

1.1 **Minnesota Department of Human Services**

1.2 **Proposed Permanent Rules Relating to the Child Care Fund**

1.3 **3400.0020 DEFINITIONS.**

1.4 [For text of subps 1 to 10, see M.R.]

1.5 Subp. 10a. **Authorized hours.** "Authorized hours" means the number of hours in a
1.6 service period, not to exceed the maximum hour limit established in Minnesota Statutes,
1.7 section 119B.09, subdivision 6, that may be paid for child care for a child.

1.8 [For text of subps 11 to 18, see M.R.]

1.9 Subp. 18a. **DWP.** "DWP" means the diversionary work program established in
1.10 Minnesota Statutes, section 256J.95.

1.11 [For text of subp 19, see M.R.]

1.12 Subp. 20. **Eligible relative caregiver.** "Eligible relative caregiver" means a person
1.13 identified under Minnesota Statutes, section 256J.08, subdivision 11, (1) who is a caregiver
1.14 of a dependent child receiving a MFIP grant but who is not a member of the assistance unit
1.15 or (2) who is an MFIP participant and the caregiver of a child. After an eligible relative
1.16 caregiver begins receiving child care assistance, status as an eligible relative caregiver
1.17 continues through all child care assistance programs until there is a break in the eligible
1.18 relative caregiver's eligibility for child care assistance.

1.19 [For text of subps 21 to 23, see M.R.]

1.20 Subp. 24. **Family copayment fee.** "Family copayment fee" means the amount parent
1.21 fee the family must contribute as its share of child care costs as determined under part
1.22 3400.0100, subparts 3 to 4 Minnesota Statutes, section 119B.12.

1.23 [For text of subps 25 to 32, see M.R.]

1.24 Subp. 32a. [See repealer.]

2.1 [For text of subp 32b, see M.R.]

2.2 Subp. 33. **Overpayment.** "Overpayment" means the portion of a child care payment
2.3 that is greater than the amount for which a recipient is eligible or greater than the amount a
2.4 provider should have received.

2.5 [For text of subps 34 to 38a, see M.R.]

2.6 Subp. 38b. **Scheduled hours.** "Scheduled hours" means the specific days and hours
2.7 during a service period that a child will attend child care as determined by the child care
2.8 worker, the parent, and the provider based on the parents' verified eligible activities
2.9 schedules, the child's school schedule, and any other factors relevant to the family's child
2.10 care needs.

2.11 Subp. 39. **State median income.** "State median income" means the state's annual
2.12 median income for a family of ~~four~~ three, adjusted for family size, developed by the
2.13 Bureau of Census and published annually by the United States Department of Health and
2.14 Human Services in the Federal Register.

2.15 Subp. 40. **Student.** "Student" means an individual enrolled in an educational program
2.16 as defined in Minnesota Statutes, section 119B.011, subdivision 11. A non-MFIP student
2.17 is a full-time student if the student is ~~enrolled in the minimum equivalent of 12 credits or~~
2.18 ~~20 hours of classroom training per week~~ defined by the student's educational institution as
2.19 a full-time student. A non-MFIP student is a part-time student if the student is ~~enrolled in~~
2.20 ~~a minimum equivalent of six credits or ten hours of classroom training per week up to~~
2.21 ~~the minimum equivalent of full-time student status~~ defined by the student's educational
2.22 institution as a part-time student. A MFIP student is a student who is in compliance with
2.23 the education or training requirements in the student's employment plan.

2.24 [For text of subps 40a to 44, see M.R.]

2.25 **3400.0035 APPLICATION PROCEDURE.**

3.1 Subpart 1. **Response to informational requests.** When a family asks for information
3.2 about child care assistance, the administering agency must give the family information
3.3 supplied by the department regarding the availability of federal and state child and
3.4 dependent care tax credits; federal earned income tax credits; Minnesota working family
3.5 credits; early childhood family education, school readiness, and Head Start programs;
3.6 early childhood screening; MinnesotaCare; child care resource and referral services; other
3.7 programs with services for young children and families; and the postsecondary child care
3.8 grant program established in Minnesota Statutes, section 136A.125. The administering
3.9 agency also must inform the family of the following items:

3.10 [For text of items A to J, see M.R.]

3.11 Subp. 2. **Application procedure.** An administering agency must follow the
3.12 application procedures in items A and B.

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

3.14 B. If a family requests child care assistance and funds are not available, the
3.15 administering agency must inform the family of a waiting list, screen the family for
3.16 potential eligibility, and place the family on the waiting list if they appear eligible. The
3.17 administering agency must place the family on the waiting list in the highest priority for
3.18 which the family is eligible. As child care funds become available, the administering
3.19 agency must inform the family at the head of the waiting list and ask the family to
3.20 complete an application.

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

3.22 [For text of subps 3 and 4, see M.R.]

3.23 Subp. 5. **Notice of approval.** If the administering agency approves the application,
3.24 the administering agency must send the applicant a notice of approval of the application.
3.25 The notice of approval must specify the information in items A to I:

4.1 [For text of items A to D, see M.R.]

4.2 E. ~~except in cases involving alleged child abuse by a provider or a complaint that~~
4.3 where the license of a provider licensed by the state of Minnesota has been temporarily
4.4 immediately suspended or where there is an imminent risk of harm to the health and,
4.5 safety, or rights of a child in care is in imminent danger with a legal nonlicensed provider,
4.6 license exempt center, or a provider licensed by an entity other than the state of Minnesota,
4.7 any change in provider must be reported to the county and the provider at least 15 calendar
4.8 days before the change occurs;

4.9 [For text of items F to I, see M.R.]

4.10 Subp. 6. **Notice to provider.** If the administering agency approves an application, the
4.11 administering agency must send the family's authorized provider a notice containing only
4.12 the following information: the family's name; the fact that the family's request for child
4.13 care assistance has been approved; the hours of care authorized; the maximum rate that
4.14 may be paid by the child care assistance program; the number of absent days that have been
4.15 paid for the child for the year as of the date of the notice; and how payments will be made.

4.16 [For text of subps 7 to 9, see M.R.]

4.17 **3400.0040 GENERAL ELIGIBILITY REQUIREMENTS AND ASSISTANCE**
4.18 **STANDARDS TO BE MET BY ALL APPLICANTS AND PARTICIPANTS.**

4.19 [For text of subps 1 and 2, see M.R.]

4.20 Subp. 3. **Documentation of eligibility information.**

4.21 A. An applicant for child care assistance must document the:

4.22 [For text of subitems (1) to (5), see M.R.]

4.23 (6) work, education, or training activity status for all applicants as defined
4.24 in Minnesota Statutes, section 119B.011, subdivision 2.

4.25 [For text of item B, see M.R.]

5.1 C. The county must determine an applicant's eligibility for child care assistance
5.2 at the time of application. The county must redetermine eligibility ~~whenever there is a~~
5.3 ~~change in the family's status as specified in subpart 4, and at each redetermination under~~
5.4 according to part 3400.0180.

5.5 Subp. 4. **Participant reporting responsibilities.**A participant must meet the
5.6 reporting requirements in items A and B. A participant may report a change in person, by
5.7 telephone, by facsimile, or by mail, including electronic mail.

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

5.9 B. Except in cases ~~involving alleged child abuse by a provider or a complaint~~
5.10 ~~that~~ where the license of a provider licensed by the state of Minnesota has been temporarily
5.11 immediately suspended or where there is an imminent risk of harm to the health and,
5.12 safety, or rights of a child in care is in imminent danger with a legal, nonlicensed provider,
5.13 license exempt center, or provider licensed by an entity other than the state of Minnesota,
5.14 a participant must notify the county and the provider of the intent to change providers at
5.15 least 15 calendar days before changing providers.

5.16 Subp. 5. **Employment, education, and training requirements.**In a family with a
5.17 single parent, or unmarried legal guardian or eligible relative caregiver, the applicant
5.18 or participant must meet employment, education, or training requirements and other
5.19 eligibility requirements in this part and in part 3400.0060, 3400.0080, or 3400.0090 for
5.20 the child care assistance program for which the family is applying or in which the family
5.21 is participating.

5.22 In a family with ~~two parents, a parent and stepparent, a legal guardian and spouse,~~
5.23 ~~or an eligible relative caregiver and spouse~~ more than one parent or any combination of

5.24 parents, stepparents, legal guardians, and spouses; and eligible relative caregivers and
5.25 spouses, at least one parent, legal guardian, eligible relative caregiver, or spouse must
5.26 meet employment, education, or training requirements and other eligibility requirements
6.1 in this part and in part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance
6.2 program for which the family is applying or participating in. The other ~~parent~~ parents,
6.3 legal ~~guardian~~ guardians, eligible relative ~~earegiver~~ caregivers, or ~~spouse~~ spouses must:

6.4 [For text of items A and B, see M.R.]

6.5 [For text of subps 5a to 6b, see M.R.]

6.6 Subp. 6c. **Date of eligibility for assistance.** The date of eligibility for child care
6.7 assistance under parts 3400.0060 and 3400.0080 must be determined according to
6.8 Minnesota Statutes, section 119B.09, subdivision 7. The date of eligibility for child care
6.9 assistance under part 3400.0090 is the date the family's MFIP or DWP case was closed.

6.10 Subp. 7. **Maximum ~~weekly~~ biweekly child care assistance.** A family may not
6.11 receive more than 120 hours of child care assistance per child every two weeks.

6.12 Subp. 8. **Child care assistance during employment.**

6.13 [For text of items A and B, see M.R.]

6.14 C. When a participant does not work by the hour and is not paid an hourly wage,
6.15 the participant's ~~gross~~ earned income over a given period must be divided by the minimum
6.16 wage to determine whether the participant has met the requirement to average at least 20
6.17 hours of work per week at minimum wage.

6.18 D. Child care assistance during employment shall be ~~granted~~ authorized for
6.19 the number of hours scheduled to be worked, including break and meal time during the
6.20 employment, and up to two hours per day for travel time.

6.21 Subp. 9. **Child care assistance in support of employment.** A county must ~~grant~~
6.22 authorize child care assistance in support of employment for nonwork hours when the
6.23 following conditions exist:

6.24 [For text of items A and B, see M.R.]

7.1 Subp. 10. **Child care assistance during education or training.** Counties shall
7.2 provide child care assistance to students eligible under part 3400.0060 or 3400.0080 and
7.3 enrolled in county-approved education or training programs or employment plans
7.4 according to items A to C.

7.5 A. Counties must ~~grant~~ authorize child care for full-time students:

7.6 (1) ~~child care on a half-day or full-day basis~~ for the days of class and on
7.7 nonclass days, if needed for study, as determined by the county; ~~or,~~ not to exceed the
7.8 maximum biweekly child care allowed.

7.9 (2) ~~child care on a weekly basis.~~

7.10 B. Counties must ~~grant~~ authorize part-time students child care as needed for:

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

7.13 (2) time periods between nonconsecutive classes;

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

7.15 (4) two hours per week per credit hour for postsecondary students for study
7.16 and academic appointments.

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

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

7.21 Subp. 11. **Child care assistance during employment and education or**
7.22 **training.** Employed students, including students on work study programs, are eligible for
7.23 child care assistance during employment and education or training. Counties shall use the
7.24 standards in subparts 8 and 10 to determine the amount of child care assistance. When
7.25 full-time students request child care for employment, the employment hours must average
8.1 at least ten hours per week at minimum wage. For purposes of determining whether the ten
8.2 hours at minimum wage requirement in this subpart applies to a student, a full-time student
8.3 retains full-time status during school breaks, including summers, if the student is expected
8.4 to return to school full time after the break. Students eligible for child care assistance under
8.5 part 3400.0080 are exempt from ~~this~~ the ten hours per week at minimum wage requirement
8.6 if they have an approved employment plan that allows fewer work hours or a lower wage.
8.7 For purposes of determining whether the ten hours at minimum wage requirement in this
8.8 subpart has been met, work-study hours and income must be counted as employment.

8.9 Subp. 12. **Acceptable course of study.** An acceptable course of study for a student
8.10 eligible under part 3400.0060 is an education or training program approved by the county
8.11 that will reasonably lead to full-time employment opportunities as determined by the
8.12 county. An acceptable course of study for a student eligible under part 3400.0080 is an
8.13 approved education or training program described in the MFIP ~~caregiver's~~ participant's
8.14 employment plan.

8.15 [For text of subp 13, see M.R.]

8.16 Subp. 14. **Maximum education or training under child care fund.** The maximum
8.17 length of time a student is eligible for child care assistance under the child care fund for
8.18 education or training is described in items A to D.

8.19 [For text of items A and B, see M.R.]

8.20 C. A student eligible under part 3400.0060 who has completed or who has
 8.21 participated in but failed to complete an education or training program under the child care
 8.22 fund may receive child care assistance for a second education or training program if:

8.23 (1) ~~the student has been unable to find full-time employment;~~

8.24 (2) ~~at least one year has passed since the student participated in or~~
 8.25 ~~completed the first program;~~

9.1 (3) (1) the new education or training program is approved by the county; and

9.2 (4) (2) the county expects that completing the program will lead to full-time
 9.3 employment.

9.4 ~~The one-year requirement in subitem (2) does not apply when the student's first~~
 9.5 ~~education or training program was a basic or remedial education program needed to~~
 9.6 ~~prepare for post-secondary education or employment as described in Minnesota Statutes,~~
 9.7 ~~section 119B.07.~~

9.8 D. A student eligible under part 3400.0060 with a baccalaureate degree may
 9.9 only obtain child care assistance for education or training if the education or training
 9.10 is for continuing education units or certification, or coursework that is related to the
 9.11 baccalaureate degree or current employment and that is necessary to update credentials
 9.12 to obtain or retain employment.

9.13 [For text of subps 15 to 17, see M.R.]

9.14 Subp. 18. **Suspension.** Counties must suspend, and may not terminate, a family's
 9.15 child care assistance for up to one continuous year if there are temporary breaks when
 9.16 child care assistance is not needed or the family does not have an authorized provider but
 9.17 the family remains eligible for child care assistance.

9.18 **3400.0060 BASIC SLIDING FEE PROGRAM.**

9.19 [For text of subps 1 to 4, see M.R.]

9.20 Subp. 5. **Families eligible for assistance under the basic sliding fee program.**To
9.21 the extent of available allocations, a family is eligible for child care assistance under
9.22 the basic sliding fee program if:

9.23 A. the applicant meets eligibility requirements under part 3400.0040;

9.24 B. the applicant is not a MFIP caregiver or DWP participant; and

10.1 C. the family ~~has an annual gross income that does not exceed 75 percent of~~
10.2 ~~the state median income for a family of four, adjusted for family size~~ meets the income
10.3 eligibility requirements specified in Minnesota Statutes, section 119B.09.

10.4 Subp. 6. **Basic sliding fee program waiting lists.**Counties must keep a written
10.5 record of families who have requested child care assistance. When a family requests
10.6 information about child care assistance, the county shall perform a preliminary
10.7 determination of eligibility. If it appears that a family is or will be eligible for child care
10.8 assistance and funds are not immediately available, the family shall be placed on a child
10.9 care waiting list. ~~Students placed on the basic sliding fee waiting list must be identified as~~
10.10 ~~students on the list.~~ The county must determine the highest priority group for which a
10.11 family qualifies and must notify the family of this determination.

10.12 Families who inquire or apply while they are temporarily ineligible shall be placed
10.13 on the waiting list if it appears they will be eligible for child care assistance. When a
10.14 family advances to the top of the county's waiting list and is temporarily ineligible for
10.15 child care assistance, the county shall leave the family at the top of the list according to
10.16 priority group and serve the applicant who is next on the waiting list unless a different
10.17 procedure is provided in the county's child care fund plan.

10.18 [For text of subp 6a, see M.R.]

10.19 Subp. 7. **Waiting list; transfer of transition year families to the basic sliding**
10.20 **fee program.**

10.21 [For text of items A to D, see M.R.]

10.22 E. When the transition year ends, the county shall move the transition year family
10.23 into the basic sliding fee program. A transition year family that does not come to the top of
10.24 the county's basic sliding fee program waiting list before completion of the transition year
10.25 shall be moved into the basic sliding fee program as funding becomes available according
10.26 to the priority under Minnesota Statutes, section 119B.03, subdivision 4. Transition year
11.1 extension child care may be used to support employment or a job search that meets the
11.2 requirements of Minnesota Statutes, section 119B.10, for the time necessary for the family
11.3 to be moved from the basic sliding fee waiting list into the basic sliding fee program.

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

11.5 **Subp. 9. County child care responsibility when family moves.**

11.6 A. When a family receiving child care assistance from the basic sliding fee
11.7 program moves to a new county within Minnesota, the original county must continue to
11.8 provide child care assistance for two full calendar months after the move if the family
11.9 needs child care and remains eligible for the basic sliding fee program. The family is
11.10 responsible for notifying the new county of residence within ~~30~~ 60 days of moving and
11.11 applying for basic sliding fee assistance in the new county. The limitation in Minnesota
11.12 Statutes, section 119B.09, subdivision 1, paragraph (a), clause (2), regarding the family's
11.13 household income at program entry does not apply when a family receiving assistance
11.14 moves to another county and timely applies under this item to continue receiving
11.15 assistance in the new county.

11.16 B. If there is a waiting list for the basic sliding fee program in the receiving
11.17 county when it assumes responsibility for the family, the receiving county must fund
11.18 child care assistance for the family through the portability pool. Portability pool funding
11.19 must continue for the lesser of six months or until the family is able to receive assistance
11.20 under the receiving county's basic sliding fee program. The family must also be added to

11.21 the basic sliding fee program waiting list according to portability pool priority group in
 11.22 the receiving county effective the date of the move. If the family reaches the top of the
 11.23 waiting list and funds become available before the six months have ended, the receiving
 11.24 county must immediately add the family to its basic sliding fee program. If basic sliding
 11.25 fee funds are not available when the six months has ended, services to the family must
 11.26 be terminated. The family must stay on the waiting list effective the date of the move. If
 12.1 funds become available after the family's child care assistance has been terminated due to
 12.2 the end of the portability pool period, the family must be treated as a new applicant and
 12.3 must have a household income that meets the income requirements in Minnesota Statutes,
 12.4 section 119B.09, subdivision 1, for program entry.

12.5 [For text of items C and D, see M.R.]

12.6 Subp. 10. **Continued eligibility under basic sliding fee program.** A county may
 12.7 not refuse continued child care assistance to a family receiving assistance under the basic
 12.8 sliding fee program when there is a change in the family's financial or household status
 12.9 provided that the family continues to meet the eligibility requirements in this part and the
 12.10 general eligibility requirements in part 3400.0040. Except for the job search time limit
 12.11 under Minnesota Statutes, section 119B.10, subdivision 1, paragraph (a), the education
 12.12 time limit in Minnesota Statutes, section 119B.07; and the time limit for the at-home infant
 12.13 care program in Minnesota Statutes, section ~~119B.061~~ 119B.035, subdivision 4, ~~paragraph~~
 12.14 ~~(a)~~; counties may not set a time limit for eligibility under the basic sliding fee program.

12.15 **3400.0080 MFIP CHILD CARE PROGRAM.**

12.16 Subpart 1. [See repealer.]

12.17 Subp. 1a. **Eligibility of sanctioned MFIP caregiver participant.** A MFIP caregiver
 12.18 participant eligible for child care assistance who has been sanctioned under the MFIP
 12.19 program may receive child care assistance:

12.20 A. for that portion of the ~~earegiver's~~ participant's job search support or
 12.21 employment plan which the ~~earegiver~~ participant is complying with according to
 12.22 Minnesota Statutes, chapter 256J; or

12.23 B. according to Minnesota Statutes, section 119B.05, subdivision 1, clause (1).

12.24 Subp. 1b. **Child care assistance for approved job search.**A MFIP ~~earegiver~~
 12.25 participant who has an approved job search support plan or whose employment plan
 13.1 includes job search as an authorized activity is not limited to 240 hours of job search child
 13.2 care assistance in a calendar year.

13.3 [For text of subps 2 to 7, see M.R.]

13.4 Subp. 8. **County child care responsibility when a family moves to another**
 13.5 **county.**When a MFIP ~~earegiver~~ or DWP participant moves to a new county and the new
 13.6 county accepts responsibility for the ~~earegiver's~~ participant's approved job search support
 13.7 or employment plan under Minnesota Statutes, section 256J.55, subdivision 3, the new
 13.8 county is responsible for providing child care assistance to the MFIP ~~earegiver~~ or DWP
 13.9 participant effective on the date that the county accepted responsibility for the plan. In
 13.10 all other cases, child care assistance must be provided according to Minnesota Statutes,
 13.11 section 256G.07, when a MFIP ~~earegiver~~ or DWP participant moves to a new county.

13.12 **3400.0090 TRANSITION YEAR CHILD CARE.**

13.13 Subpart 1. **Notice to family of eligibility.**The administering agency must notify
 13.14 a family, in writing, at the time the family's MFIP or DWP case closes of the family's
 13.15 potential eligibility for transition year child care. The notification must include
 13.16 information on how to establish eligibility for transition year child care and on the family's
 13.17 rights and responsibilities under the transition year child care program.

13.18 Subp. 2. **Eligibility.** Transition year child care assistance may only be used to support
13.19 employment and job search related expenses. A family is eligible for transition year child
13.20 care if the conditions in items A to D are met.

13.21 A. The family's MFIP or DWP case has closed.

13.22 B. At least one caregiver in the family received MFIP or DWP in at least three
13.23 of the six months immediately preceding the month in which the family's MFIP or DWP
13.24 case was closed. ~~The provision requiring receipt of MFIP in at least three of the preceding~~
14.1 ~~six months does not apply to caregivers who leave the work first program for the reasons~~
14.2 ~~listed in Minnesota Statutes, section 256K.07.~~

14.3 C. ~~The family's annual gross income does not exceed 75 percent of the state~~
14.4 ~~median income for a family of four, adjusted for family size~~ family meets the income
14.5 eligibility requirements specified in Minnesota Statutes, section 119B.09, subdivision 1.

14.6 D. Transition year child care may be paid for the care of a child who would have
14.7 been eligible to receive a MFIP grant, or for children who would have been eligible for
14.8 MFIP, except for the child's receipt of SSI or Title IV-E foster care benefits.

14.9 Eligibility for transition year child care begins the first month after the family's MFIP
14.10 or DWP case has closed and continues for 12 consecutive months. A family's temporary
14.11 ineligibility for, suspension of, or failure to use child care assistance during the transition
14.12 year does not suspend the transition year period. A former MFIP ~~caregiver~~ or DWP
14.13 participant may apply for transition year child care any time during the transition year
14.14 and, notwithstanding the application date, shall receive retroactive transition year child
14.15 care assistance ~~retroactive to the applicant's date of eligibility for transition year child~~
14.16 ~~care if all other eligibility requirements are met.~~ Eligibility for transition year child care
14.17 ~~cannot extend beyond 12 months after the initial date of eligibility for that transition~~
14.18 ~~year child care~~ according to Minnesota Statutes, section 119B.09, subdivision 7. If a
14.19 family was receiving child care assistance when the family's MFIP or DWP case closed,

14.20 determination of eligibility for transition year child care assistance must be treated as a
14.21 redetermination rather than a new application.

14.22 Subp. 3. **Loss of transition year child care eligibility.**A family in which all
14.23 caregivers have been disqualified from receiving MFIP or DWP due to fraud is not eligible
14.24 for transition year child care assistance.

14.25 Subp. 4. **Reestablishment of MFIP or DWP eligibility during transition year**
14.26 **period.**If a transition year family reopens its MFIP or DWP case during the transition year
15.1 period and subsequently meets the conditions in subpart 2, the family qualifies for a new
15.2 12-month transition year period. If the family received MFIP or DWP for only one or two
15.3 of the previous six months, but meets the requirements in subpart 2, items A, C, and D, the
15.4 family is eligible for the remaining months of the transition year, treating the month or
15.5 months on MFIP or DWP as a suspension of the child care benefit but not the transition
15.6 year period. To receive child care assistance while receiving MFIP or DWP, the family
15.7 must meet the MFIP child care requirements under part 3400.0080.

15.8 [For text of subps 5 and 6, see M.R.]

15.9 Subp. 7. [See repealer.]

15.10 [For text of subps 8 and 9, see M.R.]

15.11 **3400.0100 FAMILY COPAYMENT FEE SCHEDULE.**

15.12 [For text of subps 1 and 2, see M.R.]

15.13 Subp. 2a. **Copayment fees to be prorated during start-up month service**
15.14 **period.**Counties must prorate all copayment fees during the month service period when
15.15 the family first receives service based on the number of calendar days remaining in the
15.16 month service period.

15.17 [For text of subps 2b to 4, see M.R.]

15.18 Subp. 5. **Publication of state median income and fee schedule in State**
 15.19 **Register.** The department shall publish annually in the State Register the state median
 15.20 income for a family of ~~four~~ three, adjusted for family size, and a fee schedule ~~based on the~~
 15.21 ~~formula in subpart 4.~~ This information must be published after the date the state median
 15.22 income is published in the Federal Register by the United States Department of Health and
 15.23 Human Services. The department shall also distribute a copy of the fee schedule and the
 15.24 updated estimate of state median income to each county ~~after the information is published~~
 15.25 ~~in the Federal Register. Counties shall begin applying~~ The updated fee schedule ~~yearly~~
 16.1 shall take effect on July 1 or on the first day of the first full quarter following publication
 16.2 of the state median income in the State Register if publication occurs after July 1.

16.3 **3400.0110 CHILD CARE ASSISTANCE PAYMENTS.**

16.4 Subpart 1. **Payment options.** Counties must monitor child care payments to ensure
 16.5 that the funds are used for child care. ~~Counties must make payments only for child care~~
 16.6 ~~costs that are not being paid by any funding source other than the family. Counties may~~
 16.7 ~~make child care payments either by:~~

16.8 A. ~~paying the provider directly or paying the family when services have already~~
 16.9 ~~been provided; or~~

16.10 B. ~~making advance payments directly to the provider or, if the family is~~
 16.11 ~~responsible for paying the provider, to the family when a provider requires payment in~~
 16.12 ~~advance for all families served.~~

16.13 [For text of subp 1a, see M.R.]

16.14 Subp. 2. **Registration Authorization before payment of legal nonlicensed**
 16.15 **providers.** A legal nonlicensed provider must be registered with the county as provided in
 16.16 part 3400.0120, subpart 2, before the county pays a parent or the provider from the child
 16.17 care fund. After a legal nonlicensed provider registers with is authorized by the county,

16.18 the county must pay the provider or parent retroactive to the date in item A, B, or C that
16.19 occurred most recently:

16.20 [For text of items A to C, see M.R.]

16.21 **Subp. 2a. Provisional payment for legal nonlicensed providers.**

16.22 A. ~~When a county's child care fund plan requires an investigation under part~~
16.23 ~~3400.0120, subpart 1b, item B, to be conducted on legal nonlicensed providers, the~~
16.24 ~~county may issue provisional authorization and payment after the provider has met the~~
16.25 ~~registration requirements in part 3400.0120, subpart 2. Continuing authorization and~~
17.1 ~~payment is contingent on the provider receiving final county approval after the results~~
17.2 ~~of the investigation have been reviewed by the county. If the~~ When a legal nonlicensed
17.3 provider who has been provisionally authorized under Minnesota Statutes, section
17.4 119B.125, subdivision 5, does not receive final authorization by the county approval
17.5 ~~after county review of the results of the investigation, the provisional authorization and~~
17.6 ~~payment must be terminated following notice to the provider as required under part~~
17.7 ~~3400.0185 and Minnesota Statutes, section 119B.13, subdivision 5. The county must~~
17.8 ~~notify the family using the ineligible provider that the family must choose a new provider~~
17.9 ~~to continue receiving child care assistance. A provider's failure to receive final county~~
17.10 ~~approval after county review of the results of an investigation~~ authorization does not cause
17.11 ~~payments made during the provisional authorization period to be overpayments.~~

17.12 B. If a family appeals the adverse determination of provider eligibility and,
17.13 while the appeal is pending, continues to use the provider who failed to receive final
17.14 ~~county approval~~ authorization, payments made after the notice period are subject to
17.15 recovery as overpayments.

17.16 **Subp. 3. County authorization of child care.**~~If a provider charges on a half-day,~~
17.17 ~~full-day, or weekly basis, a county must authorize child care using the same basis on which~~
17.18 ~~the provider charges. If a provider does not charge on a half-day, full-day, or weekly~~

17.19 ~~basis, a county still may authorize child care on a half-day, full-day, or weekly basis if the~~
 17.20 ~~activities authorized for the family justify payment for the block of time. Combinations of~~
 17.21 ~~hourly, half-day, or full-day child care may be paid when more than ten hours of child care~~
 17.22 ~~are authorized in a 24-hour period. Within the limits set by this chapter and Minnesota~~
 17.23 ~~Statutes, chapter 119B, the amount of child care authorized must reflect the child care~~
 17.24 ~~needs of the family and minimize out-of-pocket child care costs to the family. The~~
 17.25 ~~amount of child care authorized must be based on the parents' schedule of participation in~~
 17.26 ~~authorized activities, the child's school schedule, the provider's availability, and any other~~
 17.27 ~~factors that would affect the amount of care that the child needs. The county must pay~~
 18.1 ~~the provider's full charge up to the applicable maximum rate for all hours of child care~~
 18.2 ~~authorized and scheduled for the family. When more than 50 hours of child care assistance~~
 18.3 ~~for one child are authorized with one provider in a week, the county may reimburse the~~
 18.4 ~~provider in an amount that exceeds the ~~county~~ applicable maximum weekly rate, if the~~
 18.5 ~~provider charges the same amount for more than 50 hours of care for a family not receiving~~
 18.6 ~~child care assistance. A county must not authorize or pay for more than 120 hours of child~~
 18.7 ~~care assistance per child every two weeks. To convert child care ~~authorized~~ paid on a~~
 18.8 ~~half-day, full-day, or weekly basis into hours to determine if payment exceeds 120 hours~~
 18.9 ~~of child care assistance, counties must follow the standards in items A ~~to C~~ and B.~~

18.10 ~~A. A half-day is equal to five hours of child care.~~

18.11 ~~B. A. A full-day is equal to ten hours of child care.~~

18.12 ~~C. B. A week is equal to 50 hours of child care.~~

18.13 Subp. 4. [See repealer.]

18.14 [For text of subps 4a to 6, see M.R.]

18.15 Subp. 7. **County payment policies and schedule.** ~~A county's payment policies must~~
 18.16 ~~be included in the county's child care fund plan. A county may not require parents to~~
 18.17 ~~pay providers in advance of receiving payments from the child care fund as a condition~~

18.18 for receiving payments from the child care fund. The county shall make payments at
18.19 least monthly. ~~If a provider sends the county an invoice according to the provisions of~~
18.20 ~~Minnesota Statutes, section 119B.13, subdivision 6, the county must make payments~~
18.21 ~~within 30 days of receiving the invoice. Counties must mail or give Providers must be~~
18.22 ~~sent the forms necessary to bill for payment on or before the beginning of the billing~~
18.23 ~~cycle if the county has received the information necessary for child care to be authorized~~
18.24 ~~before this date. If a county requires invoices to be submitted within a specified time~~
18.25 ~~period from the date of service on the invoice, the county must give written notice of this~~
18.26 ~~time period to participants and providers.~~

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

19.2 **Subp. 9. Payment during child absences and holidays.**

19.3 A. If a provider does not charge all families for days on which a child is absent
19.4 from care, the child care assistance program must not pay that provider for days on which
19.5 a child is absent from care.

19.6 B. If a provider charges all families for days on which a child is absent from
19.7 care, the child care assistance program must pay that provider for child absent days
19.8 according to ~~the statewide absent day policy. To establish the statewide absent day policy,~~
19.9 ~~the commissioner must ask providers about their absent day policies in the rate survey~~
19.10 ~~required under part 3400.0130, subpart 1. The statewide absent day policy must reflect~~
19.11 ~~the absent day policies used by a majority of providers statewide Minnesota Statutes,~~
19.12 ~~section 119B.13, subdivision 7.~~

19.13 C. ~~A county may pay for more absent days than the statewide absent day policy~~
19.14 ~~established under this subpart requires if current market practice in the county justifies~~
19.15 ~~payment for those additional days. County policies for payment of absent days in excess~~
19.16 ~~of the statewide absent day policy and justification for these county policies must be~~
19.17 ~~included in the county's child care fund plan under part 3400.0150.~~

19.18 ~~D. C.~~ Provider charges for absent days in excess of the amount established by
19.19 ~~the commissioner, or by the county if the county's absent day policy exceeds the policy~~
19.20 ~~established by the commissioner,~~ Minnesota Statutes, section 119B.13, subdivision 7, are
19.21 the responsibility of the family receiving child care assistance.

19.22 D. A provider must be paid for holiday days according to Minnesota Statutes,
19.23 section 119B.13, subdivision 7, paragraph (b). State or federal holidays are determined
19.24 according to Minnesota Statutes, section 645.44, subdivision 5. A provider can be paid
19.25 for a holiday day only if the provider meets the requirements in Minnesota Statutes,
19.26 section 119B.13, subdivision 7, paragraph (b), the provider does not provide care on the
20.1 holiday, and it is in the provider's policies to charge all families for the holiday. If care is
20.2 available on the holiday, but the child is absent on that day, the day is an absent day. If a
20.3 provider is closed on a cultural or religious holiday not identified in Minnesota Statutes,
20.4 section 645.44, subdivision 5, a parent may substitute that holiday for one of the ten
20.5 state and federal holidays identified in Minnesota Statutes, section 645.44, subdivision 5,
20.6 if the parent gives notice of the substitution to the county before the holiday occurs or
20.7 within ten days after the holiday.

20.8 E. The absent day provisions in this subpart and in Minnesota Statutes, section
20.9 119B.13, subdivision 7, including the limits on paid absent days and holidays, apply to
20.10 child care assistance payments for child care provided during notice periods.

20.11 [For text of subp 10, see M.R.]

20.12 Subp. 11. **Payment during notice periods.**Child care assistance payments for child
20.13 care provided during notice periods are subject to all payment rules and limits identified
20.14 under this part.

20.15 **3400.0120 ELIGIBLE PROVIDERS AND PROVIDER REQUIREMENTS.**

20.16 Subpart 1. **Eligible providers.**Providers who meet the definition of provider in
20.17 Minnesota Statutes, section 119B.011, subdivision 19, are eligible for payment from the

20.18 child care fund. Within the limitations specified in Minnesota Statutes, ~~section~~ sections
 20.19 119B.09, subdivision 5, and 119B.25, parents may choose child care providers that best
 20.20 meet the needs of their family. Parents may choose more than one provider. A county
 20.21 may not deny a parent eligible for child care assistance the use of a provider holding a
 20.22 valid child care license.

20.23 [For text of subp 1a, see M.R.]

20.24 Subp. 1b. [See repealer.]

20.25 Subp. 2. **Registration Authorization of legal nonlicensed providers.**

21.1 A. A legal nonlicensed provider must be ~~registered with~~ authorized by the
 21.2 county before the provider or parent may receive a payment under the child care fund.
 21.3 To be ~~registered with~~ authorized by the county, a provider must provide the county with
 21.4 the following information:

21.5 (1) the provider's name, age, and address;

21.6 (2) the provider acknowledgment required by subpart 1a;

21.7 (3) an assurance that the provider is eligible to provide unlicensed care
 21.8 under Minnesota Statutes, section 245A.03, subdivision ~~2b~~ 2, paragraph (a); ~~and~~

21.9 (4) a release to permit information on substantiated parental complaints
 21.10 concerning the health and safety of children in the provider's care to be disclosed to the
 21.11 public according to Minnesota Statutes, chapter 13;

21.12 (5) an assurance that the provider is in compliance with state and local
 21.13 health ordinances and building and fire codes applicable to the premises where child
 21.14 care is provided; and

21.15 (6) an acknowledgment that the parent and the legal nonlicensed provider
 21.16 have reviewed the health and safety information provided by the county.

21.17 [For text of items B and C, see M.R.]

21.18 ~~D. A registered legal nonlicensed provider who has not provided care to children~~
 21.19 ~~receiving assistance from the child care fund for over two years must reregister under this~~
 21.20 ~~subpart before receiving payment under the child care fund.~~

21.21 Subp. 2a. **Release for in-home providers.**To be authorized, an in-home provider
 21.22 must sign a release allowing the parent employing that provider to see information on the
 21.23 remittance advice about the amount of any funds being withheld from the payment for the
 21.24 provider and the reason for those withholdings.

21.25 [For text of subps 3 and 4, see M.R.]

22.1 **Subp. 5. Notice to county required when care has terminated.**When a provider
 22.2 knows that a family has ended care with the provider, the provider must notify the county
 22.3 that care has been terminated. When a provider believes that a family will be ending care
 22.4 with the provider, the provider must immediately notify the county of the date on which
 22.5 the provider believes the family will end care. A provider must also notify the county if a
 22.6 child or children have been absent for more than seven consecutive scheduled days.

22.7 **3400.0130 CHILD CARE PROVIDER RATE DETERMINATION RATES.**

22.8 ~~Subpart 1. **Rate determination.**Not less than once every two years, the commissioner~~
 22.9 ~~shall determine the 75th percentile provider rate for infants, toddlers, preschool children,~~
 22.10 ~~and school age children in child care centers and family child care homes in each county.~~
 22.11 ~~The rates surveyed~~ The commissioner shall determine the applicable maximum rate as
 22.12 described in Minnesota Statutes, section 119B.13. Any rate survey conducted by the
 22.13 commissioner shall include a survey of registration fees when it is usual and customary
 22.14 for a category of provider to charge registration fees. The rates surveyed shall include
 22.15 a survey of mandatory activity fees. When the number of providers in a county or in
 22.16 a provider category is too small to determine the 75th percentile provider rate, the

22.17 ~~commissioner may establish child care provider rates based on like care arrangements in~~
 22.18 ~~similar areas or categories.~~

22.19 Subp. 1a. **Maximum county child care assistance rate.** Except as provided in
 22.20 this part, the maximum rate that a county may pay for child care assistance is the
 22.21 provider's rate or the ~~75th percentile~~ applicable maximum county rate determined by the
 22.22 commissioner under ~~subpart 1~~ Minnesota Statutes, section 119B.13, whichever is less.
 22.23 Except as provided in this part, if the provider's rate is more than the applicable maximum
 22.24 county rate, the county may not pay more than the difference between the applicable
 22.25 maximum county rate and the family's copayment fee.

23.1 Subp. 2. **Rate determination for registered legal nonlicensed providers**
 23.2 **license-exempt centers.** ~~Rates paid to legal nonlicensed family child care providers must~~
 23.3 ~~be 90 percent of the county maximum rate for licensed family child care or the provider~~
 23.4 ~~rate, whichever is less. Rates paid to all other license-exempt facilities~~ centers as defined
 23.5 in Minnesota Statutes, section 245A.03, subdivision 2, must be the county applicable
 23.6 maximum rate for licensed child care centers or the provider rate, whichever is less.

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

23.8 Subp. 3a. **Rate determination; children with special needs due to disability.** When
 23.9 a parent or a provider asks the county for a special needs rate for an individual child
 23.10 with disabilities that exceeds the county applicable maximum rate, the county must use
 23.11 the following process to determine whether a special needs rate is necessary and, if so, to
 23.12 establish the requested special needs rate. The county must:

23.13 [For text of items A to C, see M.R.]

23.14 [For text of subps 3b and 4, see M.R.]

23.15 Subp. 5. **Child care rate.** Child care payments shall be based on the allowable
 23.16 applicable maximum rates in the county where care is provided when the care is provided

23.17 in Minnesota. When child care is provided outside the state of Minnesota, the maximum
 23.18 rate must be based on the ~~allowable~~ applicable maximum rate in the participant's county
 23.19 of residence. If a child remains in an age-based child care setting beyond the age at which
 23.20 the licensing laws would allow that child to move to a different age-based child care
 23.21 setting and (1) the child's age is within the range allowed by the licensing laws for that
 23.22 age-based child care setting, or (2) the child is in that age-based child care setting due to a
 23.23 licensing variance, the maximum rate paid for that child's care must be the rate for the
 23.24 age-based child care setting in which the child is located. A child is considered to be in the
 23.25 school-age rate category on the September 1 following the child's fifth birthday unless the
 24.1 parent informs the county that the child will not be starting school. All changes to provider
 24.2 rates shall be implemented on the Monday following the effective date of the rate change.

24.3 Subp. 5a. **Rates for in-home care.** When care is provided in the child's home, the
 24.4 applicable maximum rate must be based on the allowable rate for legal nonlicensed family
 24.5 child care.

24.6 [For text of subps 6 to 10, see M.R.]

24.7 **3400.0140 COUNTY RESPONSIBILITIES.**

24.8 [For text of subps 1 to 3, see M.R.]

24.9 Subp. 4. **Determination of providers eligible for payments.** The county's process
 24.10 for approving providers eligible for payments under the child care fund may not exceed
 24.11 30 calendar days, or 45 calendar days with the approval of the applicant, from the date
 24.12 the child care application is approved, the date the child care provider is selected by the
 24.13 applicant, or, ~~in counties that require investigations under part 3400.0120, subpart 1b, item~~
 24.14 ~~B~~, the date the county received the results of the background investigation required by
 24.15 Minnesota Statutes, section 119B.125, subdivision 2, whichever is later. Reimbursement
 24.16 for child care expenses must be made according to the date of eligibility established in part
 24.17 3400.0040, subpart 6c. If the county determines that a provider chosen by an applicant is

24.18 not eligible to receive child care payments under the child care fund, the applicant may
24.19 appeal the county's determination under part 3400.0230.

24.20 Subp. 5. **Registration of Additional information for legal nonlicensed**
24.21 **providers.** ~~Before the county issues payment for child care provided by a legal nonlicensed~~
24.22 ~~provider, the provider must be registered with the county as provided in part 3400.0120;~~
24.23 ~~subpart 2.~~ The county shall provide each registered authorized legal nonlicensed family
24.24 child care provider health and safety material supplied by the department and shall refer
24.25 the registered provider to the child care resources and referral agency. The county must tell
24.26 the registered provider that the county is required to keep a record of substantiated parental
25.1 complaints concerning the health and safety of children in the care of legal nonlicensed
25.2 providers and that, upon request, information governing substantiated complaints shall be
25.3 released to the public as authorized under Minnesota Statutes, chapter 13.

25.4 Subp. 5a. [See repealer.]

25.5 Subp. 6. **Duties upon receipt of ~~parental~~ complaints against legal nonlicensed**
25.6 **providers.** Within 24 hours of receiving a ~~parental~~ complaint concerning the health or
25.7 safety of children under the care of a legal nonlicensed provider, a county must relay the
25.8 complaint to:

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

25.11 B. the county's public health agency if the ~~parental~~ complaint alleges a danger
25.12 to public health due to communicable disease, unsafe water supply, sewage or waste
25.13 disposal, or building structures;

25.14 C. local law enforcement if the ~~parental~~ complaint alleges criminal activity that
25.15 may endanger the health or safety of children under care; or

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

25.18 If a complaint is substantiated under item A, the county must keep a record of the
25.19 substantiated complaint as provided in Minnesota Statutes, section 626.556. If a complaint
25.20 is substantiated under items B to D, the county must keep a record of the substantiated
25.21 complaint for three years. Upon request, information governing substantiated complaints
25.22 shall be released to the public as authorized under Minnesota Statutes, chapter 13. Upon
25.23 receiving notice of a substantiated complaint under items A to D, the county shall not
25.24 make subsequent payments to that provider from the child care fund for child care services
25.25 provided by that provider unless the conditions underlying the substantiated complaint
25.26 have been corrected.

26.1 Subp. 7. **County contracts and designation of administering agency.** Counties
26.2 may contract for the administration of all or part of the child care fund. The county shall
26.3 designate the agency authorized to administer the child care fund in the county's child care
26.4 fund plan. The county must describe in its child care fund plan how it will oversee the
26.5 contractor's performance.

26.6 [For text of subps 8 to 18, see M.R.]

26.7 Subp. 19. [See repealer.]

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

26.9 **3400.0170 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE**
26.10 **ASSISTANCE.**

26.11 [For text of subps 1 to 3, see M.R.]

26.12 Subp. 4. **Determination of annual gross income.** The income standard for
26.13 determining eligibility for child care assistance is annual ~~gross~~ income. Annual
26.14 ~~gross~~ income is the sum of ~~gross~~ earned income, self-employment income, unearned
26.15 income, and lump sum payments, which must be treated according to subpart 13.

26.16 Negative self-employment income must be included in the determination of annual ~~gross~~
26.17 income, resulting in a reduction in total annual ~~gross~~ income. ~~Gross~~ Earned income,
26.18 self-employment income, unearned income, and lump sum payments must be calculated
26.19 separately.

26.20 Subp. 5. **Gross Earned income of wage and salary employees.**~~Gross~~ Earned
26.21 income means earned income from employment before mandatory and voluntary payroll
26.22 deductions. ~~Gross~~ Earned income includes, but is not limited to, salaries, wages, tips,
26.23 gratuities, commissions, incentive payments from work or training programs, payments
26.24 made by an employer for regularly accrued vacation or sick leave, payment for jury duty,
26.25 and profits from other activity earned by an individual's effort or labor. ~~Gross~~ Earned
26.26 income includes uniform, mileage, and meal allowances if federal income tax is deducted
27.1 from the allowance. ~~Gross~~ Earned income includes flexible work benefits received from
27.2 an employer if the employee has the option of receiving the benefit or benefits in cash.
27.3 ~~Gross~~ Earned income received by persons employed on a contractual basis must be
27.4 prorated over the period covered by the contract even when payments are received over a
27.5 lesser period of time. When housing is provided as part of the total work compensation,
27.6 the fair market value of such housing shall be considered as if it were paid in cash.

27.7 Subp. 6. **Excluded income.**The administering agency shall exclude items A to H
27.8 from annual ~~gross~~ income:

27.9 [For text of items A to H, see M.R.]

27.10 Subp. 6a. **Deductions from income.**The following items must be deducted from
27.11 annual ~~gross~~ income:

27.12 [For text of items A and B, see M.R.]

27.13 Subp. 7. **Earned income from self-employment.**In determining annual ~~gross~~
27.14 income for purposes of eligibility under this part, the administering agency shall determine
27.15 earned income from self-employment. Earned income from self-employment is the

27.16 difference between gross receipts and authorized self-employment expenses which may
27.17 not include expenses under subpart 8. Self-employment business records must be kept
27.18 separate from the family's personal records. If the person's business is a partnership or
27.19 a corporation and that person is drawing a salary, the salary shall be treated as ~~gross~~
27.20 earned income under subpart 5.

27.21 Subp. 8. **Self-employment deductions which are not allowed.**In determining
27.22 eligibility under this part, self-employment expenses must be subtracted from gross
27.23 receipts. For purposes of this subpart, the document in items I to K is incorporated by
27.24 reference. It is available through the Minitex interlibrary loan system. It is subject to
27.25 frequent change. If the document in items I to K is amended, and if the amendments are
27.26 incorporated by reference or otherwise made a part of state or federal law applicable to
28.1 self-employment deductions, then the amendments to the document are also incorporated
28.2 by reference into this subpart. However, the expenses listed in items A to P shall not be
28.3 subtracted from gross receipts:

28.4 [For text of items A to H, see M.R.]

28.5 I. monthly expenses for each roomer greater than the flat rate deduction listed
28.6 in the current Combined Program Manual issued by the Department of Human Services;
28.7 ~~2000~~;

28.8 J. monthly expenses for each boarder greater than the flat rate deduction listed
28.9 in the current Combined Program Manual issued by the Department of Human Services;
28.10 ~~2000~~;

28.11 K. monthly expenses for each roomer-boarder greater than the flat rate deduction
28.12 listed in the current Combined Program Manual issued by the Department of Human
28.13 Services, ~~2000~~;

28.14 [For text of items L to P, see M.R.]

28.15 [For text of subps 9 to 11, see M.R.]

28.16 Subp. 12. **Determination of unearned income.** Unearned income includes, but
28.17 is not limited to, the cash portion of MFIP or DWP; adoption assistance received
28.18 under Minnesota Statutes, section 259.67; relative custody assistance received under
28.19 Minnesota Statutes, section 257.85; interest; dividends; unemployment compensation;
28.20 disability insurance payments; veteran benefits; pension payments; child support and
28.21 spousal support received or anticipated to be received by a family including child support
28.22 and maintenance distributed to the family under Minnesota Statutes, section 256.741,
28.23 subdivision 15; insurance payments or settlements; retirement; survivor's and disability
28.24 insurance (RSDI) payment; and severance payments. Expenditures necessary to secure
28.25 payment of unearned income are deducted from unearned income. Payments for illness
29.1 or disability, except for those payments described as earned income in subpart 5, are
29.2 considered unearned income whether the premium payments are made wholly or in part
29.3 by an employer or by a recipient.

29.4 Subp. 13. **Treatment of lump sum payments.** Lump sum payments received by
29.5 a family must be considered earned income under subparts 7 to 11 or unearned income
29.6 according to subpart 12. Nonrecurring lump sums that are earmarked and used for the
29.7 purpose for which they are paid are not to be included in the determination of income. All
29.8 other lump sums are to be annualized over 12 months. The sale of property including,
29.9 but not limited to, a residence is not considered income up to the amount of the original
29.10 purchase price plus improvements.

29.11 **3400.0180 REDETERMINATION OF ELIGIBILITY.**

29.12 A. The county must redetermine each participating family's eligibility at least
29.13 every six months. The county must redetermine the eligibility of families in the start-up
29.14 phase of self-employment without an approved employment plan more frequently than
29.15 once every six months if existing documentation is insufficient to accurately predict

29.16 self-employment income. ~~The county must also redetermine eligibility immediately~~
29.17 ~~when a family reports the information required by part 3400.0040, subpart 4.~~ If a family
29.18 reports a change in an eligibility factor before the family's next regularly scheduled
29.19 redetermination, the county must recalculate eligibility without requiring verification of
29.20 any eligibility factor that did not change.

29.21 [For text of item B, see M.R.]

29.22 C. If redetermination establishes that a family is ineligible for further child
29.23 care assistance, the county shall terminate the child care assistance as provided in part
29.24 3400.0185. If redetermination establishes the need for a change in the family's copayment,
29.25 revisions shall be calculated according to part 3400.0100. When a change in income
30.1 affects the amount of a participant's copayment, the new copayment amount is effective on
30.2 the first day of the ~~first month~~ service period following the 15-day notice period.

30.3 D. If a family timely reports the information required by part 3400.0040, subpart
30.4 4, and redetermination establishes a need for a change in the amount of the family's child
30.5 care assistance, the amount of child care assistance paid to the family between the date
30.6 the change was reported and the ~~effective~~ first date ~~of that~~ the new child care assistance
30.7 payment would be effective if the county properly implemented the change does not
30.8 constitute an overpayment.

30.9 **3400.0183 TERMINATION OF CHILD CARE ASSISTANCE.**

30.10 Subpart 1. **Conditions under which termination of child care assistance is**
30.11 **allowed.**

30.12 A. A county may terminate child care assistance for families already receiving
30.13 assistance when the county receives: (1) a revised allocation from the child care fund that
30.14 is smaller than the allocation stated in the notice sent to the county under part 3400.0030;
30.15 and (2) such short notice of a change in its allocation that the county could not have

30.16 absorbed the difference in the allocation. The county must consult with and obtain
 30.17 approval from the commissioner before terminating assistance under this subpart.

30.18 [For text of item B, see M.R.]

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

30.20 Subp. 3. [See repealer.]

30.21 Subp. 4. [See repealer.]

30.22 Subp. 5. **Effective date of disqualification period.** ~~During the disqualification~~
 30.23 ~~period, disqualification from any child care program must extend to all child care~~
 30.24 ~~programs and must be immediately applied.~~ The effective date of the a disqualification
 30.25 period is the later of:

31.1 [For text of items A and B, see M.R.]

31.2 **3400.0185 NOTICE REQUIREMENTS FOR TERMINATION AND ADVERSE**
 31.3 **ACTIONS.**

31.4 [For text of subp 1, see M.R.]

31.5 Subp. 2. **Notice of termination of child care assistance to providers.**

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

31.7 B. ~~Except for cases involving alleged child abuse by a provider or a complaint~~
 31.8 ~~that the health and safety of a child in care is in imminent danger, the notice must be~~
 31.9 ~~mailed to the provider at least 15 calendar days before terminating benefits to the family.~~
 31.10 When a family stops using a provider but continues to receive assistance, the county must
 31.11 send the provider a notice containing the following information:

31.12 (1) the family's name;

31.13 (2) that the family has decided to stop using that provider;

31.14 (3) the effective date that child care assistance payments will end; and

31.15 (4) that child care payments will no longer be effective on the date of
 31.16 termination.

31.17 ~~C. In cases involving alleged child abuse by a provider or a complaint that~~
 31.18 ~~the health and safety of a child in care is in imminent danger, the county must send a~~
 31.19 ~~notice of termination to the provider that is effective immediately. This item applies to~~
 31.20 ~~participants using a provider licensed by the state of Minnesota. Except in cases where~~
 31.21 ~~the provider's license has been temporarily immediately suspended under Minnesota~~
 31.22 ~~Statutes, section 245A.07, the county must mail the notice to the participant at least 15~~
 31.23 ~~calendar days before termination payment to the provider. When the provider's license~~
 31.24 ~~has been temporarily immediately suspended under Minnesota Statutes, section 245A.07,~~
 32.1 the county must send a notice of termination to the provider that is effective on the date
 32.2 of the temporary immediate suspension.

32.3 D. This item applies to participants using a legal nonlicensed provider, license
 32.4 exempt center, or provider licensed by an entity other than the state of Minnesota. Except
 32.5 in cases where there is an imminent risk of harm to the health, safety, or rights of a child
 32.6 in care, the county must mail the notice to the provider at least 15 calendar days before
 32.7 terminating payment to the provider. In cases where there is an imminent risk of harm to
 32.8 the health, safety, or rights of a child in care, the county must send a notice of termination
 32.9 that is effective on the date of the notice. Whether there is an imminent risk of harm is
 32.10 determined by the county that authorized the provider for the family.

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

32.12 Subp. 4. **Notice to providers of adverse actions adverse to families.** The county
 32.13 must give a provider written notice of the following ~~adverse actions~~ adverse to families:
 32.14 a reduction in the hours of authorized care; and an increase in the family's copayment;
 32.15 ~~and an adverse determination of provider eligibility.~~ The notice must include only the
 32.16 following information:

32.17 [For text of items A to D, see M.R.]

32.18 **Subp. 5. Notice to providers of actions adverse to the provider.**The county must
 32.19 give a provider written notice of the following actions adverse to the provider: a denial of
 32.20 authorization, a termination of authorization, a reduction in the number of hours of care
 32.21 with that provider, and a determination that the provider has an overpayment. The notice
 32.22 must include the following information:

32.23 A. a description of the adverse action;

32.24 B. the effective date of the adverse action; and

33.1 C. a statement that unless a family appeals the adverse action before the effective
 33.2 date or the provider appeals the overpayment determination, the adverse action will occur
 33.3 on the effective date. The notice must be mailed to the provider at least 15 calendar days
 33.4 before the effective date of the adverse action.

33.5 **3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.**

33.6 Subpart 1. **State recovery of overpayments.**The commissioner must recover from
 33.7 counties any state or federal money that was spent for persons found to be ineligible
 33.8 for child care assistance, except as provided in Minnesota Statutes, section 119B.11,
 33.9 subdivision 3. ~~The county's inability to recover an advance payment made to a provider or~~
 33.10 ~~a family does not affect the commissioner's right to recover the advance payment from the~~
 33.11 ~~county under Minnesota Statutes, section 119B.11, subdivision 3.~~

33.12 Subp. 1a. [See repealer.]

33.13 Subp. 2. **Notice of overpayment.**The county must notify the family person or
 33.14 persons assigned responsibility for the overpayment of the overpayment in writing. A
 33.15 notice of overpayment must specify the reason for the overpayment, the time period in
 33.16 which the overpayment occurred, the amount of the overpayment, and the family's right to
 33.17 appeal the county's overpayment determination.

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

33.19 Subp. 4. **Recoupment of overpayments from participants.** If the redetermination
33.20 of eligibility indicates the family remains eligible for child care assistance, the county
33.21 must recoup the overpayment by reducing the amount of assistance paid to or on behalf of
33.22 the family for every service period at the rates in item A, B, C, or D until the overpayment
33.23 debt is retired.

34.1 A. When a family has an overpayment due to agency or provider error, the
34.2 ~~monthly~~ recoupment amount is one-fourth the family's copayment or ~~\$20~~ \$10, whichever
34.3 is greater.

34.4 B. When the family has an overpayment due to the family's first failure to report
34.5 changes as required by part 3400.0040, subpart 4, the ~~monthly~~ recoupment amount is
34.6 one-half the family's copayment or ~~\$20~~ \$10, whichever is greater.

34.7 C. When a family has an overpayment due to the family's failure to provide
34.8 accurate information at the time of application or redetermination or the family's second or
34.9 subsequent failure to report changes as required by part 3400.0040, subpart 4, the ~~monthly~~
34.10 recoupment amount is one-half the family's copayment or ~~\$100~~ \$50, whichever is greater.

34.11 D. When a family has an overpayment due to a violation of Minnesota Statutes,
34.12 section 256.98, subdivision 1, as established by a court conviction, a court-ordered stay
34.13 of conviction with probationary or other terms, a disqualification agreement, a pretrial
34.14 diversion, or an administrative disqualification hearing or waiver, the ~~monthly~~ recoupment
34.15 amount equals the greater of:

- 34.16 (1) the family's copayment;
- 34.17 (2) ten percent of the overpayment; or
- 34.18 (3) ~~\$200~~ \$100.

34.19 [For text of item E, see M.R.]

34.20 F. If a family has more than one overpayment, the overpayments must not
34.21 be consolidated into one overpayment. Instead, each overpayment must be recouped
34.22 according to the schedule specified in this subpart from the child care benefit paid for the
34.23 service period. If the amount to be recouped in a service period exceeds the child care
34.24 benefit paid for that service period, the amount recouped must be applied to overpayments
34.25 in the following order:

35.1 (1) payment must first be applied to the oldest overpayment being recouped
35.2 under item D and then to any other overpayments to be recouped under this item according
35.3 to the age of the claim;

35.4 (2) payment then must be applied to the oldest overpayment being recouped
35.5 under item C and then to any other overpayments to be recouped under this item according
35.6 to the age of the claim;

35.7 (3) payment then must be applied to the oldest overpayment being recouped
35.8 under item B and then to any other overpayments to be recouped under this item according
35.9 to the age of the claim; and

35.10 (4) payment then must be applied to the oldest overpayment being recouped
35.11 under item A and then to any other overpayments to be recouped under this item according
35.12 to the age of the claim.

35.13 Subp. 5. [See repealer.]

35.14 Subp. 6. **Recoupment of overpayments from providers.**If the provider continues
35.15 to receive child care assistance payments, the county must recoup the overpayment by
35.16 reducing the amount of assistance paid to the provider for every payment at the rates in
35.17 item A, B, or C until the overpayment debt is retired.

35.18 A. When a provider has an overpayment due to agency or family error, the
35.19 recoupment amount is one-tenth the provider's payment or \$20, whichever is greater.

35.20 B. When a provider has an overpayment due to the provider's failure to provide
35.21 accurate information, the recoupment amount is one-fourth the provider's payment or
35.22 \$50, whichever is greater.

35.23 C. When a provider has an overpayment due to a violation of Minnesota Statutes,
35.24 section 256.98, subdivision 1, as established by a court conviction, a court-ordered stay
35.25 of conviction with probationary or other terms, a disqualification agreement, a pretrial
36.1 diversion, or an administrative disqualification hearing or waiver, the recoupment amount
36.2 equals the greater of:

36.3 (1) one-half the provider's payment;

36.4 (2) ten percent of the overpayment; or

36.5 (3) \$100.

36.6 D. This item applies to providers who have been disqualified from or are
36.7 no longer able to be authorized by the child care assistance program and who have
36.8 outstanding overpayments. If a provider returns to the child care assistance program as
36.9 a provider or a participant, the county must begin recouping the provider's outstanding
36.10 overpayment using the recoupment schedule in items A to D unless another repayment
36.11 schedule has been specified in a court order.

36.12 E. If a provider has more than one overpayment, the overpayments must not
36.13 be consolidated into one overpayment. Instead, each overpayment must be recouped
36.14 according to the schedule specified in this subpart from the payment made to the provider
36.15 for the service period. If the amount to be recouped in a service period exceeds the
36.16 payment to the provider for that service period, the amount recouped must be applied
36.17 to overpayments in the following order:

36.18 (1) payment must first be applied to the oldest overpayment being recouped
36.19 under item C and then to any other overpayments to be recouped under this item according
36.20 to the age of the claim;

36.21 (2) payment then must be applied to the oldest overpayment being recouped
36.22 under item B and then to any other overpayments to be recouped under this item according
36.23 to the age of the claim; and

37.1 (3) payment then must be applied to the oldest overpayment being recouped
37.2 under item A and then to any other overpayments to be recouped under this item according
37.3 to the age of the claim.

37.4 **3400.0200 PAYMENTS TO COUNTIES OF ADMINISTRATIVE FUNDS.**

37.5 The commissioner shall make administrative funds payments to the counties at least
37.6 ~~once per quarter~~ on a monthly basis. The commissioner may certify an advance to the
37.7 counties for the first quarter of the fiscal year or the first quarter of the allocation period.
37.8 Subsequent payments made to the counties for administrative expenses shall be based on
37.9 actual expenditures as reported by the counties in the financial and program activity report
37.10 required under part 3400.0140, subpart 14.

37.11 **3400.0230 RIGHT TO FAIR HEARING.**

37.12 Subpart 1. [See repealer.]

37.13 Subp. 2. [See repealer.]

37.14 Subp. 3. **Child care payments when fair hearing is requested.**

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

37.16 B. If the commissioner finds on appeal that child care assistance should have
37.17 been terminated or the amount of benefits reduced, the county must send a notice of
37.18 termination or reduction in benefits effective ~~immediately~~ the date of the notice to the
37.19 family and the child care provider.

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

37.21 **3400.0235 AT-HOME INFANT CHILD CARE PROGRAM.**

37.22 Subpart 1. **Purpose and applicability.** This part governs the administration of the
37.23 at-home infant child care program. ~~A family in which a parent provides care for the~~
37.24 ~~family's infant child may receive a subsidy under this program in lieu of child care~~
38.1 ~~assistance if the family is eligible for, or is receiving assistance under, the basic sliding~~
38.2 ~~fee program governed by this chapter.~~ All provisions in parts 3400.0010 to 3400.0230
38.3 apply to the at-home infant child care program unless otherwise specified in this part or in
38.4 Minnesota Statutes, section ~~119B.061~~ 119B.035.

38.5 Subp. 2. **Administration of at-home infant child care program.** ~~The commissioner~~
38.6 ~~shall establish a funding pool of up to seven percent of the annual appropriation for~~
38.7 ~~the basic sliding fee program to provide assistance under the at-home infant child~~
38.8 ~~care program.~~ Within the limits of available funding and subject to federal match and
38.9 maintenance of effort requirements for the child care and development fund in United
38.10 States Code, title 42, sections 9858 to 9858q, the commissioner shall make payments to
38.11 counties for expenditures under the at-home infant child care program. Participation in
38.12 the statewide pool shall be determined based on the order in which requests are received
38.13 from counties. Following the birth or arrival of an infant, counties shall submit family
38.14 requests for participation in the at-home infant child care program on forms provided by
38.15 the commissioner. The commissioner shall respond within seven days to county inquiries
38.16 about the availability of funds. The commissioner shall monitor the use of the pool and if
38.17 the available funding is obligated, the commissioner shall create a waiting list of at-home
38.18 infant child care referrals from the counties. As funds become available to the pool, the
38.19 commissioner shall notify counties in which eligible families on the waiting list reside.

38.20 Subp. 3. **General eligibility requirements.** Items A to E govern eligibility for the
38.21 at-home infant child care program.

38.22 A. ~~Eligible families must meet the requirements of Minnesota Statutes, section~~
38.23 ~~119B.061, subdivision 2. For purposes of this part, "other cash assistance" under~~
38.24 ~~Minnesota Statutes, section 119B.061, subdivision 2, means other public cash assistance~~
38.25 ~~and includes the work first program under Minnesota Statutes, chapter 256K. "Other~~
38.26 ~~child care assistance" under Minnesota Statutes, section 119B.061, subdivision 2, means~~
39.1 ~~MFIP child care assistance, transition year child care assistance, subsidized adoption~~
39.2 ~~payments designated to cover child care costs associated with participating in job search,~~
39.3 ~~employment, or education, and the postsecondary child care grant program administered~~
39.4 ~~by the Minnesota Office of Higher Education under Minnesota Statutes, section 136A.125.~~

39.5 B. A. A family is eligible to receive assistance under the at-home infant child
39.6 care program if one parent provides full-time care for the infant. The eligible parent must
39.7 meet the requirements of Minnesota Statutes, section ~~119B.061~~ 119B.035, subdivision 3.
39.8 The requirements of caring for the infant full-time may be met by one or both parents.
39.9 For purposes of this part, eligible parents include birth parents, adoptive parents, and
39.10 stepparents. Nonfamily members may provide regular care for the child but are limited to
39.11 a maximum of ten hours of care per week.

39.12 C. B. A family may apply for the at-home infant child care program before the
39.13 child is born or anytime during the infant's first year. The family must apply before the
39.14 end of the infant's first year to receive an at-home infant child care subsidy. Following
39.15 the birth of a child, a family is eligible to receive a subsidy under the at-home infant
39.16 child care program according to the date of eligibility in Minnesota Statutes, section
39.17 119B.09, subdivision 7, and when funding is available. A family shall only receive
39.18 subsidy payments through the infant's twelfth month. "Infant" means a child from birth
39.19 through 12 months of age and includes adopted infants.

39.20 D. C. A family is limited to a lifetime total of 12 months of at-home infant
39.21 child care assistance. At the time of application to the program, the parent or parents

39.22 must declare whether they have previously participated in the at-home infant child care
39.23 program ~~or used all of the MFIP one-year infant exemption under Minnesota Statutes,~~
39.24 ~~chapter 256J.~~ If the parent or parents declare that they have participated in the at-home
39.25 infant child care program , the commissioner shall, at the request of the county, inform the
39.26 county of the remaining months of eligibility for the at-home infant child care program.

40.1 E. D. At the time of application to the at-home infant child care program, the
40.2 family must meet the eligibility requirements in Minnesota Statutes, section ~~119B.061~~
40.3 119B.035, subdivision 2, and be income-eligible based on these activities. At the time
40.4 of application to the at-home infant child care program, a family who is not currently
40.5 participating in the basic sliding fee program must provide verification of participation
40.6 in an authorized activity within the nine months before the birth or expected arrival of
40.7 the child.

40.8 F. E. During the period a family receives a subsidy under the at-home infant
40.9 child care program, the family is not eligible to receive basic sliding fee child care
40.10 assistance for the infant or any other child in the family.

40.11 Subp. 4. **Continued eligibility under basic sliding fee program.** If families exiting
40.12 the at-home infant child care program request continued child care assistance and meet all
40.13 eligibility factors for the basic sliding fee program, the provisions in Minnesota Statutes,
40.14 section ~~119B.061~~ 119B.035, subdivision 4, paragraph (c), apply.

40.15 Subp. 5. **Assistance payments.** Items A to C govern assistance payments under the
40.16 at-home infant child care program.

40.17 A. The number of months of at-home infant child care participation used shall
40.18 be credited to the eligible ~~parent~~ parents. If the an eligible parent later forms a new family,
40.19 the number of months of at-home infant child care subsidy received shall be subtracted
40.20 from the maximum assistance available under this part.

40.21 B. ~~The maximum subsidy must be at 75 percent of the rate established under~~
40.22 ~~Minnesota Statutes, section 119B.13, for full-time care of infants in licensed family child~~
40.23 ~~care in the applicant's county of residence. There is no additional subsidy for infants with~~
40.24 ~~special needs or for multiple births. The maximum subsidy for full-time care shall be~~
40.25 ~~converted to a monthly amount. From that monthly amount, The county must subtract~~
41.1 ~~the family's monthly copayment required by part 3400.0100~~ Minnesota Statutes, section
41.2 119B.12, to determine the final at-home infant child care ~~monthly~~ subsidy for the family.

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

41.4 D. For purposes of counting the number of months that a family has participated
41.5 in the at-home infant child care program, any portion of a month in which a family
41.6 receives a subsidy under the at-home infant child care program is considered a full month
41.7 of participation in the at-home infant child care program.

41.8 For purposes of calculating the at-home infant child care program copayment and
41.9 subsidy in the first ~~month~~ service period, the county shall use the method described in part
41.10 3400.0100. In addition, the county shall prorate the subsidy received in the first and last
41.11 ~~month~~ service period of participation according to subitems (1) to (4).

41.12 (1) If the family participates in the at-home infant child care program during
41.13 the ~~month~~ service period in which the infant is born or arrives in the home, the subsidy
41.14 must be prorated to cover the number of calendar days from the date of birth or arrival
41.15 until the end of the ~~month~~ service period.

41.16 (2) If the family participates in the at-home infant child care program during
41.17 the ~~month~~ service period of the infant's first birthday, the subsidy must be prorated to
41.18 cover the number of calendar days from the beginning of the ~~month~~ service period to the
41.19 date of the infant's first birthday.

41.20 (3) If the eligible parent leaves employment or another authorized activity
41.21 in order to participate in the at-home infant child care program, the subsidy must be

41.22 prorated to cover the number of calendar days from the date the eligible parent leaves the
 41.23 authorized activity to the end of the ~~month~~ service period.

41.24 (4) If the eligible parent returns to an authorized activity and will no longer
 41.25 be participating in the at-home infant child care program, the subsidy must be prorated to
 41.26 cover the number of calendar days from the beginning of the ~~month~~ service period to the
 42.1 date the parent returns to the authorized activity. If all other eligibility conditions are met,
 42.2 the family shall be eligible to receive basic sliding fee child care assistance beginning on
 42.3 the day the eligible parent returns to the authorized activity.

42.4 Subp. 6. **County responsibilities.** Items A to C govern county responsibilities for the
 42.5 program.

42.6 A. In addition to duties required under parts 3400.0140 and 3400.0160, counties
 42.7 shall perform the following functions to administer the at-home infant child care program:

42.8 [For text of subitems (1) to (5), see M.R.]

42.9 ~~(6) issue payments under the at-home infant child care program; and~~

42.10 ~~(7)~~ (6) notify the commissioner when a family's participation in the at-home
 42.11 infant child care program ends.

42.12 B. During program participation, the county shall apply billing procedures
 42.13 established under Minnesota Statutes, chapter 119B, to issue the ~~monthly~~ at-home infant
 42.14 child care subsidy to families.

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

42.16 Subp. 7. [See repealer.]

42.17 **REPEALER.** Minnesota Rules, parts 3400.0020, subpart 32a; 3400.0080, subpart 1;
 42.18 3400.0090, subpart 7; 3400.0110, subpart 4; 3400.0120, subpart 1b; 3400.0140, subparts
 42.19 5a and 19; 3400.0183, subparts 3 and 4; 3400.0187, subparts 1a and 5; 3400.0210;
 42.20 3400.0230, subparts 1 and 2; and 3400.0235, subpart 7, are repealed.