565.5200

9 apply to all county and human service boards providing child  
10 care assistance to eligible families under Minnesota Statutes,  
11 sections 256H.01 to 256H.19.

12 9565.5010 DEFINITIONS.

13 [For text of subpart 1, see M.R.]

14 Subp. 1a. **ACCESS child care program.** "ACCESS child care  
15 program" means the AFDC child care program authorized under  
16 Minnesota Statutes, section 256H.05, subdivision 6.

17 Subp. 1b. **ACCESS participant.** "ACCESS participant" means  
18 an individual participating in the ACCESS child care program.

19 Subp. 2. **Administering agency.** "Administering agency"  
20 means a county social services agency or a public or nonprofit  
21 agency designated by the county board to administer the child  
22 care fund.

23 Subp. 3. **Administrative expenses.** "Administrative  
24 expenses" means costs associated with the administration of the  
25 child care fund. Administrative expenses include:

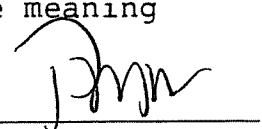
26 A. salaries, wages, and related payroll expenses  
27 incurred in the administration of the child care fund including  
28 direct personnel costs, expenses for general administration and  
29 supervision, and expenses for secretarial, clerical, accounting,  
30 and other support services;

31 [For text of items B to D, see M.R.]

32 E. other expenses directly attributable to the child  
33 care fund.

34 [For text of subp 4, see M.R.]

35 Subp. 5. **AFDC caretaker.** "AFDC caretaker" has the meaning



1 given caretaker in Minnesota Statutes, section 256.736,  
2 subdivision 1a, clause (c).

3 Subp. 6. [See repealer.]

4 Subp. 7. [See repealer.]

5 [For text of subp 8, see M.R.]

6 Subp. 9. **Applicant.** "Applicant" has the meaning given it  
7 in Minnesota Statutes, section 256H.01, subdivision 1a.

8 Subp. 10. **Child.** "Child" has the meaning given it in  
9 Minnesota Statutes, section 256H.01, subdivision 3.

10 Subp. 11. **Child care.** "Child care" means the care of a  
11 child in or out of the child's own home for gain or otherwise,  
12 on a regular basis, for any part of a 24-hour day, by someone  
13 other than a parent, stepparent, legal guardian, eligible  
14 relative caretaker, or their spouses.

15 Subp. 11a. **Child care assistance.** "Child care assistance"  
16 means financial assistance for child care that is funded under  
17 Minnesota Statutes, sections 256H.01 to 256H.19.

18 Subp. 11b. **Child care fund.** "Child care fund" means the  
19 child care assistance programs under Minnesota Statutes,  
20 sections 256H.01 to 256H.19.

21 Subp. 12. **Child care services.** "Child care services" has  
22 the meaning given it in Minnesota Statutes, section 256H.01,  
23 subdivision 2.

24 Subp. 13. [See repealer.]

25 [For text of subp 14, see M.R.]

26 Subp. 15. **County board.** "County board" has the meaning  
27 given it in Minnesota Statutes, section 256H.01, subdivision 6.

28 [For text of subps 16 and 17, see M.R.]

29 Subp. 18. **Education program.** "Education program" has the  
30 meaning given it in Minnesota Statutes, section 256H.01,  
31 subdivision 7.

32 Subp. 18a. **Eligible relative caretaker.** "Eligible  
33 relative caretaker" means a person identified under part  
34 9500.2440, subpart 7, items A to D, who is a caretaker of a  
35 dependent child but who is not a member of the assistance unit.

36 Subp. 19. **Employability development plan or EDP.**

1 "Employability development plan" or "EDP" means a plan developed  
2 for an AFDC caretaker by an employment and training service  
3 provider or person designated by the county to provide  
4 employment and training services. The EDP defines the AFDC  
5 caretaker's employment and training goals and outlines the  
6 training, education, and support services the AFDC caretaker  
7 needs to achieve those goals. All employability development  
8 plans must receive county approval and meet the requirements of  
9 Public Law Number 100-485, Minnesota Statutes, sections 256H.01  
10 to 256H.19, and parts 9565.5000 to 9565.5200.

11 [For text of subp 20, see M.R.]

12 Subp. 21. **Family.** "Family" has the meaning given it in  
13 Minnesota Statutes, section 256H.01, subdivision 9.

14 [For text of subp 22, see M.R.]

15 Subp. 22a. **Full calendar month.** "Full calendar month"  
16 means from the first day of a month to the last day of that  
17 month.

18 Subp. 22b. Full-day basis. "Full-day basis" means child  
19 care provided by a provider for more than five hours per day.

20 Subp. 23. [See repealer.]

21 Subp. 24. [See repealer.]

22 Subp. 24a. **Half-day basis.** "Half-day basis" means child  
23 care provided by a provider for between one and five hours per  
24 day.

25 Subp. 24b. **Household status.** "Household status" means the  
26 number of individuals residing in the household and the  
27 relationship of the individuals to one another.

28 Subp. 25. **Human services board.** "Human services board"  
29 has the meaning given it in Minnesota Statutes, section 256H.01,  
30 subdivision 10.

31 Subp. 26. **Income.** "Income" has the meaning given it in  
32 Minnesota Statutes, section 256H.01, subdivision 11.

33 Subp. 27. **In kind service.** "In kind service" means a  
34 child care payment made on behalf of an AFDC caretaker by a  
35 third party to cover the difference between allowable child care  
36 costs and the dependent care deduction under part 9500.2580, for

1 employed AFDC caretakers, or to cover the allowable cost of  
2 child care without a dependent care deduction for AFDC  
3 caretakers participating in education or training programs under  
4 Minnesota Statutes, section 256H.05.

5 [For text of subp 28, see M.R.]

6 Subp. 28a. **Overpayment.** "Overpayment" means the portion  
7 of a child care payment that is greater than the amount for  
8 which a recipient is eligible.

9 Subp. 29. **Provider.** "Provider" has the meaning given it  
10 in Minnesota Statutes, section 256H.01, subdivision 12.

11 Subp. 30. **Provider rate.** "Provider rate" means the amount  
12 the provider charges for child care.

13 Subp. 31. **Recipient.** "Recipient" means a family receiving  
14 child care assistance under the child care fund.

15 Subp. 32. **Redetermination.** "Redetermination" means the  
16 process by which information is collected periodically by the  
17 county and used to determine whether a recipient is eligible for  
18 continued assistance under the child care fund.

19 Subp. 32a. **Registration.** "Registration" means the process  
20 used by the county to obtain from a legal nonlicensed caregiver  
21 the information required under part 9565.5110, subpart 2c.

22 Subp. 33. [See repealer.]

23 [For text of subp 34, see M.R.]

24 Subp. 35. **Student.** "Student" means an individual enrolled  
25 in an educational program as defined in subpart 18. A student  
26 is a full-time student if the student is enrolled in the minimum  
27 equivalent of 12 credits or 20 hours of classroom training per  
28 week. A student is a part-time student if the student is (1) a  
29 non-AFDC student enrolled in a minimum equivalent of six credits  
30 or ten hours of classroom training per week up to the minimum  
31 equivalent of full-time student status; or (2) an AFDC student  
32 who is less than a full-time student but is in compliance with  
33 the education or training requirements in his or her  
34 employability development plan.

35 Subp. 35a. **Transition year child care.** "Transition year  
36 child care" means the transition child care assistance

1 guaranteed under United States Code, title 42, section 602(g).

2 Subp. 35b. **Transition year families.** "Transition year  
3 families" has the meaning given it in Minnesota Statutes,  
4 section 256H.01, subdivision 16.

5 [For text of subp 36, see M.R.]

6 Subp. 37. **Weekly basis.** "Weekly basis" means child care  
7 provided by a provider for more than 35 hours per week.

8 9565.5020 NOTICE OF BASIC SLIDING FEE PROGRAM ALLOCATION.

9 By June 1 of each year, the commissioner shall notify all  
10 county and human services boards of their allocation under the  
11 basic sliding fee program.

12 9565.5025 GENERAL ELIGIBILITY REQUIREMENTS AND ASSISTANCE  
13 STANDARDS FOR ALL APPLICANTS.

14 Subpart 1. **Applicant requirements and standards.** In  
15 addition to specific eligibility requirements under parts  
16 9565.5030, 9565.5060, and 9565.5065, all applicants for child  
17 care assistance shall be governed by the standards and  
18 requirements in subparts 1a to 11.

19 Subp. 1a. **Informational release.** The county shall offer  
20 an applicant an opportunity to sign an informational release to  
21 permit the county to verify whether an applicant qualifies for  
22 child care assistance. The county shall indicate the purpose  
23 and intended use of the information, whether the individual may  
24 refuse or is legally required to supply the information, any  
25 known consequences from supplying or refusing to supply the  
26 information, and the identity of other agencies or individuals  
27 authorized to receive the data.

28 Subp. 2. **Documentation of eligibility information.** An  
29 applicant requesting child care assistance must document income  
30 eligibility, residence, work, and education or training status.  
31 The county shall verify an applicant's eligibility to receive  
32 child care assistance at the time of the application; when there  
33 is a change in household status, family size, employment,  
34 income, education or training status; and at each  
35 redetermination under part 9565.5150. When contacting third

1 parties to confirm eligibility information, the county shall  
2 comply with the Minnesota Government Data Practices Act,  
3 Minnesota Statutes, chapter 13.

4 Subp. 3. **Recipient reporting responsibilities.** A  
5 recipient must follow the reporting procedures in items A to C.

6 A. A recipient must notify the county of any changes  
7 in marital or household status, address, employment or education  
8 status, provider, and any change in income from the amount  
9 reported on the application form or the last redetermination,  
10 whichever occurred later.

11 B. A recipient must report the changes listed in item  
12 A within ten calendar days after the change. In cases of an  
13 income change, the date of change begins on the day that the  
14 recipient receives payment at the new rate.

15 C. A recipient's failure to report any changes under  
16 this subpart or to update information for redetermination is  
17 just grounds to terminate child care assistance.

18 Subp. 4. [See repealer.]

19 Subp. 5. **Eligible applicants.** In a family with a single  
20 parent, or unmarried legal guardian or eligible relative  
21 caretaker, the applicant must meet employment, education, or  
22 training requirements and other eligibility requirements under  
23 the basic sliding fee program or the AFDC child care program.

24 In a family with two parents, a parent and stepparent, a  
25 legal guardian and spouse, or an eligible relative caretaker and  
26 spouse, at least one parent, legal guardian, eligible relative  
27 caretaker, or spouse must meet employment, education, or  
28 training requirements and other eligibility requirements under  
29 the basic sliding fee program or the AFDC child care program.  
30 The other parent, legal guardian, eligible relative caretaker,  
31 or spouse must:

32 A. meet employment, education, or training  
33 requirements and other eligibility requirements under the basic  
34 sliding fee program or the AFDC child care program; or

35 B. be unable to care for the applicant's child or  
36 dependent as determined by a medical doctor or by an assessment

1 by the local social services agency.

2 Subp. 5a. **Selection of provider.** An applicant may select  
3 a provider at the time of application or within 30 calendar days  
4 after the application for child care assistance has been  
5 approved.

6 Subp. 6. **Maximum weekly child care assistance.** A family  
7 may not receive more than 60 hours of child care assistance per  
8 child per week.

9 Subp. 7. **Child care assistance during employment.** In  
10 addition to other eligibility requirements, employed persons  
11 eligible for child care assistance under part 9565.5030,  
12 9565.5060, or 9565.5065 must work ten hours or more per week and  
13 receive at least the state minimum wage for all hours worked.  
14 Child care assistance during employment shall be granted for the  
15 number of hours worked including break and meal time and up to  
16 two hours per day for travel time.

17 Subp. 7a. **Child care assistance in support of employment.**  
18 A county may grant child care assistance in support of  
19 employment for nonwork hours when all of the following  
20 conditions exist:

21 A. child care assistance is not provided under the  
22 child care fund during working hours;

23 B. the family meets the eligibility requirements of  
24 part 9565.5025, subpart 5;

25 C. the employee cannot reasonably modify his or her  
26 nonwork schedule to provide child care; and

27 D. the child care assistance does not exceed the  
28 amount of assistance that would be granted under subpart 7  
29 during employment.

30 Subp. 8. **Child care assistance during education or**  
31 **training.** To the extent of available allocations, counties  
32 shall provide child care assistance to students eligible under  
33 part 9565.5030 or 9565.5060 and enrolled in county-approved  
34 education or training programs according to items A to C.

35 A. Counties may grant full-time students:

36 (1) child care on a half-day or full-day basis

1 for the days of class and on nonclass days, if needed for study,  
2 as determined by the county;

3 (2) child care on a weekly basis; or

4 (3) child care according to the standards in item

5 B.

6 Child care assistance granted under item A, subitem (1)  
7 shall not be less than the standard under item B and may not  
8 exceed 60 hours of child care per child per week.

9 B. Part-time students shall receive child care for:

10 (1) all hours of actual class time and credit  
11 hours for independent study and internships;

12 (2) time periods between nonconsecutive classes;

13 (3) up to two hours per day for travel time; and

14 (4) two hours per week per credit hour for

15 postsecondary students for study and academic appointments.

16 When a part-time student has more than one hour between  
17 classes on any one day, the study and academic appointment time  
18 authorized under subitem (4) shall be reduced by the number of  
19 hours between classes.

20 C. ~~When a student takes~~ Child care assistance for  
21 remedial classes with or without academic credit is subject to  
22 county approval under subpart 8b. Upon county approval of the  
23 remedial class or classes, the county shall ~~grant~~ authorize  
24 child care assistance necessary to ~~permit~~ enable the student to  
25 ~~take the remedial classes according to the standards in item A~~  
26 ~~or B~~ attend class and to complete class assignments.

27 Subp. 8a. **Child care assistance during employment and**  
28 **education or training.** Employed students are eligible for child  
29 care assistance during employment and education or training.

30 Counties shall use the standards in subparts 7 and 8 to  
31 determine the amount of child care assistance. Child care  
32 assistance during employment and education may not exceed 60  
33 hours per child per week.

34 Subp. 8b. **Acceptable course of study.** An acceptable  
35 course of study for a student eligible under part 9565.5030 is  
36 an education or training program approved by the county that



1 will reasonably lead to full-time employment opportunities as  
2 determined by the county. An acceptable course of study for a  
3 student eligible under part 9565.5060 is an education or  
4 training program described in the AFDC caretaker's EDP.

5       **Subp. 8c. Satisfactory progress in education program.**

6 Subject to the limitation in subpart 9, a county shall provide  
7 child care assistance to students with an approved education or  
8 training program for the length of the education or training  
9 program if the student is making satisfactory progress in the  
10 education or training program. Satisfactory progress in the  
11 education or training program means a student remains in good  
12 standing in the education or training program and meets the  
13 requirements of the student's education plan under part  
14 9565.5030 or employability development plan under part  
15 9565.5060. If the county determines that a student is not  
16 making satisfactory progress towards completion of an education  
17 or training program, the county shall notify the student and  
18 discontinue child care assistance according to part 9565.5110,  
19 subpart 10.

20       **Subp. 9. Maximum education and training under child care**  
21 **fund.** The maximum length of time a student is eligible for  
22 child care assistance under the child care fund for education  
23 and training is described in items A to E.

24       A. A student is eligible for a maximum of 48 months  
25 of child care assistance for education or training from the  
26 child care fund. A four-year education or training program must  
27 be directed towards a baccalaureate degree. The time limit  
28 under this item does not apply to basic or remedial educational  
29 programs needed to prepare for postsecondary education or  
30 employment. Basic or remedial education programs include high  
31 school, general equivalency diploma, and English as a second  
32 language. Basic or remedial programs that run concurrently with  
33 a postsecondary program are not exempt from the time limit under  
34 this item.

35       B. A student who has completed an education or  
36 training program under the child care fund may receive child

1 care assistance for a second education or training program if:

2 (1) the child care assistance needed to complete  
3 the second program when combined with the child care assistance  
4 previously received does not exceed the equivalent of 48 months;

5 (2) the student has been unable to find full-time  
6 employment and the student does not have marketable skills; and

7 (3) at least one year has passed since the  
8 student completed the first program.

9 C. A student with a baccalaureate degree may obtain  
10 child care assistance for continuing education units or  
11 certification or coursework necessary to update credentials to  
12 obtain or retain employment.

13 D. A student who has once dropped out of an education  
14 or training program or who once failed to complete an education  
15 or training program while receiving child care assistance is  
16 eligible for child care assistance to enable the student to  
17 complete the program or begin a new program if the child care  
18 assistance needed to complete the earlier program or new program  
19 when combined with the child care assistance previously received  
20 does not exceed 48 months. A student applying for child care  
21 assistance under this item must be treated as a new applicant.

22 E. A student may receive child care assistance for a  
23 second baccalaureate degree if:

24 (1) the student did not receive child care  
25 assistance under the child care fund for the first baccalaureate  
26 degree; and

27 (2) the student does not have marketable skills.

28 Subp. 10. **Changes in education and training programs.** A  
29 proposed change in an education or training program is subject  
30 to county approval before the change may be made.

31 Subp. 11. **Ineligibility for failure to pay fees under the**  
32 **child care fund.** A family that fails to pay the provider charge  
33 or family copayment fee under the child care fund shall lose  
34 eligibility for child care assistance as long as such fees are  
35 owed unless satisfactory arrangements for repayment are made  
36 that are acceptable to the provider and the county. If a county

1 is aware that fees are owed under the child care fund and  
2 satisfactory repayment is not being made, the county shall not  
3 authorize child care assistance until satisfactory repayment  
4 arrangements are made.

5 9565.5027 JOB SEARCH.

6 To the extent of available allocations, counties shall  
7 provide persons eligible under part 9565.5030 who are seeking  
8 employment and persons eligible under part 9565.5060 who have an  
9 approved EDP including job search as an authorized activity, ~~the~~  
10 ~~equivalent-of-one-month~~ up to 240 hours of child care during job  
11 search. At the option of the individual in job search and with  
12 prior county approval, child care may be used at a rate that is  
13 less than full time provided the total child care assistance  
14 does not exceed ~~the-equivalent-of-one-month~~ 240 hours of child  
15 care per calendar year. For the purpose of this part, job  
16 search includes locating, contacting, and interviewing with  
17 potential employers and preparing for job interviews.

18 9565.5030 BASIC SLIDING FEE PROGRAM.

19 Subpart 1. **Basic sliding fee program; funding sources.**

20 The basic sliding fee program includes funding from federal,  
21 state, and county sources. Federal funds available under United  
22 States Code, title 42, sections 602(i) and 9858, that are  
23 allocated to the basic sliding fee program shall be expended as  
24 provided in this part.

25 Subp. 1a. **Basic sliding fee allocation.** The commissioner  
26 shall allocate child care funds for the basic sliding fee  
27 program as provided in Minnesota Statutes, section 256H.03,  
28 subdivisions 4 to 6.

29 Subp. 2. [See repealer.]

30 Subp. 3. [See repealer.]

31 Subp. 4. **Federal funding.** Counties shall claim, in the  
32 manner prescribed by the commissioner, federal funding for child  
33 care expenditures for all eligible recipients who are in  
34 employment, education, training, or other preemployment  
35 activities allowed under the federal grant and reimbursement

1 programs. The commissioner shall allocate any federal earnings  
2 to the county that claimed the federal funding and the county  
3 shall use the earnings to expand funding for child care services  
4 under the basic sliding fee program.

5 Subp. 5. **Reallocation of unexpended or unencumbered**  
6 **funds.** The commissioner shall reallocate unexpended or  
7 unencumbered funds according to items A to D.

8 [For text of item A, see M.R.]

9 B. The amount reallocated to any county shall be  
10 based on earnings in excess of its allocation. The amount  
11 reallocated shall not be greater than the earnings in excess of  
12 allocation minus the county's maintenance of effort required  
13 under Minnesota Statutes, section 256H.12, subdivision 3.

14 [For text of item C, see M.R.]

15 D. If the amount of funds available for reallocation  
16 is greater than total county earnings in excess of allocations  
17 under the basic sliding fee program, the funds remaining after  
18 the basic sliding fee reallocation shall be carried forward to  
19 the second year in the biennium in proportion to the county  
20 earnings.

21 Subp. 6. **Families eligible for assistance under the basic**  
22 **sliding fee program.** To the extent of available allocations, a  
23 family is eligible for child care assistance under the basic  
24 sliding fee program if:

25 A. the applicant meets eligibility requirements under  
26 part 9565.5025;

27 B. the applicant is not an AFDC caretaker; and

28 C. the family has an annual gross income that does  
29 not exceed 75 percent of the state median income for a family of  
30 four, adjusted for family size.

31 Subp. 7. **Basic sliding fee program waiting lists.**

32 Counties must keep a written record of families who have  
33 requested child care assistance. When a family requests  
34 information about child care assistance, the county shall  
35 perform a preliminary determination of eligibility. If it  
36 appears that a family is or will be eligible for child care

1 assistance and funds are not immediately available, the family  
2 shall be placed on a child care waiting list. The county shall  
3 provide a means of identifying students placed on the basic  
4 sliding fee waiting list. If it appears that a family is  
5 eligible for child care assistance and funds are available or if  
6 a family requests an application, the family shall be given a  
7 child care assistance application.

8       **Subp. 7a. Waiting list; transfer of transition year**  
9 **families to the basic sliding fee program.** The county shall  
10 place transition year families on the county's basic sliding fee  
11 program waiting list effective the earliest of the following  
12 dates:

13           A. the date the family became eligible for transition  
14 year child care assistance;

15           B. the date the family began participating in the  
16 ACCESS child care program under part 9565.5060, subpart 2a; or

17           C. the date the family enrolled in Project STRIDE.

18       If a transition year family moves to a new county, the  
19 waiting list date established under items A to C shall transfer  
20 with the family. If a transition year family comes to the top  
21 of the county's basic sliding fee program waiting list before  
22 the transition year ends, the county shall encumber basic  
23 sliding fee program funds for those months remaining in the  
24 state fiscal year after the transition year ends. When the  
25 transition year ends, the county shall move the transition year  
26 family into the basic sliding fee program. A transition year  
27 family that does not come to the top of the county's basic  
28 sliding fee program waiting list before completion of the  
29 transition year shall be moved into the basic sliding fee  
30 program as funding becomes available according to the priority  
31 under Minnesota Statutes, section 256H.03, subdivision 2b.

32       **Subp. 8. [See repealer.]**

33       **Subp. 9. Application for child care assistance.** A family  
34 must apply for child care assistance in the family's county of  
35 residence.

36       **Subp. 10. County child care responsibility when family**

1 moves. When a family that is receiving child care assistance  
2 from the basic sliding fee program moves to a new county within  
3 Minnesota, the original county must continue to provide child  
4 care assistance for two full calendar months if child care is  
5 needed and the family remains eligible for child care assistance  
6 under the basic sliding fee program. The new county shall treat  
7 a family that moves to the county and requests child care  
8 assistance as a new applicant.

9 9565.5050 CONTINUED ELIGIBILITY UNDER THE BASIC SLIDING FEE  
10 PROGRAM.

11 To the extent of available allocations, a county may not  
12 refuse continued child care assistance to a family receiving  
13 assistance under the basic sliding fee program when there is a  
14 change in the family's financial or household status. However,  
15 the family's annual gross income may not exceed 75 percent of  
16 the state median income for a family of four, adjusted for  
17 family size, and the family must meet all other eligibility  
18 requirements under the basic sliding fee program. Except for  
19 the education time limit under part 9565.5025, subpart 9, and  
20 the job search time limit under part 9565.5027, counties may not  
21 set a time limit for eligibility under the basic sliding fee  
22 program.

23 9565.5060 AFDC CHILD CARE PROGRAM.

24 Subpart 1. [See repealer.]

25 Subp. 2. **Families guaranteed child care assistance under**  
26 **the AFDC child care program.** Except as provided in subpart 2a,  
27 families eligible for guaranteed child care assistance under the  
28 AFDC child care program are families listed under Minnesota  
29 Statutes, section 256H.05.

30 Subp. 2a. **ACCESS child care program.** AFDC caretakers who  
31 are recipients of AFDC and not part of an assistance unit  
32 eligible or required to participate in Project STRIDE are  
33 eligible for child care assistance under the ACCESS child care  
34 program if enrolled in an education, training, or job search  
35 program authorized in their EDP. Each county shall enroll

1 participants in the ACCESS child care program to the extent of  
2 the county's entitlement of family slots authorized under  
3 Minnesota Statutes, section 256H.05, subdivision 6. Counties  
4 shall prioritize eligibility for child care assistance under the  
5 ACCESS child care program in the county's child care fund  
6 allocation plan under part 9565.5120.

7 Subp. 2b. **Approved EDP required under ACCESS.** Before a  
8 county may grant child care assistance under subpart 2a, the  
9 ACCESS participant must have an EDP approved by the county. The  
10 EDP must meet the requirements under Minnesota Statutes, section  
11 256.736, subdivision 10.

12 Subp. 2c. **Conversion to Project STRIDE.** Subject to the  
13 time limitations of parts 9565.5025, subpart 9, and 9565.5027,  
14 child care assistance must continue under the ACCESS child care  
15 program until the participant loses AFDC eligibility or is  
16 enrolled in Project STRIDE. When an ACCESS participant is  
17 enrolled in Project STRIDE, the ACCESS participant's EDP shall  
18 continue as the approved EDP for Project STRIDE.

19 Subp. 3. [See repealer.]

20 Subp. 4. [See repealer.]

21 Subp. 4a. **AFDC caretakers required to have EDP.** All AFDC  
22 caretakers applying for child care assistance to support  
23 training or preemployment activities including job search must  
24 have an EDP authorizing the child care assistance.

25 Subp. 4b. **Child care assistance in support of employment.**  
26 AFDC caretakers applying for child care assistance to support  
27 employment are guaranteed assistance for allowable child care  
28 costs above any dependent care deductions if the provider is  
29 eligible for payment under the child care fund.

30 Subp. 5. [See repealer.]

31 Subp. 6. [See repealer.]

32 Subp. 7. [See repealer.]

33 Subp. 8. **AFDC federal program reimbursement.** Counties  
34 shall claim, in the manner prescribed by the commissioner,  
35 federal reimbursement under appropriate federal programs for  
36 child care expenditures for all eligible AFDC caretakers who are

1 in activities allowed under the federal reimbursement programs.  
2 The commissioner shall allocate any federal earnings to the  
3 county that claimed the federal reimbursement.

4 Subp. 9. **County child care responsibility when a family**  
5 **moves to another county.** Except for families with an EDP in  
6 effect, a county is responsible for providing child care  
7 assistance to an AFDC family that moves to another county within  
8 Minnesota according to Minnesota Statutes, section 256G.07.

9 If an EDP is in effect, the county responsible for the EDP  
10 must provide child care assistance, if needed and the family  
11 remains eligible, through completion of the EDP or two full  
12 calendar months, whichever is longer. After completion of the  
13 EDP or two full calendar months, whichever is longer, if the  
14 family has applied for and is eligible for child care assistance  
15 under the AFDC child care program, the family shall receive  
16 child care assistance from the new county.

17 9565.5065 TRANSITION YEAR CHILD CARE.

18 Subpart 1. **Notice to family of eligibility.** The  
19 department must notify a family, in writing, at the time the  
20 family becomes ineligible for AFDC of its potential eligibility  
21 for transition year child care under this part. The  
22 notification must include information on how to establish  
23 eligibility for transition year child care and on the family's  
24 rights and responsibilities under the transition year child care  
25 program.

26 Subp. 2. **Eligibility.** Transition year child care  
27 assistance may only be used to support employment-related  
28 expenses. A family is eligible for transition year child care  
29 if the conditions in items A to E are met.

30 A. The family is no longer eligible for AFDC due to  
31 increased hours of, or increased income from, employment or the  
32 loss of income disregards due to the time limitations.

33 B. The family received AFDC in at least three of the  
34 six months immediately preceding the first month of  
35 ineligibility and at least the last month of AFDC was paid by



1 Minnesota.

2 C. The family requests transition year child care,  
3 provides the county information necessary for determining  
4 eligibility and fees, and the family's income does not exceed 75  
5 percent of the state median income for a family of four,  
6 adjusted for family size.

7 D. The child retains its "dependent child" status  
8 throughout the transition year. A "dependent child" is one who  
9 meets an AFDC basis of eligibility due to an absent,  
10 incapacitated, or unemployed parent. Transition year child care  
11 may be paid only for the care of a child who would be a  
12 dependent child if the family was receiving an AFDC grant, or  
13 for children who would have been eligible for AFDC except for  
14 the child's receipt of SSI or Title IV-E foster care benefits.

15 E. The former AFDC caretaker who applies for  
16 transition year child care must continue to cooperate with child  
17 support enforcement throughout the transition year period.

18 Eligibility for transition year child care begins the first  
19 month the family is ineligible for AFDC for the reasons  
20 identified in item A, and continues for 12 consecutive months.  
21 A former AFDC caretaker may apply for transition year child care  
22 any time during the year after losing eligibility for AFDC and,  
23 notwithstanding the application date, shall receive transition  
24 year child care assistance for all eligible months. Eligibility  
25 for transition year child care cannot extend beyond 12 months  
26 after the initial date of eligibility for that transition year  
27 child care.

28 **Subp. 3. Loss of transition year child care eligibility.**

29 A family is not eligible for transition year child care for any  
30 remaining portion of the 12-month period if the former AFDC  
31 caretaker fails to cooperate with the county to establish  
32 payments and enforce child support obligations, or the former  
33 AFDC caretaker terminates employment without good cause.  
34 Termination of employment for the reasons in items A to E is  
35 considered to be for good cause.

36 A. The job is not suited to the physical or mental

1 capacity of the AFDC caretaker or it has had an adverse effect  
2 on the AFDC caretaker's physical or mental health. A claim made  
3 under this item must be documented by a licensed physician or  
4 licensed psychologist.

5 B. The job site is unsafe under health and safety  
6 standards established by the Occupational Safety and Health  
7 Administration and the Minnesota Department of Jobs and Training.

8 C. The former AFDC caretaker documents discrimination  
9 at the job site on the basis of age, sex, race, religion, or  
10 place of national origin.

11 D. The gross hourly employment earnings are less than  
12 the federal or state minimum wage, whichever applies, for that  
13 type of employment.

14 E. The former AFDC caretaker has accepted other  
15 employment that provides equal or better income or benefits.

16 Subp. 4. Reestablishment of AFDC eligibility during  
17 transition year period. If a transition year family  
18 reestablishes eligibility for AFDC during the transition year  
19 period and subsequently meets the conditions in subpart 2, the  
20 family qualifies for a new 12-month transition year period. If  
21 the family received AFDC for only one or two of the previous six  
22 months, but meets the requirements in subpart 2, items A and C  
23 to E, the family is entitled to the remaining months of the  
24 transition year, treating the month or months on AFDC as a  
25 suspension of the child care benefit but not the transition year  
26 period. To receive child care assistance while receiving AFDC,  
27 the family must meet the AFDC child care requirements under part  
28 9565.5060.

29 Subp. 5. Breaks during transition year when child care is  
30 not needed. If there are breaks during the transition year when  
31 child care is not needed, there is a suspension of the child  
32 care benefit but not the transition year period.

33 Subp. 6. Family copayment fee. A transition year family  
34 must pay a family copayment fee based on the family's gross  
35 income according to the sliding fee program schedule established  
36 under part 9565.5070.

1 Subp. 7. County child care responsibility when a family  
2 moves to another county. Except for families with an EDP in  
3 effect, a county is responsible for providing child care  
4 assistance to a transition year family that moves to another  
5 county within Minnesota according to Minnesota Statutes, section  
6 256G.07.

7 If an EDP is in effect, the county responsible for the EDP  
8 must provide child care assistance, if needed and the family  
9 remains eligible, through completion of the EDP or two full  
10 calendar months, whichever is longer. After completion of the  
11 EDP or two full calendar months, whichever is longer, if the  
12 family has applied for and is eligible for child care assistance  
13 under the transition year program, the family shall receive  
14 child care assistance from the new county.

15 Subp. 8. County denial of transition year child care  
16 application. A county shall deny an application for transition  
17 year child care when the information submitted by the former  
18 AFDC caretaker is insufficient to determine eligibility or if  
19 the information indicates ineligibility. When an application is  
20 denied, the county must send a notice to the applicant. The  
21 notice must state the reason for denial and inform the applicant  
22 of the right to appeal under Minnesota Statutes, section 256.045.

23 Subp. 9. Continuation of child care pending appeal.  
24 ~~Except for discontinuation of child care assistance at the end~~  
25 ~~of the 12-month period of eligibility,~~ If a transition year  
26 family appeals a suspension, reduction, discontinuation, or  
27 termination of child care assistance before the effective date  
28 of the proposed action, the action shall not be taken until the  
29 appeal has had a fair hearing as provided under part 9565.5200,  
30 subpart 1. Child care assistance payments made pending a fair  
31 hearing are subject to recovery, when, as a result of the  
32 hearing, the commissioner finds that the transition year family  
33 was not eligible for continued child care assistance. The  
34 county shall recoup an overpayment under this subpart as  
35 provided in part 9565.5110, subpart 11.

1 9565.5070 FAMILY COPAYMENT FEE SCHEDULE.

2 Subpart 1. **Non-AFDC family copayment fees.** Non-AFDC  
3 families participating in the sliding fee program with an income  
4 greater than the federal poverty level must pay a family  
5 copayment fee for child care services as provided in subpart 3.  
6 Non-AFDC families participating in the sliding fee program with  
7 an income less than or equal to the federal poverty level must  
8 pay a family copayment fee for child care services as provided  
9 in subpart 2a.

10 Subp. 2. **AFDC family copayment fees.** AFDC families  
11 participating in the ~~sliding-fee-program~~ AFDC child care  
12 programs shall be governed by AFDC program rules regarding child  
13 care costs. Employed AFDC recipients must use their dependent  
14 care disregard before using the child care fund except as  
15 federal and state waivers allow. The child care fund shall  
16 cover the cost of child care for unemployed AFDC recipients in  
17 education, training, or preemployment activities up to the  
18 maximum amount set under part 9565.5100 without applying a  
19 disregard. If the provider's charge for child care is greater  
20 than the maximum provider rate allowed under part 9565.5100,  
21 AFDC families shall pay, in addition to the dependent care  
22 disregard, the difference between the maximum provider rate  
23 allowed and the provider charge.

24 Subp. 2a. **Non-AFDC family copayment fee for families with**  
25 **incomes less than or equal to the federal poverty level.**  
26 Subject to the maximum provider rate established under part  
27 9565.5100, a family whose income is less than or equal to the  
28 federal poverty level for a family of that size shall pay a  
29 monthly copayment fee as provided in items A and B.

30 A. If the family is a transition year family, the  
31 monthly family copayment fee is \$1. If federal regulations  
32 permit a state to waive a family's contribution, there is no  
33 family copayment fee.

34 B. If the family is not a transition year family,  
35 there is no family copayment fee.

36 If the provider's charge for child care is greater than the

1 maximum provider rate allowed under part 9565.5100, non-AFDC  
2 families shall pay, in addition to any monthly copayment fee,  
3 the difference between the maximum provider rate allowed and the  
4 provider charge.

5 Subp. 3. Calculation of non-AFDC family copayment fee.

6 Except as provided in subpart 2a, a non-AFDC family's monthly  
7 copayment fee is a fixed percent of its annual gross income.  
8 The fixed percent is based on the relationship of the family's  
9 annual gross income to 100 percent of state median income for a  
10 family of four, adjusted for family size. The fixed percent is  
11 set forth in item C.

12 The monthly family copayment fee for families with annual  
13 incomes greater than the federal poverty level is determined as  
14 follows:

15 [For text of item A, see M.R.]

16 B. If the family's annual gross income is greater  
17 than the federal poverty level for a family of the same size but  
18 less than 42.01 percent of the state median income for a family  
19 of four, adjusted for family size, the family's monthly  
20 copayment fee is 50 percent of the rate under item C, subitem  
21 (1), rounded to the nearest whole dollar.

22 C. If the family's annual gross income is greater  
23 than the federal poverty level and between 42.01 and 75.00  
24 percent of the state median income (SMI) for a family of four,  
25 adjusted for family size, the monthly copayment fee is the fixed  
26 percentage established for that income range in subitems (1) to  
27 (58) multiplied by the highest possible income within that  
28 income range, divided by 12, and rounded to the nearest whole  
29 dollar.

30 [For text of subitems (1) to (58), see M.R.]

31 D. If the provider's charge for child care is greater  
32 than the maximum provider rate allowed under part 9565.5100,  
33 families shall pay, in addition to the family copayment fee, the  
34 difference between the maximum provider rate and the provider  
35 charge. If the remaining monthly provider charge is less than  
36 \$20 per month upon payment of the family copayment fee, the

1 family shall pay the remainder of the provider charge.

2 E. During the start-up month, the county shall  
3 prorate the copayment fee based on the number of calendar days  
4 remaining in the month.

5 Subp. 4. **Publication of state median income and fee**  
6 **schedule in State Register.** The department shall publish in the  
7 State Register the state median income for a family of four,  
8 adjusted for family size, and a fee schedule based on the  
9 formula in subpart 3, item C, within 120 days from the date the  
10 state median income is published in the Federal Register by the  
11 Department of Health and Human Services. Once published in the  
12 State Register, the department shall distribute a copy of the  
13 fee schedule and the updated estimate of state median income to  
14 each county. The updated fee schedule shall be used by the  
15 county to determine the family copayment fee for new  
16 applications and at a participating family's next  
17 redetermination beginning on the first day of the state fiscal  
18 year or, if published after July 1, the first day of the first  
19 full quarter that follows publication of the state median income  
20 in the State Register.

21 9565.5080 CHILD CARE ASSISTANCE PAYMENTS.

22 Subpart 1. **Payment options.** The county may make child  
23 care payments to the child care provider or directly to an  
24 eligible family to reimburse the family for child care  
25 expenditures. If the county makes child care payments directly  
26 to an eligible family, it shall establish appropriate  
27 documentation procedures to ensure that funds are used for child  
28 care.

29 Subp. 1a. **Registration of legal nonlicensed caregivers.**  
30 Before a county makes a child care payment to a legal  
31 nonlicensed caregiver, the legal nonlicensed caregiver must be  
32 registered with the county. After the registration requirement  
33 for a legal nonlicensed caregiver is satisfied, payment shall be  
34 made retroactive to the beginning date of authorized child care  
35 for employment, education, or training; the date the child care

1 application was signed; or the date the family began using the  
2 legal nonlicensed caregiver, whichever is later.

3       Subp. 1b. **County authorization of child care.** A county  
4 may authorize child care on an hourly, half-day, full-day, or  
5 weekly basis. Combinations of hourly, half-day, or full-day  
6 child care may be paid when 11 hours or more of child care are  
7 authorized in a 24-hour period. If a family selects a child  
8 care provider who charges for child care on a basis greater than  
9 the amount of child care authorized by a county, the family is  
10 responsible for the cost of child care that exceeds the amount  
11 authorized by the county.

12       Subp. 1c. **Maximum child care payments.** Child care  
13 assistance payments under the child care fund may not exceed the  
14 75th percentile rate for like care arrangements in the county.  
15 Payment for child care rates that exceed the 75th percentile is  
16 the responsibility of the family. When a provider's rate is  
17 less than the 75th percentile, the county shall pay the  
18 provider's rate.

19       Subp. 1d. **Standard for converting authorized care into**  
20 **hours used.** Under part 9565.5025, subpart 6, a family may not  
21 receive more than 60 hours of child care assistance per child  
22 per week. For the purpose of converting child care authorized  
23 on a half-day, full-day, or weekly basis into hours, the  
24 counties shall use the standards in items A to C.

25           A. When a county authorizes child care on a half-day  
26 basis, a half day is equal to five hours of child care.

27           B. When a county authorizes child care on a full-day  
28 basis, a full day is equal to ten hours of child care.

29           C. When a county authorizes child care on a weekly  
30 basis, a week is equal to 50 hours of child care.

31       Subp. 2. **Notification of vendor payment procedures.** If  
32 the method of payment is vendor payment, the county shall inform  
33 both the family and child care provider of the payment amount  
34 and how and when payment shall be received. When a county sends  
35 a family a notice that child care assistance will be terminated,  
36 the county shall inform the vendor that unless the family

1 requests to continue to receive assistance pending an appeal,  
2 child care payments will no longer be made. The notice to a  
3 vendor shall not contain any private data on the family or  
4 information on why payments will no longer be made.

5 [For text of subp 3, see M.R.]

6 Subp. 4. Sick child care. Sick child care means child  
7 care services provided to children who as a result of illness  
8 cannot attend the family's regular provider. ~~If required by the~~  
9 ~~regular provider, child care payments shall go to the provider~~  
10 ~~to hold a child care space for the sick child.~~ In addition to  
11 making payments for regular child care, the county may make  
12 payments for sick child care. If the county chooses to pay sick  
13 child care, payment for sick child care shall be at a rate  
14 comparable to like care arrangements in the county. The  
15 county's sick child care policy and rate shall be included in  
16 the county's biennial allocation plan required under part  
17 9565.5120.

18 Subp. 5. Payment during child absences. Under Minnesota  
19 Statutes, section 256H.02, counties are authorized to establish  
20 policies for payment of child care spaces for absent children  
21 when the payment is required by the child's regular provider.  
22 If the county establishes policies for the payment of child care  
23 spaces for absent children, the county shall set limits and pay  
24 for the absences according to the prevailing market practice in  
25 the county. County policies for payment of absences shall be  
26 included in the county's allocation plan required under part  
27 9565.5120. Provider charges for absent days in excess of the  
28 amount established by the county are the responsibility of the  
29 family receiving child care assistance.

30 Subp. 6. Payment during medical leaves of absence.  
31 Counties may establish policies for child care assistance during  
32 a parent's medical leave of absence from education or employment  
33 if the parent is incapable of providing child care during the  
34 medical leave of absence. Child care assistance provided under  
35 this subpart shall only be granted if:

36 A. the parent is expected to return to the parent's



1 current employment or education or training program within 90  
2 calendar days;

3 B. the necessity of the medical leave and the  
4 inability to provide child care is documented by a physician;  
5 and

6 C. the amount of child care during the leave of  
7 absence does not exceed the equivalent of one month of full-time  
8 child care.

9 The county's policy on medical leaves of absence shall be  
10 included in the allocation plan required under part 9565.5120.

11 9565.5090 ELIGIBLE PROVIDERS AND PROVIDER REQUIREMENTS.

12 Subpart 1. Eligible providers. Providers eligible for  
13 payments under the child care fund are providers as defined in  
14 Minnesota Statutes, section 256H.01, subdivision 12. Parents  
15 may choose child care providers that best meet the needs of  
16 their family subject to the limitation in Minnesota Statutes,  
17 section 256H.10, subdivision 5.

18 Subp. 2. Registration before payment. A legal nonlicensed  
19 caregiver must be registered with the county before the  
20 caregiver may receive a provider payment under the child care  
21 fund.

22 Subp. 3. Parental access to children in care. Providers  
23 must permit parents unlimited access to their children and to  
24 the provider caring for their children during normal hours of  
25 provider operation and when the children are in the care of the  
26 provider.

27 Subp. 4. Complaints, record, and disclosure. Legal  
28 nonlicensed caregivers must permit counties to maintain a record  
29 of substantiated parental complaints concerning the health and  
30 safety of children in the legal nonlicensed caregiver's care and  
31 to allow the disclosure to the public on request of that  
32 information subject to Minnesota Statutes, chapter 13.

33 Information governing maltreatment of minors shall be maintained  
34 and disclosed according to Minnesota Statutes, section 626.556.

35 9565.5100 CHILD CARE PROVIDER RATES.

1           Subpart 1. **Rate determination.** Not less than once every  
2 two years, the commissioner shall determine the 75th percentile  
3 provider rate for infants, toddlers, preschool children, and  
4 school age children in day care centers and family day care  
5 homes in each county. The rates surveyed shall include a survey  
6 of registration fees when it is usual and customary for a  
7 category of provider to charge registration fees. When the  
8 sample size for determining provider rates is too small to  
9 provide a valid statistical sample, the commissioner may  
10 establish child care provider rates based on like care  
11 arrangements in similar areas.

12           Subp. 1a. **Rate determination for registered legal**  
13 **nonlicensed caregivers.** Beginning in 1994 and every two years  
14 thereafter, the counties shall conduct a survey of registered  
15 nonlicensed caregivers to determine the 75th percentile rate for  
16 infants, toddlers, preschool, and school age children. The  
17 survey shall be conducted in a manner prescribed by the  
18 commissioner.

19           Subp. 1b. **Rate determination; handicapped or special**  
20 **needs.** The county shall set the maximum child care rate for a  
21 provider providing child care to a handicapped or special needs  
22 child based on like care arrangements in the county. When four  
23 or more providers offer child care for children with a handicap  
24 or special needs, the county shall identify the 75th percentile  
25 rate. A rate established under this subpart must be included in  
26 the child care allocation plan.

27           Subp. 1c. **Payment rate differential, same category.** The  
28 differential between maximum payment rates for child care  
29 assistance in the same category of care may not exceed ten  
30 percent.

31           Subp. 1d. **Child care rate, provider's county of**  
32 **residence.** Child care payments shall be based on the allowable  
33 rates in the provider's county of residence when the provider  
34 resides in Minnesota.

35           Subp. 1e. **Provider rates under child care fund.** Providers  
36 may not charge families receiving assistance under Minnesota

1 Statutes, chapter 256H, a provider rate that is higher than the  
2 private, full-paying client rate.

3 Subp. 1f. **Payment of registration fees.** If a licensed  
4 provider or license-exempt center charges families a  
5 registration fee to enroll children in the program and the  
6 registration fee is not included in the provider rate, the  
7 county shall pay the provider registration fee or the 75th  
8 percentile of the registration fees surveyed in subpart 1,  
9 whichever is less. The county may not pay for more than two  
10 registrations per ~~family~~ child in a 12-month period.  
11 Registration fees greater than the standard set forth in this  
12 subpart are the responsibility of the family.

13 Subp. 1g. **Payment of activity fees.** If, in addition to a  
14 provider's base rate, a provider charges optional activity fees,  
15 the family is responsible for payment of the optional activity  
16 fees. If the provider's activity fees are not optional, the  
17 activity fees shall be incorporated into the base rate and the  
18 provider may be paid up to the 75th percentile provider rate  
19 from the child care fund. When the combined base rate and the  
20 activity fees exceed the 75th percentile provider rate for like  
21 care arrangements, the family is responsible for the amount in  
22 excess of the 75th percentile provider rate.

23 Subp. 2. **Maximum county child care assistance rate.**  
24 Counties shall pay the provider's rate to cover all authorized  
25 hours of child care up to the maximum of 60 hours per child per  
26 week. The maximum rate that a county shall pay for child care  
27 assistance is the provider rate or the 75th percentile rate  
28 determined by the commissioner under subpart 1, whichever is  
29 less.

30 Subp. 3. **Maximum state participation.** The state payment  
31 is limited to the difference between the family copayment fee  
32 and the provider's rate up to a maximum of the 75th percentile  
33 rate determined by the department for like care arrangements in  
34 the county. When the provider's rate for each child in care is  
35 more than the 75th percentile rate for like care arrangements in  
36 the county, the state's payment is limited to the difference

1 between the 75th percentile rate for like care arrangements in  
2 the county and the family's copayment fee.

3 9565.5110 COUNTY RESPONSIBILITIES.

4 Subpart 1. **County child care assistance policies and**  
5 **procedures.** Counties shall adopt policies and procedures for  
6 providing child care assistance to enable eligible applicants to  
7 seek or retain employment or to participate in education or  
8 training programs. All county policies that apply to child care  
9 assistance must be in writing and must be included in the  
10 county's biennial allocation plan required under part 9565.5120.

11 Subp. 2. **Child care assistance information.** The county  
12 shall provide information on child care assistance to child care  
13 service providers, social service agencies, and the local news  
14 media as it deems necessary to ensure the full use of its child  
15 care fund allocation. The county shall inform individuals who  
16 inquire about child care of the availability of child care  
17 assistance and child care resource and referral services.

18 Subp. 2a. **County termination of application approval for**  
19 **failure to select a provider.** A county may terminate approval  
20 of the child care assistance application for a family that fails  
21 to select a provider within 30 calendar days from the date the  
22 application is approved. The county must provide notice to a  
23 family under subpart 12 when terminating approval of the child  
24 care assistance application.

25 Subp. 2b. **Determination of providers eligible for**  
26 **payments.** The county's process for approving providers eligible  
27 for payments under the child care fund may not exceed 30  
28 calendar days, or 45 calendar days with the approval of the  
29 applicant, from the date the child care application is approved  
30 or the date the child care provider is selected by the  
31 applicant, whichever is later. Reimbursement for child care  
32 expenses must begin retroactive to the date of the signed  
33 application for eligible services, the beginning date of  
34 participation in an authorized education or employment activity,  
35 or the date the applicant selected the eligible provider,

1 whichever is later. If the county determines that a provider  
2 chosen by an applicant is not eligible to receive child care  
3 payments under the child care fund, the applicant may appeal the  
4 county's determination under part 9565.5200.

5 **Subp. 2c. Registration of legal nonlicensed caregivers.**

6 Before the county issues a provider payment to a legal  
7 nonlicensed caregiver, the caregiver must be registered with the  
8 county. To be registered with the county, the provider is  
9 required to supply the county with the provider's name, social  
10 security number, age, and address of the caregiver, the provider  
11 rate, and a release to permit information on substantiated  
12 parental complaints concerning the health and safety of children  
13 in their care to be disclosed to the public subject to Minnesota  
14 Statutes, chapter 13. In addition to other registration  
15 requirements, legal nonlicensed caregivers must comply with  
16 state and local health ordinances and building and fire codes  
17 applicable to the premise where child care is provided. The  
18 county shall provide each registered caregiver health and safety  
19 material supplied by the department and shall refer the  
20 registered caregiver to the child care resources and referral  
21 agency. A county shall not authorize the payment of child care  
22 assistance to a legal nonlicensed caregiver who is not  
23 registered.

24 **Subp. 2d. Parental complaints against legal nonlicensed**  
25 **caregivers.** Within 24 hours of receiving a parental complaint  
26 concerning the health or safety of children under the care of a  
27 legal nonlicensed caregiver, a county must relay the complaint  
28 to:

29 A. the county's child protection agency if the  
30 parental complaint alleges child maltreatment as defined in  
31 Minnesota Statutes, section 626.556, subdivision 10e;

32 B. the county's public health agency if the parental  
33 complaint alleges a danger to public health due to communicable  
34 disease, unsafe water supply, sewage or waste disposal, or  
35 building structures;

36 C. local law enforcement if the parental complaint

1 alleges criminal activity that may endanger the health or safety  
2 of children under care; or

3 D. other agencies with jurisdiction to investigate  
4 complaints relating to the health and safety of a child.

5 If a complaint is substantiated under item A, the county  
6 must keep a record of the substantiated complaint as provided in  
7 Minnesota Statutes, section 626.556. If a complaint is  
8 substantiated under items B to D, the county must keep a record  
9 of the substantiated complaint for three years. Upon request,  
10 information governing substantiated complaints shall be released  
11 to the public as authorized under Minnesota Statutes, chapter  
12 13. Upon receiving notice of a substantiated complaint under  
13 items A to D, the county shall not make subsequent payments to  
14 that provider from the child care fund.

15 Subp. 3. **County contracts and designation of administering**  
16 **agency.** Counties may contract for the administration of the  
17 child care fund or may arrange for child care funds to be used  
18 by other designated programs. The county shall designate the  
19 agency authorized to administer the child care fund.

20 Subp. 3a. **Agreement with employment and training service**  
21 **providers.** The county shall develop cooperative agreements with  
22 employment and training service providers to coordinate child  
23 care funding with employment, training, and education programs  
24 for all AFDC Project STRIDE caretakers. The cooperative  
25 agreement shall specify that AFDC caretakers eligible for  
26 Project STRIDE who are receiving employment, training, and  
27 education services under an EDP shall be guaranteed child care  
28 assistance from the county responsible for the AFDC caretaker's  
29 EDP.

30 [For text of subp 4, see M.R.]

31 Subp. 5. **Eligibility priorities for beginning assistance.**  
32 If a county's basic sliding fee program allocation for child  
33 care is insufficient to fund all applications for child care  
34 assistance, the county shall prioritize eligibility among the  
35 groups that remain to be served after the county has complied  
36 with the priority requirements set forth in Minnesota Statutes,

1 section 256H.03, subdivision 2b. The county shall include its  
2 rationale for the prioritization of eligibility for beginning  
3 assistance in its biennial allocation plan. To the extent of  
4 available allocations, no eligible family may be excluded from  
5 receiving child care assistance.

6 Subp. 6. [See repealer.]

7 Subp. 7. **Funding waiting list for basic sliding fee.** If  
8 it appears that a family is or will be eligible for child care  
9 assistance and funds are not immediately available, the county  
10 shall place the family on a basic sliding fee waiting list.  
11 Families on the waiting list shall be moved into the basic  
12 sliding fee program as funding permits based on the county  
13 priorities adopted under subpart 5. Transition year child care  
14 families must be put on the basic sliding fee program waiting  
15 list as provided in part 9565.5030, subpart 7a.

16 Subp. 7a. **Waiting list, non-STRIDE AFDC caretakers.**  
17 Counties must keep a written list of AFDC caretakers not  
18 eligible for Project STRIDE who request ACCESS child care  
19 assistance.

20 Subp. 7b. **Intermittent assistance.** For no more than 90  
21 days for employed recipients and one academic quarter for  
22 recipients in an education or training program, the county may  
23 reserve a family's position under the child care fund if the  
24 family has been receiving or is approved to receive child care  
25 assistance but is temporarily ineligible for assistance due to  
26 income, education, or family status. The county's policy for  
27 reserving the position of families temporarily ineligible for  
28 child care assistance must be in writing and must be included in  
29 the biennial allocation plan required in part 9565.5120. If  
30 there are temporary breaks during the year when child care is  
31 not needed but the family remains eligible for child care  
32 assistance, there is a suspension of the child care benefit but  
33 not child care eligibility.

34 [For text of subp 8, see M.R.]

35 Subp. 9. [See repealer.]

36 Subp. 10. [See repealer.]

1 Subp. 10a. Just cause for terminating child care  
2 assistance. Items A to C constitute just cause for terminating  
3 child care assistance.

4 A. The failure of a recipient to:

5 (1) select a provider within the time limit under  
6 part 9565.5025, subpart 5a;

7 (2) provide the administering agency required  
8 information or documentation;

9 (3) report changes required under part 9565.5025,  
10 subpart 3; or

11 (4) pay the provider charge if the state share of  
12 the child care assistance is paid directly to the family or to  
13 pay the family copayment fee if the state share of the child  
14 care assistance is vendor paid.

15 B. The recipient wrongfully obtains child care  
16 assistance due to fraud.

17 C. A county may terminate child care assistance if  
18 the county's child care allocation is insufficient to fund the  
19 child care needs of families currently receiving child care  
20 assistance. When available child care funds are insufficient to  
21 permit continued child care assistance to all families currently  
22 receiving assistance, the county may terminate assistance to  
23 families in the order of last on, first off. The county must  
24 consult with the commissioner before terminating assistance  
25 under this item. When funds become available, counties must  
26 reinstate families that remain eligible for child care  
27 assistance and whose child care assistance was terminated due to  
28 insufficient funds before the county accepts new applications.  
29 Those families whose child care assistance was most recently  
30 terminated due to insufficient funds shall be reinstated first.

31 Subp. 10b. Notice of termination of child care assistance  
32 to recipients. The county shall notify a recipient, in writing,  
33 of termination of child care assistance. The notice shall state  
34 the reason or reasons the assistance is being terminated. The  
35 notice shall inform the recipient of the right to appeal the  
36 adverse action and the procedure for doing so. The notice shall



1 inform the recipient that if the recipient appeals the proposed  
2 action before the effective date of termination, the action  
3 shall not be taken until the appeal has had a fair hearing and  
4 that benefits paid during the appeal process will be subject to  
5 recovery if the termination is upheld. Except for cases of  
6 suspected fraud, the notice must be mailed to the recipient's  
7 last known address at least 15 calendar days before terminating  
8 assistance. In cases of suspected fraud, the termination notice  
9 must be mailed at least five working days before the effective  
10 date of the termination.

11 Subp. 10c. **Notice of termination of child care assistance**  
12 **to vendors.** If the child care assistance is made by vendor  
13 payment, the county shall inform the child care provider that  
14 unless the family requests to continue to receive assistance  
15 pending an appeal, child care payments will no longer be made.  
16 The notice to a vendor shall not contain any private data on the  
17 family or information on why payments will no longer be made.

18 Subp. 10d. **Child care payments when termination is**  
19 **appealed.** If the recipient appeals the proposed action before  
20 the effective date of termination, the action shall not be taken  
21 until the appeal has had a fair hearing as provided under part  
22 9565.5200, subpart 1. Child care assistance paid pending a fair  
23 hearing is subject to recovery to the extent that the  
24 commissioner finds on appeal that the recipient was not eligible  
25 for the amount of child care assistance paid. The county shall  
26 seek voluntary repayment or initiate civil court proceedings to  
27 recover child care assistance payments under this subpart. A  
28 recipient may appeal the termination of child care assistance  
29 and choose not to receive child care assistance pending the  
30 appeal. If the commissioner finds on appeal that child care  
31 assistance should not have been terminated, the county shall  
32 reimburse the recipient for documented child care payments made  
33 pending the appeal.

34 Subp. 11. **Recoupment of overpayments.** When a county  
35 discovers that a family has received an overpayment for one or  
36 more months, the county shall recoup the overpayment even when

1 the overpayment is due to agency error or to other circumstances  
2 outside the responsibility or control of the family. The county  
3 shall recoup overpayments that occurred up to 12 months before  
4 the month the overpayment is discovered according to items A to  
5 C. A county may pursue recovery of an overpayment that extends  
6 beyond the 12-month period through means of collection other  
7 than recoupment.

8           A. The county shall notify the family of the  
9 overpayment in writing. A notice of overpayment must specify  
10 the reason for the overpayment, the time period in which the  
11 overpayment occurred, the amount of the overpayment, and the  
12 family's right to appeal the county's recoupment of the  
13 overpayment.

14           B. The county shall redetermine the family's  
15 eligibility for child care assistance. If the family remains  
16 eligible for child care assistance, the county shall recoup the  
17 overpayment under subitem (1), (2), or (3).

18           (1) Except as provided in subitem (3), when the  
19 family's income is less than or equal to the federal poverty  
20 level, the county shall reduce child care assistance by \$20 per  
21 month until the debt is retired.

22           (2) Except as provided in subitem (3), if a  
23 family's income is greater than the federal poverty level the  
24 county shall reduce monthly child care assistance by the larger  
25 of eight percent of the overpayment or \$20, not to exceed two  
26 times the family copayment fee under part 9565.5070, subpart 3,  
27 until the debt is retired.

28           (3) A county shall reduce child care assistance  
29 by an amount equal to 16 percent of the overpayment until the  
30 debt is retired when an overpayment is due to a family's failure  
31 to provide accurate information on household status, income, or  
32 employment or education status; a family's failure to report a  
33 change under part 9565.5025, subpart 3, on two or more occasions  
34 and the failure to report caused the overpayment; or the amount  
35 of the overpayment is greater than \$1,000.

36           C. If the family no longer remains eligible for child

1 care assistance, the county may choose to initiate efforts to  
2 recover overpayments from the family for overpayment less than  
3 \$50. When the amount of the overpayment is greater than or  
4 equal to \$50, the county shall seek voluntary repayment of the  
5 overpayment from the family. If the county is unable to recoup  
6 the overpayment through voluntary repayment, the county shall  
7 initiate civil court proceedings to recover the overpayment  
8 unless the county's costs to recover the overpayment will exceed  
9 the amount of the overpayment. A family with an outstanding  
10 debt under this item is not eligible for child care assistance  
11 until the debt is paid in full or satisfactory arrangements are  
12 made with the county to retire the debt.

13 Subp. 12. **Notice to recipients of adverse actions.** In  
14 addition to providing recipients notice of termination under  
15 subpart 10b, the county must give recipients notice of any  
16 adverse actions affecting the recipient. Actions requiring  
17 notice include:

- 18 A. termination of an application for failure to  
19 select a provider;  
20 B. a reduction in hours of service;  
21 C. an increase in copayment;  
22 D. a denial of an education plan;  
23 E. an adverse determination of provider eligibility;  
24 and  
25 F. county intent to recoup an overpayment.

26 The notice shall describe the action and the reason the  
27 action is being taken. The notice shall be in writing and shall  
28 inform the recipient of the effective date of the change, the  
29 right to appeal any adverse action, and the procedure for doing  
30 so.

31 9565.5120 CHILD CARE FUND ALLOCATION PLAN.

32 Subpart 1. **Submittal of plan.** By the date established by  
33 the commissioner, the county shall submit to the commissioner a  
34 biennial child care fund allocation plan. The commissioner may  
35 require updates of information in the allocation plan as

1 necessary to comply with parts 9565.5000 to 9565.5200, Minnesota  
2 Statutes, sections 256H.01 to 256H.19, and federal law.

3 Subp. 2. Plan content. The allocation plan shall contain:

4 [For text of item A, see M.R.]

5 B. information regarding the number of families that  
6 requested child care assistance in the year immediately  
7 preceding the period covered by the allocation plan, the number  
8 of eligible families the county is able to serve in each  
9 program, the county's procedure for prioritizing child care  
10 assistance, and the number of families on a waiting list for  
11 child care assistance;

12 C. methods the county uses to inform families of the  
13 availability of child care assistance and copies of county  
14 policies regarding child care services;

15 D. information, as requested, on provider rates paid  
16 by provider type;

17 E. the county's policy for approving and extending  
18 child care assistance for parents whose education programs  
19 change;

20 F. the county's policy for providing child care  
21 assistance to families needing intermittent child care  
22 assistance under part 9565.5110, subpart 7;

23 G. a statement that the county has not reduced child  
24 care funding as required under Minnesota Statutes, section  
25 256H.12, subdivision 3;

26 H. copies of all subcontracts governing program  
27 administration if the administering agency is not the county;

28 I. the county's eligibility priority for ACCESS child  
29 care; and

30 J. other information, as requested by the  
31 commissioner, that describes the county's policies and  
32 procedures used to administer the child care fund.

33 [For text of subp 3, see M.R.]

34 9565.5130 DUTIES OF ADMINISTERING AGENCY.

35 Subpart 1. Child care assistance information. The

1 administering agency shall provide families with information  
2 supplied by the department regarding the availability of federal  
3 and state child care tax credits and federal earned income tax  
4 credits. At the time of the request for child care assistance,  
5 the administering agency shall inform the family of the  
6 following:

7           A. eligibility requirements under the child care fund  
8 and documentation necessary to confirm eligibility;

9           B. the existence of a child care assistance waiting  
10 list and the number of families on the waiting list;

11           C. the procedure for applying for child care  
12 assistance;

13           D. the family copayment fee schedule and how the fee  
14 is computed; and

15           E. the family's rights and responsibilities when  
16 choosing a provider.

17           Subp. 2. **Application procedure.** An administering agency  
18 must follow the application procedures in items A to D.

19           A. If it appears that a family is eligible for child  
20 care assistance and funds are available or if a family requests  
21 an application, the administering agency shall mail or hand the  
22 family a child care assistance application.

23                           [For text of items B to D, see M.R.]

24           Subp. 3. **Date of eligibility for assistance.** The date of  
25 eligibility for child care assistance under parts 9565.5030 and  
26 9565.5060 is the later of the date the application was signed;  
27 the beginning date of employment, education, or training; or the  
28 date a determination has been made that the applicant is a  
29 participant in employment and training programs under part  
30 9565.5060, subpart 2a or Minnesota Statutes, section 256.736.  
31 The date of eligibility for child care assistance under part  
32 9565.5065 is the date the family ceased to be eligible for AFDC  
33 as a result of increased hours of employment, increased income  
34 from employment, or the loss of disregards due to time  
35 limitations. Upon approval of the application for assistance  
36 under part 9565.5065, child care assistance shall be made

1 retroactive to the date the family ceased to be eligible for  
2 AFDC if all other provisions of parts 9565.5000 to 9565.5200 are  
3 met.

4 The notice of approval of the application must state the  
5 following:

6 A. the beginning date of eligibility;

7 B. that any change in income, address, family size,  
8 marital status, provider, or employment, education, or training  
9 status must be reported within ten calendar days from the date  
10 the change occurs; and

11 C. that, if child care assistance is terminated, the  
12 recipient will be informed of the reason for the termination and  
13 providers who receive vendor payments will be informed that,  
14 unless the family requests to continue to receive assistance  
15 pending an appeal, child care payments will no longer be made.

16 9565.5140 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE  
17 ASSISTANCE.

18 Subpart 1. Proof of income eligibility. An applicant  
19 requesting child care assistance must provide proof of income  
20 eligibility. For the purpose of determining income eligibility,  
21 annual income is the income of the family for the current month  
22 multiplied by 12, the income for the 12-month period immediately  
23 preceding the date of application, or the income for the time  
24 period that provides the most accurate assessment of annual  
25 income available to the family. The administering agency must  
26 use the method that provides the most accurate assessment of  
27 annual income currently available to the family. Income must be  
28 verified with documentary evidence. If the applicant does not  
29 have sufficient evidence of income, verification must be  
30 obtained from the source of income.

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

32 Subp. 4. Determination of annual gross income. The income  
33 standard for determining eligibility for child care assistance  
34 is annual gross income. Annual gross income is the sum of gross  
35 earned income, self-employment income, unearned income, and lump

1 sum payments. Gross earned income, self-employment income,  
2 unearned income, and lump sum payments must be calculated  
3 separately.

4 [For text of subp 5, see M.R.]

5 Subp. 6. **Excluded income.** The administering agency shall  
6 exclude items A to G from annual gross income:

7 A. scholarships, work-study income, and grants that  
8 cover costs for tuition, fees, books, and educational supplies;

9 B. student loans for tuition, fees, books, supplies,  
10 and living expenses;

11 C. earned income tax credits, in-kind noncash public  
12 assistance income such as food stamps, energy assistance, child  
13 care assistance, medical assistance, and housing subsidies;

14 [For text of items D to G, see M.R.]

15 [For text of subps 7 to 10, see M.R.]

16 Subp. 11. **Determination of rental income.** Income from  
17 rental property is considered self-employment earnings when the  
18 owner spends an average of 20 or more hours per week on  
19 maintenance or management of the property. The administering  
20 agency shall deduct an amount for upkeep and repairs according  
21 to subpart 8, item L, for real estate taxes, insurance,  
22 utilities, and interest on principal payments. When a family  
23 lives on the rental property, the administering agency shall  
24 divide the expenses for upkeep, taxes, insurance, utilities, and  
25 interest by the number of units to determine the expense per  
26 unit. The administering agency shall deduct expenses from  
27 rental income only for the number of units rented, not for units  
28 occupied by family members. When an owner does not spend an  
29 average of 20 or more hours per week on maintenance or  
30 management of the property, income from rental property is  
31 considered unearned income. The deductions described in this  
32 subpart are subtracted from gross rental receipts.

33 [For text of subps 12 and 13, see M.R.]

34 9565.5150 REDETERMINATION OF ELIGIBILITY.

35 The county shall redetermine a family's eligibility for

1 child care assistance and the family's copayment fee when  
2 notified by the family of a change in the information required  
3 to be reported in part 9565.5025, subpart 3, or at least every  
4 six months, whichever occurs first.

5 A redetermination of eligibility shall not be treated as a  
6 new application for child care assistance. If, as a result of  
7 redetermination of eligibility, a family is found to be  
8 ineligible for further child care assistance, the county shall  
9 terminate the child care assistance as provided in part  
10 9565.5110, subpart 10.

11 9565.5160 QUARTERLY FINANCIAL AND PROGRAM ACTIVITY REPORTS.

12 Counties shall submit, in the manner prescribed by the  
13 commissioner, a quarterly financial and program activity  
14 report. The report is due within 20 calendar days after the end  
15 of each quarter. The financial and program activity report must  
16 include:

17 A. a detailed accounting of the expenditures and  
18 revenues for the child care fund during the preceding quarter by  
19 funding source and eligibility group;

20 B. a description of child care activities and  
21 expenditures that are reimbursable under state and federal  
22 reimbursement programs; and

23 C. other information concerning financial or program  
24 activity as requested by the department.

25 9565.5200 FAIR HEARING PROCESS.

26 Subpart 1. **Hearing request.** An applicant or recipient of  
27 child care assistance adversely affected by an administering  
28 agency's action may request a fair hearing according to  
29 Minnesota Statutes, section 256.045, subdivision 3.

30 [For text of subp 2, see M.R.]

31 REPEALER. Minnesota Rules, parts 9565.5010, subparts 6, 7, 13,  
32 23, 24, and 33; 9565.5025, subpart 4; 9565.5030, subparts 2, 3,  
33 and 8; 9565.5040; 9565.5060, subparts 1, 3, 4, 5, 6, and 7; and  
34 9565.5110, subparts 6, 9, and 10, are repealed.