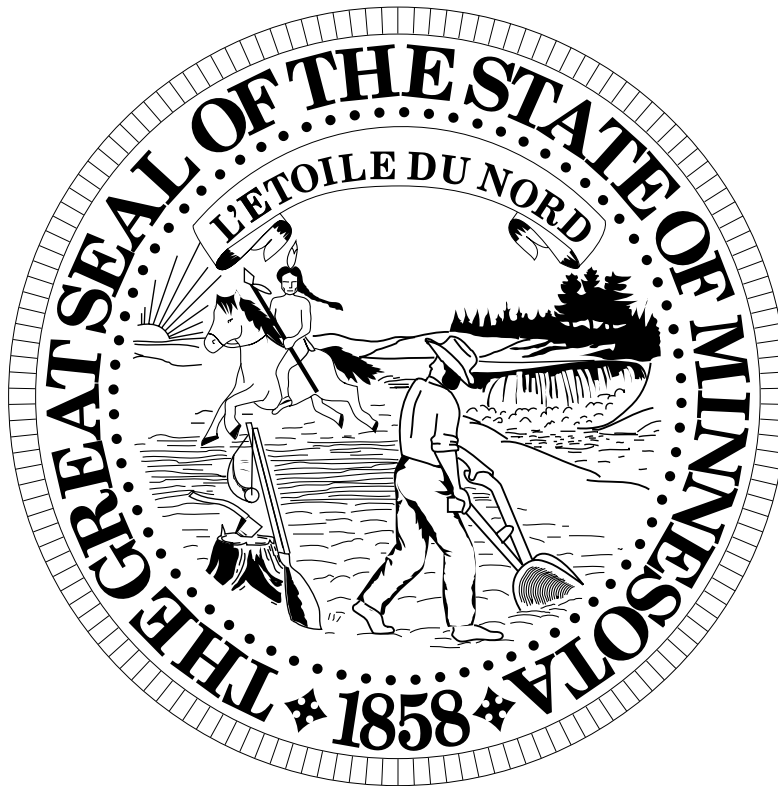


State of Minnesota

# State Register

Rules and Official Notices Edition



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# State Register

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The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

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- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
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# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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# Proposed Rules

## Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

## Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

## Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

## Department of Agriculture

### Dairy and Food Division

#### Proposed Permanent Rules Relating to Cheese and Cheese Products

#### NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendments to Rules Governing Ricotta Cheese *Minnesota Rules*, 1535.0700 and 1535.0730; and Repeal of Rules Governing Cheese and Cheese Products, *Minnesota Rules*, 1535.0020 to 1535.0690, 1535.0760 to 1535.3100, and 1535.3120 to 1535.3330

**Introduction.** The Department of Agriculture intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 W Plato Blvd., St. Paul, MN 55107; **phone:** (651) 296-6906; **fax:** (651) 297-5522; **email:** [carol.milligan@state.mn.us](mailto:carol.milligan@state.mn.us). **TTY** users may call the Minnesota Relay at (800) 627-3529.

**Subject of Rules and Statutory Authority.** The proposed amended rules are about standards of identity for ricotta cheese. Most of Chapter 1535 is being repealed because state standards for cheese have been replaced by uniform federal standards. However, there is no federal standard for ricotta cheese, so the state is keeping the standard in rule. The repeal required technical amendments to the remaining sections to clean up cross-references. The proposed repeal is about cheese and cheese products. The statutory authority to adopt the rules is *Minnesota Statutes*, section 32.484. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m., on January 25, 2001 to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Proposed Rules

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**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m., on January 25, 2001. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Modifications.** The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 25 December 2000

Sharon Clark  
Deputy Commissioner

### **1535.0700 WHOLE MILK RICOTTA CHEESE.**

Ricotta cheese is the food prepared from heated milk and other ingredients specified in parts 1535.0700 to 1535.0740, by the procedure ~~set forth~~ in part 1535.0710 or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure ~~set forth~~ in part 1535.0710 is used. It contains not more than 80 percent of moisture and not less than 11 percent of milk fat, ~~as determined by the methods prescribed in part 1535.0040.~~

### **1535.0730 MILK USED IN CHEESE LABELED "PASTEURIZED."**

All milk used for the manufacture of cheese which is labeled "pasteurized" ~~shall~~ must be pasteurized according to the method prescribed in this part 1535.3330.

Every particle of milk or milk product must be heated to one of the temperatures given in the following chart and held continuously at or above that temperature for at least the corresponding specified time:

<u>Temperature</u>	<u>Time</u>
<u>*63°C (145°F)</u>	<u>30 minutes</u>
<u>*72°C (161°F)</u>	<u>15 seconds</u>
<u>89°C (191°F)</u>	<u>1.0 seconds</u>
<u>90°C (194°F)</u>	<u>0.5 seconds</u>
<u>94°C (201°F)</u>	<u>0.1 seconds</u>
<u>96°C (204°F)</u>	<u>0.05 seconds</u>
<u>100°C (212°F)</u>	<u>0.01 seconds</u>

\* If the fat content of the milk product is ten percent or more or it contains added sweeteners, the specified temperature must be increased by 3°C (5°F).

Ricotta cheese ~~shall~~ must be deemed not to have been prepared from properly pasteurized milk if 0.25 gram shows a phenol equivalent of more than three micrograms, ~~when tested by the method prescribed in parts 1535.0070 to 1535.0310, moist cottage cheese modification.~~



**RENUMBERING INSTRUCTION.** In the next edition or supplement of *Minnesota Rules*, the revisor of statutes shall renumber each part number listed in column A with the part number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>A</u>	<u>B</u>
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<u>1535.0710</u>	<u>1525.2610</u>
<u>1535.0720</u>	<u>1525.2620</u>
<u>1535.0730</u>	<u>1525.2630</u>
<u>1535.0740</u>	<u>1525.2640</u>
<u>1535.0750</u>	<u>1525.2650</u>
<u>1535.3110</u>	<u>1525.2700</u>

**REPEALER.** *Minnesota Rules*, parts 1535.0020; 1535.0030; 1535.0040; 1535.0050; 1535.0060; 1535.0070; 1535.0080; 1535.0090; 1535.0100; 1535.0110; 1535.0120; 1535.0130; 1535.0140; 1535.0150; 1535.0160; 1535.0170; 1535.0180; 1535.0190; 1535.0200; 1535.0210; 1535.0220; 1535.0230; 1535.0240; 1535.0250; 1535.0260; 1535.0270; 1535.0280; 1535.0290; 1535.0300; 1535.0310; 1535.0320; 1535.0330; 1535.0340; 1535.0350; 1535.0360; 1535.0370; 1535.0380; 1535.0390; 1535.0400; 1535.0410; 1535.0420; 1535.0430; 1535.0440; 1535.0450; 1535.0460; 1535.0470; 1535.0480; 1535.0490; 1535.0500; 1535.0510; 1535.0520; 1535.0530; 1535.0540; 1535.0550; 1535.0560; 1535.0570; 1535.0580; 1535.0590; 1535.0600; 1535.0610; 1535.0620; 1535.0630; 1535.0640; 1535.0650; 1535.0660; 1535.0680; 1535.0690; 1535.0760; 1535.0770; 1535.0780; 1535.0790; 1535.0800; 1535.0810; 1535.0820; 1535.0830; 1535.0840; 1535.0850; 1535.0860; 1535.0870; 1535.0880; 1535.0890; 1535.0900; 1535.0910; 1535.0920; 1535.0930; 1535.0940; 1535.0950; 1535.0960; 1535.0970; 1535.0980; 1535.0990; 1535.1000; 1535.1010; 1535.1020; 1535.1030; 1535.1040; 1535.1050; 1535.1060; 1535.1070; 1535.1080; 1535.1090; 1535.1100; 1535.1110; 1535.1120; 1535.1130; 1535.1140; 1535.1150; 1535.1160; 1535.1170; 1535.1180; 1535.1190; 1535.1200; 1535.1210; 1535.1220; 1535.1230; 1535.1240; 1535.1250; 1535.1260; 1535.1270; 1535.1280; 1535.1290; 1535.1300; 1535.1310; 1535.1320; 1535.1330; 1535.1340; 1535.1350; 1535.1360; 1535.1370; 1535.1380; 1535.1390; 1535.1400; 1535.1410; 1535.1420; 1535.1430; 1535.1440; 1535.1450; 1535.1460; 1535.1470; 1535.1480; 1535.1490; 1535.1500; 1535.1510; 1535.1520; 1535.1530; 1535.1540; 1535.1550; 1535.1560; 1535.1570; 1535.1580; 1535.1590; 1535.1600; 1535.1610; 1535.1620; 1535.1630; 1535.1640; 1535.1650; 1535.1660; 1535.1670; 1535.1680; 1535.1690; 1535.1700; 1535.1710; 1535.1720; 1535.1730; 1535.1740; 1535.1750; 1535.1760; 1535.1770; 1535.1780; 1535.1790; 1535.1800; 1535.1810; 1535.1820; 1535.1830; 1535.1840; 1535.1850; 1535.1860; 1535.1870; 1535.1880; 1535.1890; 1535.1900; 1535.1910; 1535.1920; 1535.1930; 1535.1935; 1535.1940; 1535.1950; 1535.1960; 1535.1970; 1535.1980; 1535.1990; 1535.2000; 1535.2010; 1535.2015; 1535.2020; 1535.2030; 1535.2040; 1535.2050; 1535.2060; 1535.2070; 1535.2080; 1535.2090; 1535.2100; 1535.2110; 1535.2120; 1535.2130; 1535.2140; 1535.2150; 1535.2160; 1535.2170; 1535.2180; 1535.2190; 1535.2200; 1535.2210; 1535.2220; 1535.2230; 1535.2240; 1535.2250; 1535.2260; 1535.2270; 1535.2280; 1535.2290; 1535.2300; 1535.2310; 1535.2320; 1535.2330; 1535.2340; 1535.2350; 1535.2360; 1535.2370; 1535.2380; 1535.2390; 1535.2400; 1535.2410; 1535.2420; 1535.2430; 1535.2440; 1535.2450; 1535.2460; 1535.2470; 1535.2480; 1535.2490; 1535.2500; 1535.2510; 1535.2520; 1535.2530; 1535.2540; 1535.2550; 1535.2560; 1535.2570; 1535.2580; 1535.2590; 1535.2600; 1535.2610; 1535.2620; 1535.2640; 1535.2650; 1535.2660; 1535.2670; 1535.2680; 1535.2690; 1535.2700; 1535.2710; 1535.2720; 1535.2730; 1535.2740; 1535.2750; 1535.2760; 1535.2770; 1535.2780; 1535.2790; 1535.2800; 1535.2810; 1535.2820; 1535.2830; 1535.2840; 1535.2850; 1535.2860; 1535.2920; 1535.2930; 1535.2940; 1535.2950; 1535.2960; 1535.2970; 1535.2980; 1535.2990; 1535.3000; 1535.3090; 1535.3100; 1535.3120; 1535.3130; 1535.3140; 1535.3150; 1535.3170; 1535.3180; 1535.3190; 1535.3200; 1535.3210; 1535.3220; 1535.3230; 1535.3240; 1535.3250; 1535.3260; 1535.3270; 1535.3280; 1535.3290; 1535.3300; 1535.3310; 1535.3320; and 1535.3330, are repealed.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Proposed Rules

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### Department of Children, Families, and Learning

#### Office of Community Services

#### Child Care Assistance Program

#### Proposed Permanent Rules Governing the Child Care Assistance Program

**DUAL NOTICE: NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE RECEIVED**

Proposed Amendment to Rules Governing the Child Care Assistance Program, *Minnesota Rules*, chapter 3400, and Proposed Repeal of Rules Governing the Child Care Assistance Program, *Minnesota Rules*, parts 3400.0020, subparts 2, 3, 6, 7, 9, 10, 11, 13-17, 19, 21-23, 29-31, 32, 34, 36, 41, 42; 3400.0040, subparts 2, 6, 16; 3400.0050; 3400.0060, subparts 1, 3; 3400.0070; 3400.0080, subparts 2-7; 3400.0090, subparts 5, 6, 8, 9; 3400.0100, subpart 2; 3400.0110, subparts 5, 6; 3400.0130, subparts 4, 6, 9, 10; 3400.0140, subparts 3, 11-13, 15-18, 20; 3400.0160; 3400.0170, subpart 2; and 3400.0190

**Introduction.** The Department of Children, Families and Learning intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on January 25, 2001, a public hearing will be held in Rooms 13 and 14, Department of Children, Families and Learning, 1500 Highway 36 West, Roseville, Minnesota 55113, starting at 10:30 a.m. on Wednesday, February 14, 2001, and continuing at 7:00 p.m. that evening. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after January 25, 2001 and before February 14, 2001.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Karen Pitts, at the Child Care Assistance Program, Department of Children, Families and Learning, 1500 Highway 36 West, Roseville, MN 55113; **phone:** (651) 582-8428; **fax:** (651) 582-8496; **email:** [karen.pitts@state.mn.us](mailto:karen.pitts@state.mn.us). Requests for copies of documents should be directed to Julie Nash at the Child Care Assistance Program, Department of Children, Families and Learning, 1500 Highway 36 West, Roseville, MN 55113; **phone:** (651) 582-8562; **fax:** (651) 582-8496; **email:** [julie.nash@state.mn.us](mailto:julie.nash@state.mn.us). **TTY** users may contact the Department of Children, Families and Learning by calling the Minnesota Relay Service at (651) 297-5353 or (800) 627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules are about the Child Care Assistance Program. The Child Care Assistance Program helps to make quality child care affordable for low income families who are working, looking for employment, or attending training. Specifically, the proposed rules are about (1) technical amendments necessary to clarify existing child care assistance rules by using better drafting and consistent terms; (2) amendments necessary to make the rules conform to recent statutory changes to the Child Care Assistance and Minnesota Family Investment Programs; (3) amendments necessary to better define the purpose of the Child Care Assistance Program and other terms necessary to administer and use this program; (4) state and local administrative duties and procedures, including reporting and funding requirements; (5) application procedures that must be followed by participants and administrators; (6) notice requirements that must be followed when a family begins participating in the Child Care Assistance Program; (7) eligibility requirements for the Child Care Assistance Program and its three subprograms; the Basic Sliding Fee, Minnesota Family Investment, and Transition Year Child Care Assistance Programs; (8) procedures that must be used to determine how many hours of child care to authorize for a family; (9) procedures that must be used to calculate the family copayment fee and descriptions of other provider charges for which the family is responsible; (10) payment procedures and policies for the Child Care Assistance Program; (11) eligibility requirements and duties applicable to child care providers who care for children in families receiving child care assistance; (12) procedures that must be used to calculate the amount to pay child care providers for care provided to children in families receiving child care assistance; (13) procedures that must be used to determine and redetermine income and eligibility for applicants and participants; (14) the circumstances under which assistance may or must be terminated and the procedures that must be followed to do so; (15) procedures that apply to disqualification from the Child Care Assistance Program; (16) notice procedures that must be followed to terminate or reduce child care assistance or to take actions adverse to a family; (17) procedures that must be used to recoup or recover child care assistance funds for which families were not eligible; (18) procedures that apply to appeals of adverse actions and terminations; and (19) eligibility, procedural, and administrative requirements applicable to the At-Home Infant Care Program.

The proposed rules also repeal *Minnesota Rules*, parts 3400.0020, subparts 2, 3, 6, 7, 9, 10, 11, 13-17, 19, 21-23, 29-31, 32, 34, 36, 41, 42; 3400.0040, subparts 2, 6, 16; 3400.0050; 3400.0060, subparts 1, 3; 3400.0070; 3400.0080, subparts 2-7; 3400.0090, subparts 5, 6, 8, 9; 3400.0100, subpart 2; 3400.0110, subparts 5, 6; 3400.0130, subparts 4, 6, 9, 10; 3400.0140, subparts 3, 11-13, 15-

18, 20; 3400.0160; 3400.0170, subpart 2; and 3400.0190. The repealed provisions (1) contain language that the Department believes is unnecessary, obsolete, or repetitive, or (2) have been moved to more appropriate locations in the proposed rules.

The statutory authority to adopt the rules is *Minnesota Statutes*, section 119B.02, subdivision 1 (commissioner of children, families and learning has authority to adopt rules governing Child Care Assistance Program); *Minnesota Statutes*, section 119B.02, subdivision 3 (commissioner must adopt rules establishing minimum administrative standards for provision of child care services by county boards); *Minnesota Statutes*, section 119B.04, subdivision 2 (commissioner may adopt rules to administer Child Care and Development Fund); *Minnesota Statutes*, section 119B.06, subdivision 2 (commissioner has authority to adopt rules to administer Child Care Development Block Grant Program); *Minnesota Statutes*, section 119B.12, subdivision 2 (parent fees must be established in rule); and 1999 *Minnesota Laws*, chapter 205, article I, section 63, (commissioner must amend parent fee schedule in *Minnesota Rules*, chapter 3400).

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. A free copy of the rules is available upon request from the agency contact person listed above or from the agency website at <http://cfl.state.mn.us/rulemaking/childcare.html>

**Comments.** You have 30 days or until 4:30 p.m. on Thursday, January 25, 2001, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Thursday, January 25, 2001. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format/Accommodation.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for February 14, 2001, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 582-8428 after January 25, 2001 to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Beverly Jones Heydinger is assigned to conduct the hearing. Judge Heydinger can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **phone:** (612) 341-7606, and **fax:** (612) 349-2665.

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in

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writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or response period also submit a copy of the written views or data to the agency contact person at the address stated above.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, **phone:** (612) 296-5148 or (800) 657-3889.

**Adoption Procedure if No Hearing.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

**Adoption Procedure After a Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: 8 December 2000

Christine Jax, Ph.D.  
Commissioner  
Department of Children, Families and Learning

### 3400.0010 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of ~~parts 3400.0010 to 3400.0230~~ this chapter is to govern the administration of the child care fund ~~and, to reduce, according to a sliding fee schedule, the costs of child care services for eligible families to enable them to seek or retain employment or to participate in education or training programs to obtain employment, and to provide eligible families with the financial resources to find and afford quality child care for their children.~~ ~~Parts 3400.0010 to 3400.0230 set~~ This chapter sets eligibility standards for recipients and administrative requirements for agencies administering child care funds.

Subp. 2. **Applicability.** ~~Parts 3400.0010 to 3400.0230 apply~~ This chapter applies to all county and human service boards providing child care assistance to eligible families under *Minnesota Statutes*, sections 119B.011 to 119B.16.

### 3400.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3400.0010 to 3400.0230, the terms defined in *Minnesota Statutes*, section 119B.011, have the meanings given them in that section, and the following terms have the ~~meaning~~ meanings given them in this part.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. **Administering agency.** "Administering agency" means a county social services agency or a public or nonprofit agency designated by the county board to administer the child care fund.

Subp. 5. **Administrative expenses.** “Administrative expenses” means costs associated with the direct services administration of the child care fund. Administrative expenses include:

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

B. travel and transportation and per diem or subsistence expenses;

C. expenses for materials and office supplies;

D. publication, telephone, postage, and photocopy expenses; and

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

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. **Allocation.** “Allocation” means the share of the total state appropriation of child care funds that a county may earn and be reimbursed for in ~~a state fiscal year~~ an allocation period. A county’s allocation may be raised or lowered during the ~~fiscal year~~ allocation period when the commissioner redistributes unexpended or unencumbered allocations or when additional funds become available.

Subp. 9. [See repealer.]

Subp. 9a. **At-risk.** “At-risk” means environmental or familial factors that create barriers to a child’s optimal achievement. Factors include, but are not limited to, a federal or state disaster, limited English proficiency in a family, a history of abuse or neglect, a determination that the children are at risk of abuse or neglect, family violence, homelessness, age of the mother, level of maternal education, mental illness, mental retardation, or parental chemical dependency or history of other substance abuse.

Subp. 10. [See repealer.]

Subp. 11. [See repealer.]

Subp. 12. **Child care assistance.** “Child care assistance” means financial assistance for child care that is funded under *Minnesota Statutes*, sections 119B.011 to 119B.16.

Subp. 13. [See repealer.]

Subp. 14. [See repealer.]

Subp. 15. [See repealer.]

Subp. 16. [See repealer.]

Subp. 17. [See repealer.]

Subp. 17a. **Disability.** “Disability” means a functional limitation or health condition that interferes with a child’s ability to walk, talk, see, hear, breathe, or learn.

Subp. 18. **Documentation.** “Documentation” means a written statement or record that substantiates or validates an assertion made by a person or an action taken by an administering agency.

Subp. 19. [See repealer.]

Subp. 20. **Eligible relative ~~caretaker~~ caregiver.** “Eligible relative ~~caretaker~~ caregiver” means a person identified under ~~part 9500.2440, subpart 7, items A to D~~ *Minnesota Statutes*, section 256J.08, subdivision 11, who is a ~~caretaker~~ caregiver of a dependent child receiving a MFIP grant but who is not a member of the assistance unit.

Subp. 21. [See repealer.]

Subp. 22. [See repealer.]

Subp. 23. [See repealer.]

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Subp. 24. **Family copayment fee.** “Family copayment fee” means the ~~unsubsidized portion of the provider charge~~ amount the family must contribute as its share of child care costs as determined under part 3400.0100, subparts 3 to 4.

Subp. 25. **Full calendar month.** “Full calendar month” from the first day of a month to the last day of that month.

Subp. 26. **Full-day basis.** “Full-day basis” means child care provided by a provider for more than five hours per day.

Subp. 27. **Half-day basis.** “Half-day basis” means child care provided by a provider for ~~between one and~~ less than or equal to five hours per day.

Subp. 28. **Household status.** “Household status” means the number of individuals residing in the household and the relationship of the individuals to one another.

Subp. 29. [See repealer.]

Subp. 30. [See repealer.]

Subp. 31. [See repealer.]

Subp. 31a. **Job search support plan.** “Job search support plan” has the meaning given in *Minnesota Statutes*, section 256J.52, subdivision 3.

Subp. 31b. **Legal guardian.** “Legal guardian” means a person who has been appointed or accepted as a guardian according to *Minnesota Statutes*, section 260C.325, 525.615, or 525.6165, or under tribal law.

Subp. 32. [See repealer.]

Subp. 32a. **MFIP caregiver.** “MFIP caregiver” has the meaning given caregiver in *Minnesota Statutes*, section 256J.08, subdivision 11.

Subd. 32b. **Minimum wage.** “Minimum wage” means the minimum wage applicable under *Minnesota Statutes*, chapter 177, to the applicant or participant or the premises where the applicant or participant is employed.

Subp. 33. **Overpayment.** “Overpayment” means the portion of a child care payment that is greater than the amount for which a recipient is eligible.

Subp. 34. [See repealer.]

Subp. 34a. **Participant.** “Participant” means a family receiving child care assistance under the child care fund.

Subp. 35. **Provider rate.** “Provider rate” means the amount the provider charges for child care.

Subp. 36. [See repealer.]

Subp. 37. **Redetermination.** “Redetermination” means the process by which information is collected periodically by the county and used to determine whether a recipient is eligible for continued assistance under the child care fund.

Subp. 38. **Registration.** “Registration” means the process used by the county to obtain from a legal nonlicensed ~~caregiver~~ provider the information required under part ~~3400.0140~~ 3400.0120, subpart ~~5~~ 2.

Subp. 38a. **Residence.** “Residence” means the primary place where the family lives as identified by the applicant or participant.

Subp. 39. **State median income.** “State median income” means the state’s annual median income for a family of four, adjusted for family size, developed by the Bureau of Census and published annually by the United States Department of Health and Human Services in the *Federal Register*.

Subp. 40. **Student.** “Student” means an individual enrolled in an educational program as defined in ~~subpart 19~~ *Minnesota Statutes*, section 119B.011, subdivision 11. A non-MFIP student is a full-time student if the student is enrolled in the minimum equivalent of 12 credits or 20 hours of classroom training per week. A non-MFIP student is a part-time student if the student is ~~(1) a non-AFDC student~~ enrolled in a minimum equivalent of six credits or ten hours of classroom training per week up to the minimum equivalent of full-time student status; ~~or (2) an AFDC.~~ A MFIP student who is less than a full-time student but who is in compliance with the education or training requirements in ~~his or her employability development~~ the student’s employment plan.

Subp. 40a. **Temporarily absent.** “Temporarily absent” means a family member is living away from the family’s residence but intends to return to the residence.

Subp. 41. [See repealer.]

Subp. 42. [See repealer.]

Subp. 43. **Vendor payment.** “Vendor payment” means a payment made by a county or administering agency directly to a provider of child care services on behalf of a ~~recipient~~ participant.

Subp. 44. **Weekly basis.** “Weekly basis” means child care provided by a provider for more than 35 but not more than 50 hours per week.

**3400.0030 NOTICE OF BASIC SLIDING FEE PROGRAM ALLOCATION.**

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

**3400.0035 APPLICATION PROCEDURE.**

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

- A. the eligibility requirements under the child care fund;
- B. the documentation necessary to confirm eligibility;
- C. whether a waiting list exists and, if so, the number of families on the waiting list or the estimated time that the applicant will spend on the waiting list before reaching the top of the list;
- D. the procedure for applying for child care assistance;
- E. the family copayment fee schedule and how the fee is computed;
- F. information about how to choose a provider; and
- G. the family’s rights and responsibilities when choosing a provider.

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

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

B. If a family requests child care assistance and funds are not available, the administering agency must inform the family of a waiting list, screen the family for potential eligibility, and place the family on the waiting list if they appear eligible. As child care funds become available, the administering agency must inform the family at the head of the waiting list and ask the family to complete an application.

C. The administering agency must accept signed and dated applications that are submitted by mail or delivered to the agency within 15 calendar days after the date of signature. A county that is not financially responsible for an applicant may accept an application from the applicant but immediately must forward the application to the county that is financially responsible for the applicant. The administering agency must mail a notice of approval or denial of assistance to the applicant within 30 calendar days after receiving the application. With the consent of the applicant, the administering agency may extend the response time by 15 calendar days.

Subp. 3. Informational release. When it appears that an applicant may be eligible for child care assistance but is unable to document eligibility for the program, the administering agency must offer an applicant the opportunity to sign an informational release to permit the county to verify whether an applicant qualifies for child care assistance. The administering agency must also offer an applicant an opportunity to sign an informational release to permit the county to give the family’s child care provider the information listed in subpart 6 and in part 3400.0185, subparts 2 and 4, that is not required by *Minnesota Statutes*, section 119B.13, subdivision 5. The administering agency must give the applicant the information required by *Minnesota Statutes*, section 13.04, subdivision 2.

Subp. 4. Notice of denial. If the administering agency denies the application, the administering agency must document the reason or reasons for denying the application. The administering agency must inform the applicant of: the reason for denial; the provision in statute, rule, or county child care fund plan that is the basis for the denial; and the applicant’s right to a fair hearing under part 3400.0230 and *Minnesota Statutes*, section 119B.16.

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

A. the beginning date of eligibility;

B. the hours of care authorized, the maximum rate that may be paid, and how payments will be made;

C. the copayment amount including how and when the copayment must be made;

D. any change in income, residence, family status, or employment, education, or training status must be reported within ten calendar days from the date the change occurs;

E. any change in provider must be reported at least 15 calendar days before the change occurs;

F. the overpayment implications for the family if the changes described in items D and E are not reported as required; and

G. when child care assistance is terminated, the participant will be informed of the reason for the termination and the provider will be informed that, unless the family asks to continue to receive assistance pending an appeal, child care payments will no longer be made.

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

**Subp. 7. Selection of provider.** An applicant must select a provider before payments can be made from the child care fund.

**Subp. 8. Selection of legal nonlicensed provider.** An applicant who selects a legal nonlicensed provider must be informed about the following information and must sign an acknowledgment that contains:

A. a description of the registration process for legal nonlicensed providers;

B. a description of the parent's rights and responsibilities when choosing a provider;

C. an acknowledgment that the parent and the legal nonlicensed provider have reviewed the health and safety information provided by the county; and

D. if the parent has selected a legal nonlicensed family child care provider, an assurance that the parent will provide an immunization record for each child to the legal nonlicensed family child care provider within 90 days of the date that care for the child begins and will give the legal nonlicensed family child care provider the information necessary to update the communication record.

**Subp. 9. Selection of in-home provider.** An applicant who selects a provider who will provide child care in the applicant's home must be informed that there are employer/employee implications to this selection and must be referred to resources available for more information about these implications.

### **3400.0040 GENERAL ELIGIBILITY REQUIREMENTS AND ASSISTANCE STANDARDS ~~FOR~~ TO BE MET BY ALL APPLICANTS AND PARTICIPANTS.**

~~Subpart 1. Applicant requirements and standards. In addition to specific eligibility requirements under parts 3400.0060, 3400.0080, and 3400.0090, All applicants for child care assistance shall be governed by and all child care assistance program participants must meet the standards and requirements in subparts 2 to 16 this part in addition to the eligibility requirements in part 3400.0060, 3400.0080, or 3400.0090 for the child care program for which the person is applying or in which the person is participating.~~

Subp. 2. [See repealer.]

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

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

(1) child's citizenship status or the child's participation in a program that makes the child exempt from this documentation requirement;

(2) relationship of the children in the family to the applicant;

(3) age of the children in the family;

(4) age of the applicant if the applicant is under 21 years of age;

(5) identity, income eligibility, and residence; for all members of the applicant's family; and

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



B. The county must ask for the applicant's social security number, but the applicant is not required to disclose this information. Before asking for the applicant's social security number, the county must tell the applicant whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and how the number will be used.

C. The county ~~shall verify~~ must determine an applicant's eligibility ~~to receive~~ for child care assistance at the time of the application; ~~when~~. The county must redetermine eligibility whenever there is a change in ~~household~~ the family's status, family size, employment, income, education or training status; as specified in subpart 4, and at each redetermination under part 3400.0180. When contacting third parties to confirm eligibility information, the county shall comply with the Minnesota Government Data Practices Act, *Minnesota Statutes*, chapter 13.

Subp. 4. **Recipient Participant reporting responsibilities.** A recipient participant must ~~follow~~ meet the reporting ~~procedures~~ requirements in items A ~~to C~~ and B.

A. A recipient must notify the county of any changes in marital or household status, address, employment or education status, provider, and any change in income from the amount reported on the application form or the last redetermination, whichever occurred later. When there is a change in the information reported by the participant at application or at the most recent redetermination of eligibility, the participant must report the new information to the county within ten calendar days after the change occurs. This reporting requirement applies to changes in income, residence, employment status, education or training status, family status, or family size. A change in income occurs on the day the participant receives the first payment reflecting the change in income.

B. A recipient must report the changes listed in item A within ten calendar days after the change. In cases of an income change, the date of change begins on the day that the recipient receives payment at the new rate. Except in cases involving alleged child abuse or a substantiated health and safety complaint, a participant must notify the county and the provider of the intent to change providers at least 15 calendar days before changing providers.

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

Subp. 5. **Eligible applicants Employment, education, and training requirements.** In a family with a single parent, or unmarried legal guardian or eligible relative ~~caretaker~~ caregiver, the applicant or participant must meet employment, education, or training requirements and other eligibility requirements ~~under the basic sliding fee program or the AFDC child care program in this part and in part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which the family is applying or in which the family is participating.~~

In a family with two parents, a parent and stepparent, a legal guardian and spouse, or an eligible relative ~~caretaker~~ caregiver and spouse, at least one parent, legal guardian, eligible relative ~~caretaker~~ caregiver, or spouse must meet employment, education, or training requirements and other eligibility requirements ~~under the basic sliding fee program or the AFDC child care program in this part and in part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which the family is applying or participating in.~~ The other parent, legal guardian, eligible relative ~~caretaker~~ caregiver, or spouse must:

A. meet employment, education, or training requirements and other eligibility requirements ~~under the basic sliding fee program or the AFDC child care program in this part and part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which the family is applying or participating in;~~ or

B. be unable to care for the applicant's child or dependent as determined by a ~~medical doctor~~ licensed physician, licensed psychologist, or ~~by an assessment by~~ the local social services agency.

Subp. 5a. Child support cooperation. All applicants and participants of the child care assistance program must cooperate with establishment of paternity and enforcement of child support obligations for all minor children in the family with an absent parent. For purposes of this part, a family has met the cooperation requirement when the family complies with *Minnesota Statutes*, section 256.741. The child care portion of the child support order for children receiving child care assistance must be assigned to the public authority as provided in *Minnesota Statutes*, section 256.741.

Subp. 6. [See repealer.]

Subp. 6a. Ineligibility for failure to pay fees under the child care fund. A family that fails to pay the required family copayment fee under the child care fund is ineligible for child care assistance until the fees are paid or until the family arranges for payment in a manner acceptable to the provider and the county and then continues to comply with the payment agreement. When

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the county pays the parent, a family that fails to pay the provider the amount of the child care assistance payment is ineligible for child care assistance until the payment is made or until the family arranges for payment in a manner acceptable to the provider and the county and then continues to comply with the payment agreement.

Subp. 6b. Ineligibility for failure to pay overpayments. A family with an outstanding overpayment is ineligible for child care assistance until the overpayment is paid in full or until the family arranges to repay the overpayment according to part 3400.0187 and then continues to comply with the repayment agreement.

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

Subp. 7. Maximum weekly child care assistance. A family may not receive more than ~~60~~ 120 hours of child care assistance per child ~~per week~~ every two weeks.

Subp. 8. Child care assistance during employment. In addition to meeting other eligibility requirements, employed persons eligible for child care assistance under part 3400.0060, 3400.0080, or 3400.0090 must work ~~ten~~ at least an average of 20 hours ~~or more~~ per week and receive at least the ~~state~~ minimum wage for all hours worked. Employed persons eligible for child care assistance under part 3400.0080 are exempt from this requirement if they have an approved employment plan that allows fewer work hours or a lower wage.

The county and the participant may determine a length of time, not to exceed six months, over which the number of hours worked weekly can be averaged and counted toward the participant's meeting the average of 20 hours per week requirement. If the number of hours worked during the designated time period actually averages less than 20 hours per week, any child care assistance funds paid by the county on the participant's behalf during the designated time period are subject to recoupment or recovery.

When a participant does not work by the hour and is not paid an hourly wage, the participant's gross earned income over a given period must be divided by the minimum wage to determine whether the participant has met the requirement to average at least 20 hours of work per week at minimum wage. Child care assistance during employment shall be granted for the number of hours worked including break and meal time and up to two hours per day for travel time.

Subp. 9. Child care assistance in support of employment. A county ~~may~~ must grant child care assistance in support of employment for nonwork hours when ~~all~~ of the following conditions exist:

- ~~A. child care assistance is not provided under the child care fund during working hours;~~
- ~~B. the family meets the eligibility requirements of subpart 5;~~
- ~~C. the employee cannot reasonably modify his or her nonwork schedule to provide child care; and~~
- ~~D. B. the child care assistance does not exceed the amount of assistance that would be granted under subpart 8 during employment.~~

Subp. 10. Child care assistance during education ~~or training~~. ~~To the extent of available allocations,~~ Counties shall provide child care assistance to students eligible under part 3400.0060 or 3400.0080 and enrolled in county-approved education ~~or training~~ programs or employment plans according to items A to C.

A. Counties ~~may~~ must grant full-time students:

- (1) child care on a half-day or full-day basis for the days of class and on nonclass days, if needed for study, as determined by the county; ~~or~~
- (2) child care on a weekly basis; ~~or~~
- (3) ~~child care according to the standards in item B.~~

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

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

- (1) all hours of actual class time and credit hours for independent study and internships;
- (2) time periods between nonconsecutive classes;
- (3) up to two hours per day for travel time; and
- (4) two hours per week per credit hour for postsecondary students for study and academic appointments.

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

C. Child care assistance for remedial classes is subject to county approval under subpart 12. Upon county approval of the remedial class or classes, the county shall authorize child care assistance necessary to enable the student to attend class and to complete class assignments.

Subp. 11. **Child care assistance during employment and education ~~or training~~.** Employed students, including students on work study programs, are eligible for child care assistance during employment and education ~~or training~~. Counties shall use the standards in subparts 8 and 10 to determine the amount of child care assistance. ~~Child care assistance during employment and education may not exceed 60 hours per child per week. When full-time students request child care for employment, the employment hours must average at least ten hours per week at minimum wage. Students eligible for child care assistance under part 3400.0080 are exempt from this requirement if they have an approved employment plan that allows fewer work hours or a lower wage. For purposes of determining whether the ten hours at minimum wage requirement in this subpart has been met, work-study hours and income must be counted as employment.~~

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

Subp. 13. **Satisfactory progress in education program.** Subject to the limitation in subpart 14, a county shall provide child care assistance to students with an approved education ~~or training~~ program for the length of the education ~~or training~~ program if the student is making satisfactory progress in the education ~~or training~~ program. Satisfactory progress in the education ~~or training~~ program means a student remains in good academic standing in the education ~~or training~~ program as determined by the educational institution and meets the requirements of the student's education plan under part 3400.0060 or employability development employment plan under part 3400.0080. If the county determines that a student is not making satisfactory progress towards completion of an education ~~or training~~ program, the county shall notify the student and discontinue child care assistance according to part ~~9565.5110, subpart 10~~ 3400.0185.

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

A. A student eligible under part 3400.0060 is eligible for ~~a maximum of 48 months of child care assistance for education or training from the child care fund. A four-year education or training program must be directed towards a baccalaureate degree. The time limit under this item does not apply to basic or remedial educational programs needed to prepare for postsecondary education or employment. Basic or remedial education programs include high school, general equivalency diploma, and English as a second language. Basic or remedial programs that run concurrently with a postsecondary program are not exempt from the time limit under this item according to Minnesota Statutes, section 119B.07.~~

B. A student eligible under part 3400.0080 is eligible for child care assistance for the length of time necessary to complete activities authorized in the student's employment plan according to the standards in *Minnesota Statutes, chapter 256J*.

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

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

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

~~(3) (2) at least one year has passed since the student participated in or completed the first program;~~

(3) the new education program is approved by the county; and

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

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

~~C~~ D. A student eligible under part 3400.0060 with a baccalaureate degree may obtain child care assistance for continuing education units or certification or coursework necessary to update credentials to obtain or retain employment.

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

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

- ~~(1) the student did not receive child care assistance under the child care fund for the first baccalaureate degree; and~~
- ~~(2) the student does not have marketable skills.~~

Subp. 15. **Changes in education and training programs.** A proposed change in an education ~~or training~~ program is subject to county approval before the change may be made. A county may not deny a request for a change in an education program when the student requesting the change can show that changing a course or focus of study is necessary for reasons related to the health and safety of the student.

### Subp. 15a. Child care assistance during job search.

A. A county shall provide up to 240 hours per calendar year of child care assistance for job search activities to persons:

(1) eligible under part 3400.0080 who do not have approved job search support plans or whose approved employment plans do not include job search as an authorized activity;

(2) eligible under part 3400.0090 who are seeking employment; and

(3) eligible under part 3400.0060 who are seeking employment.

B. The county shall grant child care assistance for job search activities:

(1) according to the number of hours in the individual's approved job search plan;

(2) by applying the criteria identified in its child care fund plan; or

(3) by verifying the actual number of hours spent on job search.

C. At the option of the individual in job search and with prior county approval, child care may be used at a rate that is less than full time provided the total child care assistance does not exceed 240 hours of child care per calendar year.

D. Job search includes locating and contacting potential employers, preparing for interviews, interviewing, and up to two hours of travel time per day.

Subp. 16. [See repealer.]

Subp. 17. **Temporary ineligibility.** Counties must reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance. If specified in the county child care fund plan, a county may reserve a family's position under the child care assistance fund if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance. Employed participants may be temporarily ineligible for a maximum of 90 days. Child care assistance participants who are students may be temporarily ineligible for a maximum of one academic quarter or semester as determined by the educational institution.

Subp. 18. **Suspension.** Counties must suspend a family's child care assistance for up to one continuous year if there are temporary breaks when child care assistance is not needed but the family remains eligible for child care assistance.

### **3400.0060 BASIC SLIDING FEE PROGRAM.**

Subpart 1. [See repealer.]

Subp. 2. **Basic sliding fee allocation.** The commissioner shall allocate child care funds for the basic sliding fee program as provided in *Minnesota Statutes*, ~~section~~ sections 119B.03, subdivisions 6 to ~~8~~ 9, and 119B.061.

Subp. 3. [See repealer.]

Subp. 4. **Reallocation of unexpended or unencumbered funds.** The commissioner shall reallocate unexpended or unencumbered funds according to items A to D.

A. The commissioner may reallocate unexpended or unencumbered funds following the first, second, and third quarters of the allocation period as provided in *Minnesota Statutes*, section 119B.03, subdivision 5. Following the fourth quarter of the allocation period, the commissioner shall review county expenditures under the basic sliding fee program and shall reallocate unearned allocations to counties that ~~earned~~ had direct service earnings in excess of their full allocation.

B. The amount reallocated to any county shall be based on direct service earnings in excess of its allocation. The amount reallocated shall not be greater than the direct service earnings in excess of allocation minus the county's ~~maintenance of effort required under fixed local match~~ to be calculated as specified in Minnesota Statutes, section 119B.11, subdivision 4 1.

C. If the amount of funds available for reallocation is less than total county direct service earnings in excess of allocations, the reallocated funds shall be prorated to each county based on the ratio of the county's direct service earnings in excess of its allocation to the total of all county direct service earnings in excess of their allocation.

D. If the amount of funds available for reallocation is greater than total county direct service earnings in excess of allocations under the basic sliding fee program, the funds remaining after the basic sliding fee reallocation shall be carried forward ~~to the second year in the biennium in proportion to the county earnings~~ and added to the funds available for allocation in the next allocation period.

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

A. the applicant meets eligibility requirements under part 3400.0040;

B. the applicant is not ~~an AFDC caretaker~~ a MFIP caregiver; and

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

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

Families who inquire or apply while they are temporarily ineligible shall be placed on the waiting list if it appears they will be eligible for child care assistance. When a family advances to the top of the county's waiting list before they become eligible, the county shall leave the family at the top of the list according to priority group and according to part 3400.0040, subpart 17, and serve the applicant who is next on the waiting list.

Subp. 6a. **Transfer of families from waiting list to basic sliding fee program.** Families on the basic sliding fee waiting list shall be moved into the basic sliding fee program as funding permits according to the priorities listed in Minnesota Statutes, section 119B.03. After the county has complied with the priority requirement in section 119B.03, the county must comply with any priority requirements adopted under part 3400.0140, subpart 10, to move families on the waiting list into the basic sliding fee program.

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

A. The county shall place transition year families on the county's basic sliding fee program waiting list effective ~~the earliest of the following dates:~~

~~A. on the date the family became eligible for transition year child care assistance;~~

~~B. the date the family began participating in the ACCESS child care program under part 3400.0080, subpart 2; or~~

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

B. If a transition year family moves to a new county, the ~~waiting list date established under items A to C~~ the family was placed on the basic sliding fee waiting list in the original county shall transfer with the family. If a transition year family comes to the top of the county's basic sliding fee program waiting list before the transition year ends, the county shall encumber basic sliding fee program funds for those months remaining in the state fiscal year after the transition year ends.

C. Families who are eligible for, but do not use, transition year child care assistance retain their priority status for the basic sliding fee program. Families lose their priority status at the conclusion of their transition year.

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D. The county shall manage its basic sliding fee allocation in a way that allows families to move from transition year to the basic sliding fee program without any interruption in services. The county shall not serve families who are a lower priority on the basic sliding fee waiting list than a transition year family unless the county can ensure basic sliding fee program funding for the transition year family at the end of the transition year.

E. When the transition year ends, the county shall move the transition year family into the basic sliding fee program. A transition year family that does not come to the top of the county's basic sliding fee program waiting list before completion of the transition year shall be moved into the basic sliding fee program as funding becomes available according to the priority under *Minnesota Statutes*, section 119B.03, subdivision 4.

Subp. 8. **Application for child care assistance.** A family must apply for child care assistance in the family's county of residence.

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

A. When a family that is receiving child care assistance from the basic sliding fee program moves to a new county within Minnesota, the original county must continue to provide child care assistance for two full calendar months after the move if the family needs child care is needed and the family remains eligible for child care assistance under the basic sliding fee program. ~~The new county shall treat a family that moves to the county and requests child care assistance as a new applicant. The family is responsible for notifying the new county of residence within 30 days of moving and applying for basic sliding fee assistance in the new county.~~

B. If there is a waiting list for the basic sliding fee program in the receiving county when it assumes responsibility for the family, the receiving county must fund child care assistance for the family through the portability pool. Portability pool funding must continue for the lesser of six months or until the family is able to receive assistance under the receiving county's basic sliding fee program. The family must also be added to the basic sliding fee program waiting list according to priority group in the receiving county effective the date of the move. If the family reaches the top of the waiting list and funds become available before the six months have ended, the receiving county must immediately add the family to its basic sliding fee program. If basic sliding fee funds are not available when the six months has ended, services to the family must be terminated. The family must stay on the waiting list effective the date of the move.

C. If there is no waiting list for the basic sliding fee program and funds are available, the receiving county must immediately move the family into its basic sliding fee program when it assumes responsibility for the family according to *Minnesota Statutes*, section 256G.07.

D. If the participant had an approved educational plan in the original county, the plan transfers with the participant. The plan remains in effect during the two months that the original county continues to pay for the family's child care assistance and during any time the family's child care assistance is paid through the portability pool. When the receiving county pays the family's basic sliding fee assistance from its own allocation, the receiving county may reject, approve, or modify the family's educational plan based on the receiving county's criteria for approving educational plans.

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

### **3400.0080 ~~AFDC~~ MFIP CHILD CARE PROGRAM.**

Subpart 1. ~~Families guaranteed child care assistance under the AFDC~~ **Eligibility for MFIP child care program.** ~~Except as provided in subpart 2, families eligible for guaranteed child care assistance under the AFDC child care program are families listed under *Minnesota Statutes*, section 119B.05. The following persons are eligible for the MFIP child care assistance program:~~

A. MFIP caregivers who are participating in approved activities as required in their job search support or employment plans;

B. MFIP caregivers who do not have approved job search support or employment plans but who meet the requirements of *Minnesota Statutes*, section 119B.10;

C. MFIP caregivers who are participating in appeals, hearings, assessments, or orientations according to *Minnesota Statutes*, chapter 256J; and

D. families who are participating in programs as required in tribal contracts under *Minnesota Statutes*, section 119B.02, subdivision 2, or 256.01, subdivision 2.

Subp. 1a. **Eligibility of sanctioned MFIP caregiver.** A MFIP caregiver eligible for child care assistance who has been sanctioned under the MFIP program may receive child care assistance for that portion of the caregiver's job search support or employment plan which the caregiver is complying with according to *Minnesota Statutes*, chapter 256J.

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

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

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

If an EDP is in effect, the county responsible for the EDP must provide child care assistance, if needed and the family remains eligible, through completion of the EDP or two full calendar months, whichever is longer. After completion of the EDP or two full calendar months, whichever is longer, if the family has applied for and is eligible for child care assistance under the AFDC child care program, the family shall receive child care assistance from the new county. When a MFIP caregiver moves to a new county and the new county accepts responsibility for the caregiver's approved job search support or employment plan under *Minnesota Statutes*, section 256J.55, subdivision 3, the new county is responsible for providing child care assistance to the MFIP caregiver effective on the date that the county accepted responsibility for the plan. In all other cases, child care assistance must be provided according to *Minnesota Statutes*, section 256G.07, when a MFIP caregiver moves to a new county.

### **3400.0090 TRANSITION YEAR CHILD CARE.**

**Subpart 1. Notice to family of eligibility.** ~~The department administering agency must notify a family, in writing, at the time the family becomes ineligible for AFDC family's MFIP case closes of its the family's potential eligibility for transition year child care under this part.~~ The notification must include information on how to establish eligibility for transition year child care and on the family's rights and responsibilities under the transition year child care program.

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

A. ~~The family is no longer eligible for AFDC due to increased hours of, or increased income from, employment or the loss of income disregards due to the time limitations~~ family's MFIP case has closed.

B. At least one caregiver in the family received AFDC MFIP in at least three of the six months immediately preceding the first month of ineligibility and at least the last month of AFDC was paid by Minnesota in which the family's MFIP case was closed. The provision requiring receipt of MFIP in at least three of the preceding six months does not apply to caregivers who leave the work first program for the reasons listed in *Minnesota Statutes*, section 256K.07.

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

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

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

Eligibility for transition year child care begins the first month ~~the family is ineligible for AFDC for the reasons identified in item A,~~ after the family's MFIP case has closed and continues for 12 consecutive months. A family's temporary ineligibility for, suspension of, or failure to use child care assistance during the transition year does not suspend the transition year period. A former

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~~AFDC caretaker MFIP caregiver~~ may apply for transition year child care any time during the transition year ~~after losing eligibility for AFDC and, notwithstanding the application date, shall receive transition year child care assistance for all eligible months retroactive to the applicant's date of eligibility for transition year child care if all other eligibility requirements are met.~~ Eligibility for transition year child care cannot extend beyond 12 months after the initial date of eligibility for that transition year child care. If a family was receiving child care assistance when the family's MFIP case closed, determination of eligibility for transition year child care assistance must be treated as a redetermination rather than a new application.

Subp. 3. **Loss of transition year child care eligibility.** ~~A family is not eligible for transition year child care for any remaining portion of the 12-month period if the former AFDC caretaker fails to cooperate with the county to establish payments and enforce child support obligations, or the former AFDC caretaker terminates employment without good cause. Termination of employment for the reasons in items A to E is considered to be for good cause.~~

~~A. The job is not suited to the physical or mental capacity of the AFDC caretaker or it has had an adverse effect on the AFDC caretaker's physical or mental health. A claim made under this item must be documented by a licensed physician or licensed psychologist.~~

~~B. The job site is unsafe under health and safety standards established by the Occupational Safety and Health Administration and the Minnesota Department of Economic Security.~~

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

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

~~E. The former AFDC caretaker has accepted other employment that provides equal or better income or benefits. A family in which all caregivers have been disqualified from receiving MFIP due to fraud is not eligible for transition year child care assistance.~~

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

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. **County child care responsibility when a family moves to another county.** ~~Except for families with an EDP in effect, a county is responsible for providing child care assistance to a transition year family that moves to another county within Minnesota. Child care assistance must be provided according to Minnesota Statutes, section 256G.07, when a transition year family moves to a new county.~~

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

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

### 3400.0100 FAMILY COPAYMENT FEE SCHEDULE.

Subpart 1. ~~Non-AFDC family Copayment fees.~~ ~~Non-AFDC families participating in the sliding fee program with an income greater than the federal poverty level must pay a family copayment fee for child care services as provided in subpart 4. Non-AFDC families participating in the sliding fee program with an income less than or equal to the federal poverty level must pay a family copayment fee for child care services as provided in subpart 3.~~ Minnesota Statutes, chapter 119B, directs the commissioner to set a sliding fee schedule for determining parent fees and to base the parent fee on the ability of the family to pay for child care. Subparts 3 to 4 establish the basis for the sliding fee schedule.

Subp. 2. [See repealer.]

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



Subp. 2b. Payment of provider charges that exceed the maximum provider rate. If the provider's charge for child care is greater than the maximum provider rate allowed under part 3400.0130, the family shall pay, in addition to any family copayment fee, the difference between the maximum provider rate and the provider charge.

Subp. 2c. Payment of registration and activity fees that exceed the maximum rates. In addition to the family copayment fee, a family must pay any registration fees that exceed the standards established in part 3400.0130, subpart 7, any optional activity fees, and any activity fees that exceed the standards established in part 3400.0130, subpart 8.

Subp. 3. ~~Non-AFDC family~~ Copayment fee for families with incomes less than or equal to below 75 percent of the federal poverty level. Subject to the maximum provider rate established under part 3400.0130, A family whose income is less than or equal to 75 percent of the federal poverty level, adjusted for a family of that size shall pay, must not be assessed a monthly copayment fee as provided in items A and B.

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

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

If the provider's charge for child care is greater than the maximum provider rate allowed under part 3400.0130, non-AFDC families shall pay, in addition to any monthly copayment fee, the difference between the maximum provider rate allowed and the provider charge.

Subp. 3a. Copayment fee for families with annual incomes between 75 percent and 100 percent of the federal poverty level. A family whose income is between 75 percent and 100 percent of the federal poverty level, adjusted for family size, must pay a monthly copayment of \$5 per month. In cases where the federal poverty level, adjusted for family size, exceeds 35 percent of the state median income, adjusted for family size, the family's copayment fee must be calculated using the method in subpart 4.

Subp. 4. ~~Calculation of non-AFDC family~~ Copayment fee for families with annual incomes that exceed the federal poverty level. Except as provided in subpart 3, a non-AFDC family's monthly copayment fee is a fixed percent of its annual gross income. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of state median income for a family of four, adjusted for family size. The fixed percent is set forth in item C.

The monthly family copayment fee for families with annual incomes greater than the federal poverty level, adjusted for family size, is determined as follows:

A. The family's annual gross income is converted into a percentage of state median income (SMI) for a family of four, adjusted for family size, by dividing the family's annual gross income by 100 percent of the ~~state median income~~ SMI for a family of four, adjusted for family size. The percentage must be carried out to the nearest 100th of a percent.

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

C. If the family's annual gross income is greater than the federal poverty level and between 42.01 and less than or equal to 75.00 percent of the ~~state median income (SMI)~~ SMI for a family of four, adjusted for family size, the family's monthly copayment fee is the fixed percentage established for ~~that the family's~~ the family's income range in subitems (1) to ~~(58)~~ (60), multiplied by the highest possible income within that income range, divided by 12, and rounded to the nearest whole dollar.

(1) less than 35.01 percent of SMI — 2.20%

(2) 35.01 to 42.00 percent of SMI — 2.70%

~~(3)~~ (3) 42.01 to 43.00 percent of SMI — ~~2.60~~ 3.75%

~~(2)~~ (4) 43.01 to 44.00 percent of SMI — ~~2.80~~ 4.00%

~~(3)~~ (5) 44.01 to 45.00 percent of SMI — ~~3.00~~ 4.25%

~~(4)~~ (6) 45.01 to 46.00 percent of SMI — ~~3.20~~ 4.50%

~~(5)~~ (7) 46.01 to 47.00 percent of SMI — ~~3.40~~ 4.75%

~~(6)~~ (8) 47.01 to 48.00 percent of SMI — ~~3.60~~ 5.00%

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- ~~(7)~~ (9) 48.01 to 49.00 percent of SMI — ~~3.80~~ 5.25%
- ~~(8)~~ (10) 49.01 to 50.00 percent of SMI — ~~4.00~~ 5.50%
- ~~(9)~~ (11) 50.01 to 50.50 percent of SMI — ~~4.20~~ 5.75%
- ~~(10)~~ (12) 50.51 to 51.00 percent of SMI — ~~4.40~~ 6.00%
- ~~(11)~~ (13) 51.01 to 51.50 percent of SMI — ~~4.60~~ 6.25%
- ~~(12)~~ (14) 51.51 to 52.00 percent of SMI — ~~4.80~~ 6.50%
- ~~(13)~~ (15) 52.01 to 52.50 percent of SMI — ~~5.00~~ 6.75%
- ~~(14)~~ (16) 52.51 to 53.00 percent of SMI — ~~5.20~~ 7.00%
- ~~(15)~~ (17) 53.01 to 53.50 percent of SMI — ~~5.40~~ 7.25%
- ~~(16)~~ (18) 53.51 to 54.00 percent of SMI — ~~5.60~~ 7.50%
- ~~(17)~~ (19) 54.01 to 54.50 percent of SMI — ~~5.80~~ 7.75%
- ~~(18)~~ (20) 54.51 to 55.00 percent of SMI — ~~6.00~~ 8.00%
- ~~(19)~~ (21) 55.01 to 55.50 percent of SMI — ~~6.25~~ 8.30%
- ~~(20)~~ (22) 55.51 to 56.00 percent of SMI — ~~6.50~~ 8.60%
- ~~(21)~~ (23) 56.01 to 56.50 percent of SMI — ~~6.75~~ 8.90%
- ~~(22)~~ (24) 56.51 to 57.00 percent of SMI — ~~7.00~~ 9.20%
- ~~(23)~~ (25) 57.01 to 57.50 percent of SMI — ~~7.25~~ 9.50%
- ~~(24)~~ (26) 57.51 to 58.00 percent of SMI — ~~7.50~~ 9.80%
- ~~(25)~~ (27) 58.01 to 58.50 percent of SMI — ~~7.75~~ 10.10%
- ~~(26)~~ (28) 58.51 to 59.00 percent of SMI — ~~8.00~~ 10.40%
- ~~(27)~~ (29) 59.01 to 59.50 percent of SMI — ~~8.25~~ 10.70%
- ~~(28)~~ (30) 59.51 to 60.00 percent of SMI — ~~8.50~~ 11.00%
- ~~(29)~~ (31) 60.01 to 60.50 percent of SMI — ~~8.75~~ 11.30%
- ~~(30)~~ (32) 60.51 to 61.00 percent of SMI — ~~9.00~~ 11.60%
- ~~(31)~~ (33) 61.01 to 61.50 percent of SMI — ~~9.25~~ 11.90%
- ~~(32)~~ (34) 61.51 to 62.00 percent of SMI — ~~9.50~~ 12.20%
- ~~(33)~~ (35) 62.01 to 62.50 percent of SMI — ~~9.75~~ 12.50%
- ~~(34)~~ (36) 62.51 to 63.00 percent of SMI — ~~10.00~~ 12.80%
- ~~(35)~~ (37) 63.01 to 63.50 percent of SMI — ~~10.30~~ 13.10%
- ~~(36)~~ (38) 63.51 to 64.00 percent of SMI — ~~10.60~~ 13.40%
- ~~(37)~~ (39) 64.01 to 64.50 percent of SMI — ~~10.90~~ 13.70%
- ~~(38)~~ (40) 64.51 to 65.00 percent of SMI — ~~11.20~~ 14.00%
- ~~(39)~~ (41) 65.01 to 65.50 percent of SMI — ~~11.50~~ 14.30%
- ~~(40)~~ (42) 65.51 to 66.00 percent of SMI — ~~11.80~~ 14.60%
- ~~(41)~~ (43) 66.01 to 66.50 percent of SMI — ~~12.10~~ 14.90%
- ~~(42)~~ (44) 66.51 to 67.00 percent of SMI — ~~12.40~~ 15.20%
- ~~(43)~~ (45) 67.01 to 67.50 percent of SMI — ~~12.70~~ 15.50%
- ~~(44)~~ (46) 67.51 to 68.00 percent of SMI — ~~13.00~~ 15.80%
- ~~(45)~~ (47) 68.01 to 68.50 percent of SMI — ~~13.30~~ 16.10%
- ~~(46)~~ (48) 68.51 to 69.00 percent of SMI — ~~13.60~~ 16.40%
- ~~(47)~~ (49) 69.01 to 69.50 percent of SMI — ~~13.90~~ 16.70%
- ~~(48)~~ (50) 69.51 to 70.00 percent of SMI — ~~14.20~~ 17.00%

- ~~(49)~~ (51) 70.01 to 70.50 percent of SMI — ~~14.50~~ 17.30%
- ~~(50)~~ (52) 70.51 to 71.00 percent of SMI — ~~14.80~~ 17.60%
- ~~(51)~~ (53) 71.01 to 71.50 percent of SMI — ~~15.10~~ 17.90%
- ~~(52)~~ (54) 71.51 to 72.00 percent of SMI — ~~15.40~~ 18.20%
- ~~(53)~~ (55) 72.01 to 72.50 percent of SMI — ~~15.70~~ 18.50%
- ~~(54)~~ (56) 72.51 to 73.00 percent of SMI — ~~16.00~~ 18.80%
- ~~(55)~~ (57) 73.01 to 73.50 percent of SMI — ~~16.30~~ 19.10%
- ~~(56)~~ (58) 73.51 to 74.00 percent of SMI — ~~16.60~~ 19.40%
- ~~(57)~~ (59) 74.01 to 74.50 percent of SMI — ~~16.90~~ 19.70%
- ~~(58)~~ (60) 74.51 to 75.00 percent of SMI — ~~17.20~~ 20.00%

~~D. If the provider's charge for child care is greater than the maximum provider rate allowed under part 3400.0130, families shall pay, in addition to the family copayment fee, the difference between the maximum provider rate and the provider charge. If the remaining monthly provider charge is less than \$20 per month upon payment of the family copayment fee, the family shall pay the remainder of the provider charge.~~

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

Subp. 5. **Publication of state median income and fee schedule in *State Register*.** The department shall publish annually in the *State Register* the state median income for a family of four, adjusted for family size, and a fee schedule based on the formula in subpart 4, ~~item C, within 120 days from~~. This information must be published after the date the state median income is published in the *Federal Register* by the United States Department of Health and Human Services. Once published in the *State Register*, the department shall also distribute a copy of the fee schedule and the updated estimate of state median income to each county after the information is published in the *Federal Register*. Counties shall begin applying the updated fee schedule shall be used by the county to determine the family copayment fee for new applications and at a participating family's next redetermination beginning on the first day of the state fiscal year yearly on July 1 or, if published after July 1, on the first day of the first full quarter that follows following publication of the state median income in the *State Register* if publication occurs after July 1.

**3400.0110 CHILD CARE ASSISTANCE PAYMENTS.**

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

A. Counties must monitor child care payments to ensure that the funds are used for child care. Counties must make payments only for child care costs that are not being paid by any funding source other than the family. Counties may make child care payments either by:

- (1) paying the provider directly or paying the family when services have already been provided; or
- (2) making advance payments directly to the provider or, if the family is responsible for paying the provider, to the family when a provider requires payment in advance for all families served.

B. When a county makes advance payments, the county must recover the amount advanced if:

- (1) the county paid the assistance payment to the family and the provider was not paid; or
- (2) the family was not eligible to receive child care assistance in the amount provided.

C. The county's inability to recover an advance payment from a family does not affect the commissioner's right to recover the advance payment from the county under *Minnesota Statutes*, section 119B.11, subdivision 3.

Subp. 1a. **Date payments must begin.** After approval of an application for child care assistance, payment of child care assistance must be authorized to begin as of the family's date of eligibility as determined under part 3400.0040, subpart 6c.

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Subp. 2. **Registration before payment of legal nonlicensed caregivers providers.** ~~Before a county makes a child care payment to a legal nonlicensed caregiver, the legal nonlicensed caregiver must be registered with the county. A legal nonlicensed provider must be registered with the county as provided in part 3400.0120, subpart 2, before the county pays a parent or the provider from the child care fund. After the registration requirement for a legal nonlicensed caregiver is satisfied, payment shall be made provider registers with the county, the county must pay the provider or parent retroactive to the beginning date of authorized child care for employment, education, or training; the date the child care application was signed; or date in item A, B, or C that occurred most recently:~~

- ~~A. the date on which child care for the family was authorized to begin;~~
- ~~B. the date the family signed the application for child care; or~~
- ~~C. the date the family began using the legal nonlicensed caregiver, whichever is later provider.~~

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

~~A. When a county's child care fund plan establishes additional registration requirements for legal nonlicensed providers, the county may issue provisional authorization and payment after the provider has met the registration requirements in part 3400.0120, subpart 2. Continuing authorization and payment is contingent on the provider meeting the additional registration requirements in the county's child care fund plan. If the legal nonlicensed provider cannot meet the additional registration requirements, the provisional authorization and payment must be terminated following notice to the provider as required under part 3400.0185 and *Minnesota Statutes*, section 119B.13, subdivision 5. The county must notify the family using the ineligible provider that the family must choose a new provider to continue receiving child care assistance. A provider's failure to meet the additional registration requirements does not cause payments made during the provisional authorization period to be overpayments.~~

~~B. If a family appeals the adverse determination of provider eligibility and, while the appeal is pending, continues to use the provider who failed to meet the additional registration requirements, payments made after the notice period are subject to recovery as overpayments.~~

Subp. 3. **County authorization of child care.** A county ~~may~~ must authorize child care on an hourly, half-day, full-day, or weekly basis if the provider charges on that basis. A county may authorize child care on an hourly, half-day, full-day, or weekly basis if the activities authorized for the family justify the block of time. Combinations of hourly, half-day, or full-day child care may be paid when ~~11 hours or more~~ than ten hours of child care are authorized in a 24-hour period. ~~If a family selects a child care provider who charges for child care on a basis greater than the amount of child care authorized by a county, the family is responsible for the cost of child care that exceeds the amount authorized by the county.~~ When more than 50 hours of child care assistance for one child are authorized with one provider in a week, the county may reimburse the provider in an amount that exceeds the county maximum weekly rate, if the provider charges the same amount for more than 50 hours of care for a family not receiving child care assistance. A county must not authorize more than 120 hours of child care assistance per child every two weeks. To convert child care authorized on a half-day, full-day, or weekly basis into hours, counties must follow the standards in items A to C.

- A. A half-day is equal to five hours of child care.
- B. A full-day is equal to ten hours of child care.
- C. A week is equal to 50 hours of child care.

Subp. 4. **Maximum child care payments.** Child care assistance payments under the child care fund may not exceed the 75th percentile rate for like care arrangements in the county, ~~except as provided in part 3400.0130. Payment for child care rates that exceed the 75th percentile is the responsibility of the family.~~ When a provider's rate is less than the 75th percentile, the county shall pay the provider's rate.

**Subp. 4a. Reimbursement from other sources for child care costs.** A county must reduce the amount of a family's child care assistance payment by the amount of reimbursement earmarked for the same child care expenses that the family receives from sources other than the child care assistance fund.

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. **County payment policies and schedule.** A county's payment policies must be included in the county's child care fund plan. A county may not require parents to pay providers in advance of receiving payments from the child care fund as a condition for receiving payments from the child care fund. The county shall make payments at least monthly. If a provider sends the county an invoice according to the provisions of *Minnesota Statutes*, section 119B.13, subdivision 6, the county must make payments within 30 days of receiving the invoice. Counties must mail or give providers the forms necessary to bill for payment on or before the beginning of the billing cycle if the county has received the information necessary for child care to be authorized before this date. A county is not required to pay an invoice submitted more than one year after the first date of service on the invoice if the

county includes this time limit in its child care fund plan and gives notice of the time limit to providers. A county may require invoices to be submitted within a time period that is less than one year if the county includes this time limit in its child care fund plan and gives notice of the time limit to providers.

Subp. 8. **Sick child care.** Sick child care means child care services provided to children who as a result of illness cannot attend the family's regular provider. In addition to making payments for regular child care, the county may make payments for sick child care. If the county chooses to pay sick child care, payment for sick child care shall must be at a rate comparable to like care arrangements in the county. The county's sick child care policy and rate shall be included in the county's ~~biennial allocation~~ child care fund plan required under part 3400.0150.

Subp. 9. **Payment during child absences.** Under *Minnesota Statutes*, section ~~119B.02, counties are~~ 119B.13, subdivision 1, the commissioner is authorized to establish policies for payment of child care spaces for absent children when the payment is required by the child's regular provider. If the county establishes policies for the payment of child care spaces for absent children, the county shall set limits and pay for the absences according to the prevailing market practice in the county that reflect current market practice. Counties may establish additional policies for the payment of absent days but these policies must be consistent with the policies established by the commissioner under *Minnesota Statutes*, section 119B.13, subdivision 1. Additional county policies for payment of absences shall must be included in the county's ~~allocation~~ child care fund plan required under part 3400.0150. Provider charges for absent days in excess of the amount established by the county commissioner, or by the county if the county's absent day policy is in excess of the amount established by the commissioner, are the responsibility of the family receiving child care assistance.

Subp. 10. **Payment during medical leaves of absence.** Counties ~~may establish policies for~~ must grant child care assistance during a parent's medical leave of absence from education or employment ~~if the parent is incapable of providing child care during the medical leave of absence. Child care assistance provided under this subpart shall only be granted if:~~

A. ~~the parent is incapable of providing child care during the medical leave or absence;~~

B. ~~the parent is expected to return to the parent's current employment or education or training program within 90 calendar days after leaving the job, education, or training program; and~~

~~B. C. the necessity of the medical leave and the inability to provide child care is~~ are documented by a physician ~~and or~~ licensed psychologist.

~~C. The amount of child care~~ authorized during the medical leave of absence ~~does~~ must not exceed the equivalent of one month of full-time child care.

~~The county's policy on medical leaves of absence shall be included in the allocation plan required under part 3400.0150.~~

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

Subpart 1. **Eligible providers.** Providers ~~eligible for payments under the child care fund are providers as defined who meet the definition of provider in *Minnesota Statutes*, section 119B.011, subdivision 20 19, are eligible for payment from the child care fund. Within the limitations specified in *Minnesota Statutes*, section 119B.09, subdivision 5, parents may choose child care providers that best meet the needs of their family subject to the limitation in *Minnesota Statutes*, section 119B.09, subdivision 5. Parents may choose more than one provider. A county may not deny a parent eligible for child care assistance the use of a provider holding a valid child care license.~~

Subp. 1a. **Provider acknowledgment.** A provider must sign a provider acknowledgment and the county must have a signed provider acknowledgment before the provider or parent may receive payment under the child care fund. The provider acknowledgment must include the following information:

A. the provider's rate, charges for child absences and holidays, any notice days required before a child discontinues care, and any required registration or activity fees;

B. documentation of the provider's license status and, if the provider is seeking the provider accreditation rate bonus, any accreditation or credential held by the provider;

C. a statement acknowledging that charging child care assistance participants more than families not receiving child care assistance for like services or wrongfully obtaining child care assistance may be a crime;

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D. a statement acknowledging that parents must be given unlimited access to their children and to the provider caring for the children during all hours that the children are in the provider's care;

E. a statement acknowledging that the provider is responsible for notifying the county as provided in part 3400.0120, subpart 5, of child absence days and the end of care; and

F. a statement acknowledging that the provider is responsible for immediately notifying the county of any changes to the information supplied by the provider in the provider's acknowledgment.

### **Subp. 1b. Eligible legal nonlicensed providers.**

A. Legal nonlicensed providers must meet the following conditions to be eligible for payment from the child care fund. A legal nonlicensed provider must:

(1) satisfy the registration requirements in subpart 2;

(2) satisfy any additional applicable registration requirements documented in the county's child care fund plan;

(3) provide the county with an assurance that the provider is in compliance with state and local health ordinances and building and fire codes applicable to the premises where child care is provided; and

(4) be subject to the definition of unsafe care in the county's child care fund plan.

B. During the time necessary to verify the legal nonlicensed provider's compliance with a county's additional registration requirements, the county may issue provisional payment to a legal nonlicensed provider according to part 3400.0110, subpart 2a.

### **Subp. 2. Registration before payment of legal nonlicensed providers.**

A. A legal nonlicensed caregiver provider must be registered with the county before the caregiver provider or parent may receive a provider payment under the child care fund. To be registered with the county, a provider must provide the county with the following information:

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

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

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

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

B. Legal nonlicensed providers who will receive payment from the county must provide the county with the provider's social security or tax identification number. The county may ask legal nonlicensed providers who will not receive payment from the county for their social security numbers; but legal nonlicensed providers who will not receive payment from the county are not required to disclose this information. Before asking for a legal nonlicensed provider's social security number, the county must tell the legal nonlicensed provider whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and how the number will be used.

C. Legal nonlicensed family child care providers also must provide the county with an assurance that the provider will obtain an immunization record for each child in the provider's care within 90 days of starting to care for the child.

D. A registered legal nonlicensed provider who has not provided care to children receiving assistance from the child care fund for over one year must reregister under this subpart before receiving payment under the child care fund.

**Subp. 3. Parental access to children in care.** Providers must permit parents unlimited access to their children and to the provider caring for their children during ~~normal~~ all hours of provider operation and when the children are in the care of the provider.

**Subp. 4. Complaints, record, and disclosure.** Legal nonlicensed caregivers providers must permit counties to maintain a record of substantiated parental complaints concerning the health and safety of children in the legal nonlicensed caregiver's provider's care and to allow the disclosure to the public on request of that information subject to *Minnesota Statutes*, chapter 13. Information governing maltreatment of minors shall be maintained and disclosed according to *Minnesota Statutes*, section 626.556.

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

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

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

Subp. 1a. Maximum county child care assistance rate. Except as provided in this part, the maximum rate that a county may pay for child care assistance is the provider's rate or the 75th percentile maximum county rate determined by the commissioner under subpart 1, whichever is less. Except as provided in this part, if the provider's rate is more than the maximum county rate, the county may not pay more than the difference between the maximum county rate and the family's copayment fee.

Subp. 2. Rate determination for registered legal nonlicensed caregivers providers. Beginning in 1994 and every two years thereafter, the counties shall conduct a survey of registered nonlicensed caregivers to determine the 75th percentile rate for infants, toddlers, preschool, and school age children. The survey shall be conducted in a manner prescribed by the commissioner. Rates paid to legal nonlicensed family child care providers must be 90 percent of the county maximum rate for licensed family child care or the provider rate, whichever is less. Rates paid to all other license-exempt facilities as defined in Minnesota Statutes, section 245A.03, subdivision 2, must be the county maximum rate for licensed child care centers or the provider rate, whichever is less.

Subp. 2a. Rate bonus for provider accreditation. Any provider must be paid a ten percent bonus above the applicable county maximum rate, up to the provider rate, if the provider or center holds a current early childhood credential or accreditation approved by the commissioner. Counties must receive documentation of provider credentials or accreditation from the provider before authorizing payment of the ten percent bonus. If the credential or accreditation is renewable, the provider must maintain the credential or accreditation for the bonus payments to continue.

Subp. 3. Rate determination; handicapped or children with special needs. The county shall set the maximum child care rate for a provider providing child care to a handicapped or special needs child based on like care arrangements in the county. When four or more providers offer child care for children with a handicap or special needs, the county shall identify the 75th percentile rate. A rate established under this subpart must be included in the child care allocation plan. A county must submit a request to pay a special needs rate to the commissioner as an amendment to the county child care fund plan. Upon written approval by the commissioner, the approved special needs rate must be paid retroactive to the date of the provider or parent request for the special needs rate.

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

A. obtain documentary evidence of the child's disability;

B. obtain the following documentation from the child care provider:

(1) a description of the specialized training, services, or environmental adaptations that the provider will furnish to meet the individual needs of the child;

(2) the provider's assurance of compliance with applicable provisions of the Americans with Disabilities Act;

(3) the provider's assurance that the rate being sought is the same as the rate that would be charged for a family not receiving child care assistance for like services; and

(4) if applicable, a statement from the provider explaining that the provider's rate for all children in care should be adopted as the special needs rate for the child with disabilities because the provider has chosen to spread the cost of caring for children with special needs across all families in care; and

C. seek the commissioner's approval of the special needs rate as provided in subpart 3.

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Subp. 3b. Rate determination; children with special needs due to inclusion in at-risk population. To determine a special needs rate for a child who is included in an at-risk population defined in the county's child care fund plan, the county must use the following procedures. The county must:

A. obtain documentary evidence showing that the child is included in the at-risk population defined in the county's child care fund plan;

B. obtain the following documentation from the child care provider:

(1) a description of the specialized training, services, or environmental adaptations that the provider will furnish to meet the individual needs of the child or the at-risk population;

(2) the provider's assurance that the rate being sought is the same as the rate that would be charged for a family not receiving child care assistance for like services; and

(3) if applicable, a statement from the provider explaining that the provider's rate for all children in care should be adopted as the special needs rate for the child in the at-risk population because the provider has chosen to spread the cost of caring for children with special needs across all families in care;

C. determine how many providers in the county offer child care for children in the at-risk population;

D. identify the 75th percentile rate if the county finds that four or more providers offer child care for children in the at-risk population and pay the 75th percentile rate, the rate negotiated with the provider by the county, or the provider's rate, whichever is less;

E. pay the lesser of the rate negotiated with the provider by the county or the provider's rate if the county finds that fewer than four providers offer child care for children in the at-risk population; and

F. seek the commissioner's approval of the special rate as provided in subpart 3.

Subp. 4. [See repealer.]

Subp. 5. **Child care rate, provider's county of residence.** Child care payments shall be based on the allowable rates in the provider's county of residence when the provider resides in Minnesota. When the provider resides outside the state of Minnesota or when care is provided in the child's home, the maximum rate must be based on the allowable rate in the participant's county of residence.

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

Subp. 6. [See repealer.]

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

Subp. 8. **Payment of activity fees.** If, in addition to a provider's base rate, a provider charges ~~optional activity fees, the family is responsible for payment of the optional activity fees.~~ If the provider's activity fees that are not optional, the activity fees shall be incorporated into the base rate and the provider may be paid up to the ~~75th percentile county maximum provider rate from the child care fund.~~ When the combined base rate and the activity fees exceed the 75th percentile provider rate for like care arrangements, the family is responsible for the amount in excess of the 75th percentile provider rate.

Subp. 9. [See repealer.]

Subp. 10. [See repealer.]

### **3400.0140 COUNTY RESPONSIBILITIES.**

Subpart 1. **County child care assistance policies and procedures.** Counties shall adopt policies and procedures for providing child care assistance to enable eligible applicants to seek or retain employment or to participate in education or training programs. All county policies that apply to child care assistance must be in writing and must be included in the county's biennial ~~allocation~~ child care fund plan required under part 3400.0150.

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



Subp. 3. [See repealer.]

Subp. 4. **Determination of providers eligible for payments.** The county's process for approving providers eligible for payments under the child care fund may not exceed 30 calendar days, or 45 calendar days with the approval of the applicant, from the date the child care application is approved ~~or, the date the child care provider is selected by the applicant, or, in counties that have established additional registration requirements for legal nonlicensed providers under subpart 5, the date the county received the information necessary to verify the legal nonlicensed provider's compliance with the additional registration requirements,~~ whichever is later. Reimbursement for child care expenses must ~~begin retroactive to the date of the signed application for eligible services, the beginning date of participation in an authorized education or employment activity, or the date the applicant selected the eligible provider, whichever is later~~ be made according to the date of eligibility established in part 3400.0040, subpart 6c. If the county determines that a provider chosen by an applicant is not eligible to receive child care payments under the child care fund, the applicant may appeal the county's determination under part 3400.0230.

Subp. 5. **Registration of legal nonlicensed ~~caregivers~~ providers.** Before the county issues ~~a provider~~ payment ~~to for child care provided by~~ a legal nonlicensed ~~caregiver~~ provider, the ~~caregiver~~ provider must be registered with the county ~~as provided in part 3400.0120, subpart 2. To be registered with the county, the provider is required to supply the county with the provider's name, social security number, age, and address of the caregiver, the provider rate, and a release to permit information on substantiated parental complaints concerning the health and safety of children in their care to be disclosed to the public subject to Minnesota Statutes, chapter 13. In addition to other registration requirements, legal nonlicensed caregivers must comply with state and local health ordinances and building and fire codes applicable to the premise where child care is provided.~~ The county shall provide each registered ~~caregiver~~ provider health and safety material supplied by the department and shall refer the registered ~~caregiver~~ provider to the child care resources and referral agency. ~~A county shall not authorize the payment of child care assistance to a legal nonlicensed caregiver who is not registered.~~ The county may establish additional registration requirements for legal nonlicensed providers. The additional requirements must be identified in the county's child care fund plan.

**Subp. 5a. Provisional payment of registered providers.** ~~This subpart applies to counties that have established additional registration requirements under subpart 5 for legal nonlicensed providers. After a legal nonlicensed provider meets the registration requirements in part 3400.0120, subpart 2, a county may issue provisional authorization and payment to the legal nonlicensed provider as provided in part 3400.0110, subpart 2a, during the time necessary to verify the legal nonlicensed provider's compliance with the additional registration requirements. Whether a county will issue provisional authorization and payment under this subpart and any conditions applicable to provisional authorization and payment must be described in the county's child care fund plan.~~

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

- A. the county's child protection agency if the parental complaint alleges child maltreatment as defined in *Minnesota Statutes*, section 626.556, subdivision 10e;
- B. the county's public health agency if the parental complaint alleges a danger to public health due to communicable disease, unsafe water supply, sewage or waste disposal, or building structures;
- C. local law enforcement if the parental complaint alleges criminal activity that may endanger the health or safety of children under care; or
- D. other agencies with jurisdiction to investigate complaints relating to the health and safety of a child.

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

Subp. 7. **County contracts and designation of administering agency.** Counties may contract for the administration of all or part of the child care fund ~~or may arrange for child care funds to be used by other designated programs.~~ The county shall designate the agency authorized to administer the child care fund in the county's child care fund plan.

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Subp. 8. **Agreement with employment and training service providers.** ~~The county shall develop cooperative agreements with employment and training service providers to coordinate child care funding with employment, training, and education programs for all AFDC Project STRIDE caretakers. The cooperative agreement shall specify that AFDC caretakers eligible for Project STRIDE who are receiving employment, training, and education services under an EDP shall be guaranteed child care assistance from the county responsible for the AFDC caretaker's EDP. Cooperative agreements with employment and training services providers must specify that MFIP families participating in employment services and meeting the requirements of part 3400.0080 are eligible for child care assistance from the county responsible for the MFIP participant's approved job search support or employment plan or according to *Minnesota Statutes*, section 256G.07.~~

Subp. 9. **Local match.** ~~The county shall provide a local match equal to 15 percent of the basic sliding fee program allocation during the grant year. The local match may include in-kind materials and services furnished by the county and required for the administration of the program. The local match may not include the family copayment fee according to *Minnesota Statutes*, section 119B.11, subdivision 1.~~

Subp. 9a. **Child care assistance funding.** In the manner prescribed by the commissioner, counties shall claim funding for child care expenditures for all eligible recipients who are in employment, education, training, or other preemployment activities allowed under the federal and state reimbursement programs. The commissioner shall allocate any federal or state earnings to the county that claimed the funding and the county shall use the earnings to expand funding for child care services.

Subp. 10. **Eligibility priorities for beginning assistance.** If a county's basic sliding fee program allocation for child care is insufficient to fund all applications for child care assistance, the county shall may prioritize eligibility among the groups that remain to be served after the county has complied with the priority requirements set forth in *Minnesota Statutes*, section 119B.03, subdivision 4. The county shall include its rationale for the prioritization of eligibility for beginning assistance in its biennial allocation child care fund plan. To the extent of available allocations, no eligible family may be excluded from receiving child care assistance.

Subp. 10a. **Definition of at-risk populations.** A county may define a population of children as an at-risk population that is eligible for a special needs rate. A definition of an at-risk population must be included in the county's child care fund plan.

Subp. 11. [See repealer.]

Subp. 12. [See repealer.]

Subp. 13. [See repealer.]

Subp. 14. **Child care fund reports.** ~~The county shall complete a child care fund program fiscal report each quarter on forms approved by the commissioner. The county must submit the child care fund program report to the commissioner no later than 20 calendar days following the end of a quarter. Counties must submit financial and program activity reports according to instructions and schedules that the commissioner establishes after considering such factors as the department's need to receive county data in a manner and on a schedule that meets federal reporting deadlines and the counties' need for lead time when changes in reporting requirements occur.~~

Subp. 15. [See repealer.]

Subp. 16. [See repealer.]

Subp. 17. [See repealer.]

Subp. 18. [See repealer.]

Subp. 19. **Recoupment of overpayments.** ~~When a county discovers that a family has received an overpayment for one or more months, the county shall recoup the overpayment even when the overpayment is due to agency error or to other circumstances outside the responsibility or control of the family. The county shall recoup overpayments that occurred up to 12 months before the month the overpayment is discovered according to items A to C. A county may pursue recovery of an overpayment that extends beyond the 12-month period through means of collection other than recoupment.~~

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

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

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

~~(2) Except as provided in subitem (3), if a family's income is greater than the federal poverty level the county shall reduce monthly child care assistance by the larger of eight percent of the overpayment or \$20, not to exceed two times the family copayment fee under part 3400.0100, subpart 4, until the debt is retired.~~

~~(3) A county shall reduce child care assistance by an amount equal to 16 percent of the overpayment until the debt is retired when an overpayment is due to a family's failure to provide accurate information on household status, income, or employment or education status; a family's failure to report a change under part 3400.0040, subpart 4, on two or more occasions and the failure to report caused the overpayment; or the amount of the overpayment is greater than \$1,000.~~

~~C. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayment less than \$50. When the amount of the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this item is not eligible for child care assistance until the debt is paid in full or satisfactory arrangements are made with the county to retire the debt. Overpayments must be recovered or recouped as identified in part 3400.0187.~~

Subp. 20. See repealer.

### **3400.0150 CHILD CARE FUND ALLOCATION PLAN.**

Subpart 1. **Submittal of plan.** By the date established by the commissioner, the county shall submit to the commissioner a biennial child care fund ~~allocation~~ plan. The commissioner may require updates of information in the ~~allocation~~ plan as necessary to comply with ~~parts 3400.0010 to 3400.0230~~ this chapter, Minnesota Statutes, sections 119B.011 to 119B.16, and federal law.

Subp. 2. **Plan content.** ~~The allocation plan shall~~ must contain: a complete description of the county's child care assistance program for applicants and participants eligible for assistance under Minnesota Statutes, chapter 119B. The plan must include the information required by Minnesota Statutes, section 119B.08, subdivision 3; the information required by this chapter; and all written forms, policies, and procedures used to administer the child care funds. The information in the plan must be in the form prescribed by the commissioner.

~~A. a narrative of the county's total program for child care services for job search, employment, and education or training purposes, including the amount and sources of all other funds used to provide child care services;~~

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

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

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

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

~~F. the county's policy for providing child care assistance to families needing intermittent child care assistance under part 3400.0140, subpart 11;~~

~~G. a statement that the county has not reduced child care funding as required under Minnesota Statutes, section 119B.11, subdivision 4;~~

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

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

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

Subp. 3. **Plan approval and amendments.** ~~The commissioner shall inform each county of the approval of its allocation plan within 60 calendar days after the submission deadline. If the plan is not approved, the commissioner shall inform the county why the plan was not approved. No child fund allocations shall be made to a county until it has an approved allocation plan. The county may request approval to amend its child care allocation plan at any time. A county may amend its child care fund plan at any time but the amendment must be approved by the commissioner before it becomes effective. If approved by the commissioner, the amendment is effective on the date requested by the county unless a different effective date is set by the commissioner. Plan amendments must be approved or disapproved by the commissioner within 60 days after receipt of the amendment request.~~

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### 3400.0170 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

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

Subp. 2. [See repealer.]

Subp. 3. **Evaluation of income of non-AFDC families.** The administering agency shall determine income received or available to a ~~non-AFDC~~ family according to subparts 4 to 13. All income, unless specifically excluded in subpart 6, must be counted as income.

Subp. 4. **Determination of annual gross income.** The income standard for determining eligibility for child care assistance is annual gross income. Annual gross income is the sum of gross earned income, self-employment income, unearned income, and lump sum payments, which must be treated according to subpart 13. Negative self-employment income must be included in the determination of annual gross income, resulting in a reduction in total annual gross income. Gross earned income, self-employment income, unearned income, and lump sum payments must be calculated separately.

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

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

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

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

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

D. ~~income from summer or part time employment of 16, 17, and 18 year old full time secondary school students~~ earned income of full-time or part-time students up to the age of 19 who have not earned a high school diploma or GED high school equivalency diploma, including earnings from summer employment;

E. grant awards under the family subsidy program;

F. nonrecurring lump sum income that is earmarked and used for the purpose for which it is paid; ~~and~~

G. ~~child or spouse support paid to a person or persons who live outside of the household~~ supplemental security income; and

H. income assigned to the public authority under *Minnesota Statutes*, section 256.741.

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

A. child or spousal support paid to or on behalf of a person or persons who live outside of the household; and

B. funds used to pay for health and dental insurance premiums for family members.

Subp. 7. **Earned income from self-employment.** In determining annual gross income for purposes of eligibility under this part, the administering agency shall determine earned income from self-employment. Earned income from self-employment is the difference between gross receipts and authorized self-employment expenses which may not include expenses under subpart 8. Self-employment business accounts must be kept separate from the family's personal checking and savings accounts. If the person's business is a partnership or a corporation and that person is drawing a salary, the salary shall be treated as gross earned income under subpart 5.

Subp. 8. **Self-employment deductions which are not allowed.** In determining eligibility under this part, self-employment expenses must be subtracted from gross receipts. For purposes of this subpart, the document in items I to K is incorporated by reference. It is available through the Minitex interlibrary loan system. It is subject to frequent change. If the document in items I to K

is amended, and if the amendments are incorporated by reference or otherwise made a part of state or federal law applicable to self-employment deductions, then the amendments to the document are also incorporated by reference into this subpart. However, the expenses listed in items A to ~~M~~ P shall not be subtracted from gross receipts:

- A. purchases of capital assets;
- B. payments on the principal of loans for capital assets;
- C. depreciation;
- D. amortization;
- E. ~~the wholesale costs of items purchased, processed, or manufactured that are unsold inventory with a deduction for the costs of those items allowed at the time they are sold~~ costs of building an inventory, until the time of sale;
- F. transportation costs that exceed the amount allowed for use of a personal car in the *United States Internal Revenue Code*;
- G. the cost of transportation between the individual's home and his or her place of employment;
- H. wages and salaries paid to and other employment deductions made for members of a family for whom an employer is legally responsible, provided family income is only counted once;
- I. monthly expenses ~~greater than \$74~~ greater than the flat rate deduction listed in the current Combined Program Manual issued by the Department of Human Services, 2000;
- J. monthly expenses ~~greater than \$86~~ greater than the flat rate deduction listed in the current Combined Program Manual issued by the Department of Human Services, 2000;
- K. monthly expenses ~~greater than \$157~~ greater than the flat rate deduction listed in the current Combined Program Manual issued by the Department of Human Services, 2000;
- L. annual expenses greater than ~~\$103~~ or two percent of the estimated market value on a county tax assessment form; ~~whichever is greater,~~ as a deduction for upkeep and repair against rental income; ~~and~~
- M. expenses not allowed by the *United States Internal Revenue Code* for self-employment income, unless specifically authorized in this chapter:
  - N. federal, state, and local income taxes;
  - O. employer's own share of FICA; and
  - P. money set aside for the self-employed person's own retirement.

Subp. 9. **Self-employment budget period.** Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month the expenses are paid except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred. However, gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 10. **Determination of farm income.** Farm income must be determined for a one-year period. Farm income is gross receipts minus operating expenses, except for expenses listed in subpart 8. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods.

Subp. 11. **Determination of rental income.**

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A. Income from rental property is considered self-employment earnings when the owner spends an average of 20 or more hours per week on maintenance or management of the property. The administering agency shall deduct an amount for upkeep and repairs according to subpart 8, item L, for real estate taxes, insurance, utilities, and interest on principal payments.

B. When a family lives on the rental property, the administering agency shall divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of units to determine the expense per unit. The administering agency shall deduct expenses from rental income only for the number of units rented, not for units occupied by family members.

C. When an owner does not spend an average of 20 or more hours per week on maintenance or management of the property, income from rental property is considered unearned income.

D. The deductions described in this subpart are subtracted from gross rental receipts.

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

Subp. 13. **Treatment of lump sum payments.** Lump sum payments received by a family must be considered earned income under subparts 7 to 11 or unearned income according to subpart 12. Nonrecurring lump sums that are earmarked and used for the purpose for which they are paid are not to be included in the determination of income. All other lump sums are to be annualized over 12 months.

### **3400.0180 REDETERMINATION OF ELIGIBILITY.**

~~The county shall redetermine a family's eligibility for child care assistance and the family's copayment fee when notified by the family of a change in the information required to be reported in part 3400.0040, subpart 4, or at least every six months, whichever occurs first.~~

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

A. The county must redetermine each participating family's eligibility at least every six months. The county must redetermine the eligibility of families in the start-up phase of self-employment without an approved employment plan more frequently than once every six months if existing documentation is insufficient to accurately predict self-employment income. The county must also redetermine eligibility immediately when a family reports the information required by part 3400.0040, subpart 4.

B. The county must not treat a redetermination of eligibility as a new application for child care assistance. The participant is responsible for providing documentary evidence of continued eligibility.

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

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

#### Subpart 1. Conditions under which termination of child care assistance is allowed.

A. A county may terminate child care assistance for families already receiving assistance when the county receives: (1) a revised allocation from the child care fund that is smaller than the allocation stated in the notice sent to the county under part 3400.0030; and (2) such short notice of a change in its allocation that the county could not have absorbed the difference in the allocation. The county must consult with the commissioner before terminating assistance under this subpart.

B. If the conditions described in this subpart occur, the county may terminate assistance to families in the order of last on, first off. When funds become available, counties must reinstate families that remain eligible for child care assistance and whose child care assistance was terminated due to insufficient funds before the county accepts new applications. Those families whose child care assistance was most recently terminated due to insufficient funds shall be reinstated first.

Subp. 2. **Conditions under which termination of child care assistance is required.** A county must terminate a family's child care assistance under the following conditions:

A. when the family asks the county to do so;

B. when the family is no longer eligible to receive child care assistance under this chapter and Minnesota Statutes, chapter 119B; or

C. when a member of the family has been disqualified from the child care assistance program under *Minnesota Statutes*, section 256.98, subdivision 8, paragraph (b).

**Subp. 3. Disqualification from child care assistance program.** A family must be disqualified from receiving child care assistance when a member of the family has been found guilty of wrongfully obtaining or attempting to obtain child care assistance by a federal court, state court, or an administrative hearing determination or waiver; through a disqualification consent agreement; as part of an approved diversion plan under *Minnesota Statutes*, section 401.065; or as part of a court-ordered stay with probationary or other conditions.

**Subp. 4. Disqualification period.** This subpart applies to the offenses listed in subpart 3. The disqualification period for the first offense is three months. The disqualification period for the second offense is six months. The disqualification period for the third offense is two years. Subsequent violations result in permanent disqualification.

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

A. the date the family member was found guilty of wrongfully obtaining or attempting to obtain child care assistance by federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under *Minnesota Statutes*, section 401.065, or as part of a court-ordered stay with probationary or other conditions; or

B. the effective date of the child care assistance program termination notice.

### **3400.0185 NOTICE REQUIREMENTS FOR TERMINATION AND ADVERSE ACTIONS.**

#### **Subpart 1. Notice of termination of child care assistance to participants.**

A. The county must notify a participant in writing of the termination of child care assistance. The notice must include the following information:

(1) the date the termination is effective;

(2) the reason or reasons why assistance is being terminated;

(3) the statute, rule, or county child care fund plan provision that supports termination of assistance;

(4) the participant's right to appeal the termination and the procedure for doing so; and

(5) when the participant appeals the proposed action before the effective date of termination, the termination action shall not be taken until the appeals process has ended and the benefits paid during the appeal process will be subject to recovery if the termination is upheld.

B. If child care assistance under part 3400.0060 is being terminated because a participant has moved to another county, the notice also must state that to continue receiving child care assistance under part 3400.0060 from the new county, the participant must apply for child care assistance in the new county within 30 days of the move.

C. The notice must be mailed to the participant's last known address at least 15 calendar days before terminating assistance.

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

A. When a family's child care assistance is terminated, the county must send the family's child care provider a notice containing only the following information:

(1) the family's name;

(2) that child care assistance for the family has been terminated;

(3) the effective date of the termination; and

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(4) that child care payments will no longer be made effective on the date of termination, unless the family asks to continue receiving assistance pending an appeal. The notice to a provider must not contain information on why payments will no longer be made.

B. Except for cases involving alleged child abuse or a substantiated health and safety complaint, the notice must be mailed to the provider at least 15 calendar days before terminating benefits to the family.

C. In cases involving alleged child abuse or a substantiated health and safety complaint, the county must send a notice of termination to the provider that is effective immediately.

### Subp. 3. Notice to participants of adverse actions.

A. The county must give a participant written notice of any adverse actions affecting the participant. Adverse actions requiring notice include, but are not limited to:

- (1) a reduction in hours of service;
- (2) an increase in copayment;
- (3) a denial of an education plan;
- (4) an adverse determination of provider eligibility; and
- (5) a county's intent to recoup an overpayment.

B. The notice must include the following information:

- (1) a description of the adverse action;
- (2) the effective date of the adverse action;
- (3) the reason or reasons why the adverse action is being taken;
- (4) the statute, rule, or county child care fund plan provision that supports the adverse action;
- (5) that the participant has the right to appeal the adverse action and the procedure for doing so; and

(6) that if the participant appeals the adverse action before the effective date of the action, the action shall not be taken until the appeals process has ended and that benefits paid during the appeals process will be subject to recovery if the termination is upheld.

C. The notice must be mailed to the participant's last known address at least 15 calendar days before the effective date of the adverse action.

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

- (1) the family's name;
- (2) a description of the adverse action that does not contain any information about why the action was taken;
- (3) the effective date of the adverse action; and

(4) a statement that unless the family appeals the adverse action before the effective date, the adverse action will occur on the effective date. The notice must be mailed to the provider at least 15 calendar days before the effective date of the adverse action.

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

Subpart 1. Scope of overpayment. When a county discovers that a family or former participant family has received an overpayment for one or more months, the county must recoup or recover the overpayment according to this part.

Subp. 2. Notice of overpayment. The county must notify the family of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the family's right to appeal the county's overpayment determination.

Subp. 3. Redetermination of eligibility. When a county discovers that a family has received an overpayment, the county must immediately redetermine the family's eligibility for child care assistance.

Subp. 4. Recoupment of overpayments from participants. If the redetermination of eligibility indicate the family remains eligible for child care assistance, the county must recoup the overpayment using the procedures in item A, B, or C until the overpayment debt is retired.



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

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

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

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

Subp. 5. **Recovering overpayment from former participants.** If the redetermination of eligibility shows a family is no longer eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayments less than \$50. When the amount of the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recover the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment.

#### **3400.0200 ~~QUARTERLY PAYMENTS TO COUNTIES.~~**

The commissioner shall make payments to the counties ~~in quarterly installments~~ at least once per quarter. The commissioner may certify an advance to the counties for the first quarter of the fiscal year or the first quarter of the allocation period. ~~Subsequent payments made to the counties after the first quarter shall be based on actual expenditures as reported by the counties in the quarterly financial and program activity report required under part 3400.0190.~~

#### **3400.0210 NOTICE OF NONCOMPLIANCE; FUNDING SANCTIONS.**

If the commissioner finds that a county is not complying with ~~parts 3400.0010 to 3400.0230~~ this chapter, the procedures in items A to F apply.

A. The commissioner shall notify the county, by certified mail, of the rule part that the county has not complied with.

B. Within 30 days after receiving the notice, the county must demonstrate to the commissioner that it is in compliance with the rule or must develop a correction plan to address the noncompliance. If the county can demonstrate compliance, the commissioner shall not take any further action.

C. If the county submits a correction plan, the commissioner shall approve or disapprove the correction plan within 30 days after the date that it is received. If the commissioner approves the correction plan submitted by the county, the county shall have 90 days after the date of approval to implement the correction plan.

D. If the county fails to demonstrate compliance or fails to implement the correction plan approved by the commissioner, the commissioner may withhold the county's child care fund allocations until the county is in compliance with the statute or rule.

E. Funds withheld from a county under this part may be reallocated to other counties based on the formula in *Minnesota Statutes*, section ~~256H.03, subdivision 2~~ 119B.03, subdivision 5.

F. Counties may appeal the sanction in accordance with *Minnesota Statutes*, chapter 14, for contested cases

#### **3400.0220 AUDIT EXCEPTIONS.**

The commissioner shall recover from counties state or federal money spent for child care that is ineligible under ~~parts 3400.0010 to 3400.0230~~ this chapter. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

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### 3400.0230 RIGHT TO FAIR HEARING PROCESS.

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

Subp. 2. **Optional informal conference; administering agency requirements.** The administering agency ~~shall~~ must offer an informal conference as an option to applicants or recipients adversely affected by an agency action to attempt to resolve the dispute. The administering agency ~~shall~~ must also advise adversely affected applicants and recipients that ~~a request for requesting~~ a conference with the agency is optional and does not delay or replace the right to a fair hearing under subpart 1.

#### Subp. 3. Child care payments when fair hearing is requested.

A. If the applicant or participant requests a fair hearing before the effective date of termination or adverse action, the termination or adverse action shall not be taken until the conclusion of the fair hearing. Child care assistance paid pending a fair hearing is subject to recovery under part 3400.0187 to the extent the commissioner finds on appeal that the participant was not eligible for the amount of child care assistance paid.

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

C. A participant may appeal the termination of child care assistance and choose not to receive child care assistance pending the appeal. If the commissioner finds on appeal that child care assistance should not have been terminated, the county must reimburse the participant for documented eligible child care expenditures made pending the appeal.

### 3400.0235 AT-HOME INFANT CHILD CARE PROGRAM.

Subpart 1. **Purpose and applicability.** This part governs the administration of the at-home infant child care program. ~~Beginning July 1, 1998,~~ A family in which a parent provides care for the family's infant child may receive a subsidy under this program in lieu of child care assistance if the family is eligible for, or is receiving assistance under, the basic sliding fee program governed by ~~parts 3400.0010 to 3400.0230~~ this chapter.

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

~~At the end of the state fiscal year, any unspent funds must be used for child care assistance under the basic sliding fee program.~~

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

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

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

C. A family may apply for the at-home infant child care program before the child is born or anytime during the infant's first year. The family must apply before the end of the infant's first year to receive an at-home infant child care subsidy. Following the birth of a child, a family is eligible to receive a subsidy under the at-home infant child care program ~~when application to the program is made~~ according to the date of eligibility in *Minnesota Statutes*, section 119B.09, subdivision 7, and when funding is

available. A family shall only receive subsidy payments through the infant's twelfth month. "Infant" means a child from birth through 12 months of age and includes adopted infants.

D. A family is limited to a lifetime total of 12 months of at-home infant child care assistance. At the time of application to the program, the parent or parents must declare whether they have previously participated in the at-home infant child care program or used ~~any portion~~ all of the MFIP one-year infant exemption under *Minnesota Statutes*, chapter 256J. If the parent or parents declare that they have participated in the at-home infant child care program ~~or used the MFIP one-year infant exemption~~, the commissioner shall, at the request of the county, inform the county of the remaining months of eligibility for the at-home infant child care program.

E. At the time of application to the at-home infant child care program, the family must ~~be eligible according to part 3400.0040, subpart 5, and meet the eligibility requirements in~~ *Minnesota Statutes*, section 119B.061, subdivision 2, clause (4), and be income-eligible based on these activities. ~~When a family is placed on a waiting list for the basic sliding fee program after a preliminary determination of eligibility under part 3400.0060, subpart 6, the family will be eligible to apply for the at home infant child care program when the family's name moves to the top of the waiting list. If a family is still on the waiting list after leaving an authorized activity due to the birth or impending birth of the infant, the family will be eligible to apply for the at home infant child care program when the family's name moves to the top of the waiting list.~~ At the time of application to the at-home infant child care program, a family who is not currently participating in the basic sliding fee program must provide verification of participation in an authorized activity within the nine months before the birth or expected arrival of the child.

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

Subp. 4. **Continued eligibility under basic sliding fee program.** ~~When~~ If families ~~end their participation in~~ exit the at-home infant child care program, ~~they must be served under the basic sliding fee program if they~~ request continued child care assistance and ~~otherwise~~ meet all eligibility factors for the basic sliding fee program, the provisions in *Minnesota Statutes*, section 119B.061, subdivision 4, paragraph (c), apply.

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

A. The number of months of at-home infant child care participation used shall be credited to the eligible parent. If the eligible parent later forms a new family, the number of months of at-home infant child care subsidy received ~~in combination with the months of the MFIP infant exemption used under~~ *Minnesota Statutes*, chapter 256J, shall be subtracted from the maximum assistance available under this part.

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

C. Family income shall be determined or redetermined at the time a family applies for the at-home infant child care program. Family income shall be annualized from the beginning of the month in which the family would first participate in the at-home infant child care program. Family income includes:

(1) ~~subsidy payments received as part of the at-home infant child care program. According to *Minnesota Statutes*, section 119B.061, subdivision 4, paragraph (b), counties shall use the copayment amount the family was paying or would have paid under the basic sliding fee program to estimate the subsidy payment;~~

(2) income from vacation leave;

(3) sick or temporary disability benefit payments; and

(4) other income the family may receive ~~while participating in the at home infant child care program~~, as determined under part 3400.0170 and *Minnesota Statutes*, section 119B.011, subdivision 16.

Excluded income is defined in part 3400.0170, subpart 6, and *Minnesota Statutes*, section 119B.011, subdivision 16. The calculation of the family copayment fee is described in part 3400.0100, ~~subpart 4~~.

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

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

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

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

(3) If the eligible parent leaves employment or another authorized activity in order to participate in the at-home infant child care program, the subsidy must be prorated to cover the number of calendar days from the date the eligible parent leaves the authorized activity to the end of the month.

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

Subp. 6. **County responsibilities.** Items A to ~~D~~ C govern county responsibilities for the program.

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

(1) establish the subsidy amount;

(2) determine an estimated length of time the family will participate;

(3) determine availability of and encumber ongoing basic sliding fee funding if the family was participating in the basic sliding fee program before participating in the at-home infant child care program or has reached the top of the county's waitinglist for the basic sliding fee program;

(4) consult with the commissioner on the availability of funds;

(5) forward applicant information as designated to the commissioner;

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

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

~~B. A county may not accept a family as a participant in the at home infant child care program without sufficient basic sliding fee program funds to pay for the family's anticipated cost of child care assistance after a family's participation in the at home infant child care program ends.~~

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

~~D. C.~~ When a family's participation in the at-home infant child care program ends, the county shall send the family and the commissioner a notice indicating the number of months the family participated in the at-home infant child care program in that county.

Subp. 7. **Data collection.** The commissioner shall develop and implement an evaluation plan for the at-home infant child care program. Counties must participate in data collection for the evaluation and must adjust their data collection to reflect changes in the evaluation plan.

REPEALER. Minnesota Rules, part 3400.0020, subparts 2, 3, 6, 7, 9, 10, 11, 13, 14, 15, 16, 17, 19, 21, 22, 23, 29, 30, 31, 32, 34, 36, 41, and 42; 3400.0040, subparts 2, 6, and 16; 3400.0050; 3400.0060, subparts 1 and 3; 3400.0070; 3400.0080, subparts 2, 3, 4, 5, 6, and 7; 3400.0090, subparts 5, 6, 8, and 9; 3400.0100, subpart 2; 3400.0110, subparts 5 and 6; 3400.0130, subparts 4, 6, 9, and 10; 3400.0140, subparts 3, 11, 12, 13, 15, 16, 17, 18, and 20; 3400.0160; 3400.0170, subpart 2; and 3400.0190, are repealed.

## Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

### Exempt Rules

An exempt rule adopted under *Minnesota Statutes* §§ 14.386 or 14.388 is effective upon its publication in the *State Register*.

### Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

## Board of Chiropractic Examiners

### Adopted Permanent Rules Relating to Expired Licenses

The rules proposed and published at *State Register*, Volume 25, Number 8, pages 544-545, August 21, 2000 (25 SR 544), are adopted with the following modifications:

#### 2500.1900 LICENSE REINSTATEMENT.

The license of any licensee which is ~~not renewed or which is revoked, suspended, or reduced in status~~ terminated by reason of failure to comply with the continuing education requirements of parts 2500.1200 to 2500.2000, or failure to submit a completed application for license renewal as prescribed by the board, may, at the election of the licensee or former licensee, be reinstated or restored to full status by either of the following procedures:

A. submission to the board ~~executive director~~ of proof of the makeup of all continuing education course hour and subject matter requirements which would have been necessary for continuous licensure from the date of such person's last license renewal or initial licensure, whichever is more recent, and ~~submission to the board's executive director~~ of proof of attendance at an additional ten hours of board recognized and approved continuing education courses for each intervening renewal year; or

B. reexamination approved by the board at the time for which it next schedules license examinations. No such reexamination shall be conducted except upon a written application received by the board ~~executive director~~ not less than 14 days prior to the examination date.

The license of any licensee which is terminated by reason of failure to submit fees may be reinstated subject to the procedures in ~~items A and B~~ this part, provided that the appropriate renewal fees and all accrued penalty fees are also paid.

## Department of Health

### Adopted Permanent Rules Relating to Wells and Borings

The rules proposed and published at *State Register*, Volume 25, Number 14, pages 768-771, October 2, 2000 (25 SR 768), are adopted as proposed.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

# Executive Orders

The governor has the authority to issue written statements of orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the *Constitution of the State of Minnesota*, Article V, and in *Minnesota Statutes* 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

## Office of the Governor

### Emergency Executive Order #00-11 Providing for Emergency Relief From Regulations, to Motor Carriers and Drivers Operating in Minnesota

I, **JESSE VENTURA, GOVERNOR OF THE STATE OF MINNESOTA**, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Emergency Executive Order:

**WHEREAS**, severe cold weather has seriously affected supplies of various petroleum products; and

**WHEREAS**, drivers of delivery trucks are required to wait for several hours at terminals for loading resulting in an inordinate loss of available driving time under current regulations;

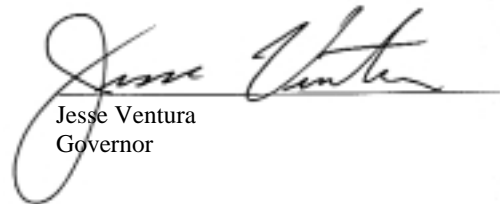
**WHEREAS**, this situation has resulted in distribution and delivery problems and has affected the availability of propane, heating and motor fuels.

**NOW, THEREFORE**, I hereby order that:

1. A state of emergency exists that requires relief from regulations incorporated in *Minnesota Statutes*, section 221.0314, subdivision 9, pertaining to hours of service for carriers and drivers of commercial motor vehicles, while transporting propane, heating and motor fuels.
2. Nothing herein shall be construed to relieve motor carriers and drivers from regulations pertaining to qualifications of drivers, driving of commercial motor vehicles, or parts and accessories necessary for the safe operation of vehicles.
3. No motor carrier operating under the terms of this emergency order shall require or allow a fatigued or ill driver to operate a motor vehicle. A driver who informs a carrier that he or she needs immediate rest shall be given at least eight consecutive hours off-duty before the driver is required to return to service.
4. Upon the expiration of the effective date of this emergency order, or when a driver has been relieved of all duty and responsibility to provide direct assistance to the emergency effort, a driver that has had at least 24 consecutive hours off-duty shall be permitted to start his or her on-duty status hours and 60/70 hour clock at zero.

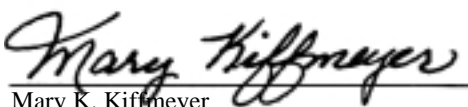
Pursuant to *Minnesota Statutes* 2000, Section 4.035, subd. 2, this Executive Order is effective immediately and shall remain in effect until 11:59 p.m., CST, December 24, 2000, unless superseded or extended under *Minnesota Statutes*, section 221.0269, subdivision 2.

**IN TESTIMONY WHEREOF**, I have set my hand this thirteenth day of December 2000.



Jesse Ventura  
Governor

Filed According to Law:



Mary K. Kiffmeyer  
Secretary of State

## Official Notices

*Pursuant to Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

### Department of Administration

#### State Designer Selection Board (SDSB)

#### State Designer Selection Board Meeting Dates

Pursuant to SDSB *Minnesota Rule* 3200.0400, below is the schedule of State Designer Selection Board meeting date and agenda items as of December 13, 2000:

- January 9, 2001

Interviews/Selection Project 00-26 Department of Military Affairs, New Live Fire Village

Unless otherwise stated, all meetings are held in the Administration Building, 50 Sherburne Avenue, St. Paul, Room G-10/Conference Room A. Other matters may come before the Board and be added to the agenda as needed. For additional information, including meeting start times, contact Winnie Sullivan at (651) 296-4640.

### Department of Agriculture

#### Agronomy & Plant Protection Services Division

#### Notice to Cancel the Minnesota Agricultural Response Compensation Board Meeting

The scheduled Agricultural Chemical Response Compensation Board (ACRRA Board) meeting January 17, 2001 has been canceled. The next two scheduled meetings will be February 21, 2001 and March 21, 2001. These meetings will be held at the Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota, first floor Conference Room 1 at 9:30 a.m.

Please call the ACRRA Program, (651) 297-3490 or (651) 296-3349, should you require additional information.

### Department of Agriculture

#### Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C

#### Minnesota Rural Finance Authority

**NOTICE IS HEREBY GIVEN** that a public hearing will be held on January 19, 2001, at 9:00 a.m., in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of approximately 111 acres of bare land located in Section 15, Belmont Township, Jackson County, Minnesota on behalf of John O. and Sheri Lilleberg Jr., a married couple (the Borrower/s). The maximum aggregate face amount of the proposed bond issue is \$241,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 6 December 2000

Jim Boerboom  
RFA Director

## Xcel Energy (Northern States Power Company)

### Notice of Acid Rain Program Designated Representative

**NOTICE IS HEREBY GIVEN** that, pursuant to *Code of Federal Regulations* Title 40, Part 72, I am the Designated Representative as of January 8, 2001 for the following Acid Rain Program affected sources at NSP (d/b/a Xcel Energy): Allen S. King Plant unit 1, Black Dog Plant units 1, 2, 3, 4 and 5, High Bridge Plant units 3, 4, 5 and 6, Minnesota Valley Plant unit 4, Riverside Plant units 6, 7 and 8, and Sherburne County Plant units 1, 2 and 3 (boiler 3 is owned by Xcel Energy and Southern Minnesota Municipal Power Agency). If there are questions, call Nancy Stafki at (612) 330-5520.

Gary D. Hudson  
Vice President  
Regional Generation

## Department of Human Services

### Health Care B Purchasing and Service Delivery

#### Public Notice Regarding Payment Rates Related to Inpatient Hospital Services under the Medical Assistance Program

**NOTICE IS HEREBY GIVEN** to recipients, providers of services under the Medical Assistance (MA) Program, and to the public of the payment rates for inpatient hospital services. This notice is published pursuant to 42 *United States Code* section 1396a(a)(13), which requires the Department to publish hospital payment rates, the methodologies underlying the establishment of such rates, and the justification of such rates.

This notice informs the public that the payment rates for inpatient hospital services for admissions on or after January 1, 2001 have been calculated and that individual hospitals were notified of their applicable rates. These payment rates were determined pursuant to *Minnesota Statutes*, sections 256.9685, 256.9686 and 256.969 and *Minnesota Rules*, parts 9500.1090 to 9500.1140.

The MA Program uses a diagnosis related groups payment system. Under this system, inpatient hospital services are divided into diagnostic categories. Each diagnostic category represents a broad clinical category differentiated from all others based on the body system and cause of disease. Changes to the diagnostic categories, effective January 1, 2001, were published in the *State Register* on November 27, 2000 (25 S.R. 1021). In addition to the changes in the diagnostic categories, the relative values for the categories have also changed. The Department intends to submit an amendment to its MA State plan during the first quarter of 2001 to incorporate the changes to the diagnostic categories.

The inpatient hospital rates effective January 1, 2001 have been rebased to reflect more recent data. These rates have increased by an average of 4.8 percent.

Individual inpatient hospital payment rates are available by contacting:

Richard Tester  
Inpatient & Health Center Services Unit  
Payment Policy Division  
Purchasing & Service Delivery  
Health Care Administration  
Minnesota Department of Human Services  
444 Lafayette Road North  
St. Paul, Minnesota 55155-3853  
**Phone:** (651) 296-5596



## Department of Human Services

### Health Care – Purchasing and Service Delivery

#### Public Notice of Disproportionate Population Adjustment Paid for Inpatient Hospital Services under Minnesota Health Care Programs

**NOTICE IS HEREBY GIVEN** to recipients, providers, and to the public concerning the disproportionate population adjustment (DPA) that is paid for inpatient hospital services under Minnesota Health Care Programs (Medical Assistance, MinnesotaCare, and General Assistance Medical Care). The listed DPA factors are effective for admissions occurring on January 1, 2001 through December 31, 2001. The DPA is based on the Medical Assistance inpatient days utilization rate of a hospital compared to the mean utilization rate of all Minnesota non-state owned hospitals and Minnesota local trade area hospitals. The utilization rate of each hospital is calculated by dividing Medical Assistance patient days by total patient days as derived from Medicare cost report data from the base year that is used for all rate setting.

In order to qualify for a DPA payment, hospitals must comply with section 1923(d) of the Social Security Act (42 *United States Code* section 1396r-4(d)) at the time of an admission. Section 1923(d) requires hospitals to meet criteria regarding the provision of obstetric services or specific exemptions. However, state law provides for a hospital payment adjustment that is equal to the DPA for hospitals that do not meet the federal criteria. Because hospitals may change eligibility status over time, both the DPA and the hospital payment adjustment are listed. The federal requirements do not affect DPA payments under General Assistance Medical Care (GAMC).

The Medical Assistance and the MinnesotaCare DPA is calculated as the difference between a hospital's utilization rate and the mean utilization rate. The DPA for hospitals with utilization rates that are above the mean plus one standard deviation is increased by 10 percent. The Medical Assistance and the MinnesotaCare inpatient total rate of each hospital is increased by the indicated percentage.

The GAMC DPA is calculated as the difference between a hospital's utilization rate and the mean plus one standard deviation utilization rate. The inpatient operating rate of each hospital is increased by the indicated percentage.

In addition to the listed DPA percentage, 1) an intergovernmental transfer of \$1,515,000 that is considered to be a DPA is paid each month to a hospital that received more than 13 percent of the total 1991 Medical Assistance inpatient payments (Hennepin County Medical Center); and 2) an intergovernmental transfer of \$505,000 that is considered to be a DPA is paid each month to a hospital that received more than 8 percent of total 1991 Medical Assistance payments and is affiliated with the University of Minnesota (Fairview/University Medical Center).

Questions or comments may be directed to:

Richard Tester  
 Inpatient & Health Center Services Unit  
 Payment Policy Division  
 Purchasing & Service Delivery  
 Health Care Administration  
 Minnesota Department of Human Services  
 444 Lafayette Road North  
 St. Paul, MN 55155-3853  
**Phone:** (651) 296-5596

#### DISPROPORTIONATE POPULATION ADJUSTMENT

January 1, 2001

Minnesota and Minnesota Local Trade Area Hospitals

Mean	0.0957	<b>MA</b>	
Standard Deviation	0.0763	<b>MinnesotaCare</b>	<b>GAMC</b>
Mean + Standard Deviation	0.1720	<b>DPA Percent</b>	<b>DPA Percent</b>

<b>Provider No.</b>	<b>Hospital</b>	
036345600	Douglas County Hospital, Alexandria	0.15
364747100	St. James Health Services	0.28

## Official Notices

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468845700	Falls Memorial Hospital, International Falls	0.32
854545600	Holy Trinity Hospital, Graceville	0.33
408045900	St. Joseph's Hospital, Park Rapids	0.52
982347600	Rice County District 1 Hospital, Faribault	0.73
644747300	St. Francis Medical Center, Breckenridge	0.90
204547800	Waseca Area Memorial Hospital	0.93
890347600	Austin Medical Center	0.98
618245300	Deer River Healthcare Center	1.01
736045200	St. Joseph's Medical Center, Brainerd	1.03

Mean	0.0957	<b>MA</b>	
Standard Deviation	0.0763	<b>MinnesotaCare</b>	<b>GAMC</b>
Mean + Standard Deviation	0.1720	<b>DPA Percent</b>	<b>DPA Percent</b>

<b>Provider No.</b>	<b>Hospital</b>	
3047475800	Immanuel - St. Joseph's Hospital, Mankato	1.16
393247800	Virginia Regional Medical Center	1.18
965547600	Altru Hospital, Grand Forks	1.21
199245700	LakeWood Health Center, Baudette	1.22
695045100	Community Memorial, Cloquet	1.34
710047700	Fairview Northland Regional, Princeton	1.45
030047100	Meeker County Memorial Hospital, Litchfield	1.48
521247200	Pipestone County Medical Center	1.55
624345200	Unity Hospital, Fridley	1.67
341547300	Glacial Ridge Hospital, Glenwood	1.68
739045900	Lake View Memorial Hospital, Two Harbors	1.70
735547500	Meritcare Hospital, Fargo	1.80
365745100	Cook County North Shore Hospital, Grand Marais	1.81
777545800	North Memorial Medical Center, Minneapolis	1.84
281747100	United Hospital, St. Paul	1.85
549345500	Hendricks Community Hospital	2.33
855345900	Chippewa County Montevideo Hospital	2.43
185347300	Francisan Skemp Medical Center, LaCrosse	2.71
475747500	Avera McKennan Hospital, Sioux Falls	2.90
298745700	Rice Memorial Hospital, Willmar	3.07

Mean	0.0957	<b>MA</b>	
Standard Deviation	0.0763	<b>MinnesotaCare</b>	<b>GAMC</b>
Mean + Standard Deviation	0.1720	<b>DPA Percent</b>	<b>DPA Percent</b>

<b>Provider No.</b>	<b>Hospital</b>		
623847500	Owatonna Hospital	3.10	
155047100	Monticello	3.14	
722347100	Northfield City Hospital	3.47	
381347900	First Care Medical Services, Fosston	3.55	
883747300	St. Cloud Hospital	3.82	
745317500	Mayo Psychiatry & Psychology, Rochester	3.96	
9772847300	St. Luke's Hospital, Duluth	4.08	
984545300	Ortonville Area Health Services	4.12	
038345700	Itasca Medical Center, Grand Rapids	4.15	
529245000	Minnesota Valley Memorial Hospital, LeSueur	4.93	
174545000	St. Mary's Regional Health Center, Detroit Lakes	4.98	
573047300	St. Mary's Medical Center, Duluth	5.55	
754347600	Tri-County Hospital, Wadena	5.98	
114247000	Greater Staples Hospital	6.57	
190247400	Mille Lacs Hospital & Home, Ontario	6.63	
535845100	Cuyuna Regional Medical Center, Crosby	7.02	
616845100	Fairview/University Medical Center, Minneapolis	7.06	
025745100	Clearwater County Medical Hospital, Bagley	7.18	
921547600	HealthEast Bethesda Hospital, St. Paul	8.40	0.01
019545600	Weiner Memorial Medical Center, Marshall	10.24	1.68

Mean	0.0957	<b>MA</b>	
Standard Deviation	0.0763	<b>MinnesotaCare</b>	<b>GAMC</b>
Mean + Standard Deviation	0.1720	<b>DPA Percent</b>	<b>DPA Percent</b>

<b>Provider No.</b>	<b>Hospital</b>		
502847700	University Medical Center, Hibbing	10.48	1.90
860747800	Olmsted Medical Center, Rochester	10.78	2.17
672522800	Vencor Hospital, Golden Valley	11.25	2.60
314545000	North Country Regional Hospital, Bemidji	12.28	3.53
692847100	Miller-Dawn Medical Center, Duluth	12.91	4.11
238245800	Cambridge Memorial Hospital	14.27	5.34
686745600	Zumbrota Healthcare	14.74*	5.77
996047300	Gillette Children's Specialty Healthcare, St. Paul	25.45	15.51
422247400	Regions Hospital, St. Paul	26.28	16.26
157245800	Hennepin County Medical Center, Minneapolis	26.79	16.72
141847500	Children's Health Care, St. Paul	34.05	23.32
435247500	Children's Health Care, Minneapolis	50.46	38.24

\*Hospital Payment Adjustment

## Department of Labor and Industry

### Labor Standards Unit

#### Notice of Addition to Highway/Heavy Prevailing Wage Rates

An **additional** rate has been added to the Highway/Heavy Prevailing Wage Rates certified October 23, 2000, for **Labor Code 407, Electricians, in Region 02.**

Copies of the certified wage rates for these Counties may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, or by calling (651) 296-6452. Charges for the cost of copying and mailing are \$.65 per page. Make check or money order payable to the State of Minnesota.

Gretchen B. Maglich  
Commissioner

## Department of Natural Resources

### Notice of Intent to Add Areas to State Metallic Minerals Preference Rights Lease Availability List

**NOTICE IS HEREBY GIVEN** of the intent to add areas to the preference rights lease availability list on February 1, 2001. Leases to explore for, mine and remove metallic minerals may be obtained by application for all lands included on the preference rights lease availability list. Included in the areas to be added to the list may be trust fund lands, lands and minerals forfeited for non-payment of taxes, lands and minerals otherwise acquired, and other state-owned land under the jurisdiction of the Commissioner of Natural Resources, and located in portions of Carlton, Cook, Lake, and Saint Louis Counties. No land or water areas within the Boundary Waters Canoe Area Wilderness or Voyageurs National Park are included in the areas to be added to the preference rights lease availability list.

The preference rights leasing system is in addition to the public lease sale process. All lands to be added to the preference rights availability list have been offered at a public lease sale within the last two years.

The preference rights availability list will be maintained in the office of the Division of Lands and Minerals, Department of Natural Resources, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045. The list will be available for inspection by the public and interested parties during regular business hours. Those interested in obtaining a copy of the preference rights availability list may obtain one by submitting a request to the Commissioner. The Commissioner shall charge a fee for each copy of the list based on copying and mailing costs.

Information on procedures and applications for a preference rights lease may be obtained from the Commissioner of Natural Resources, c/o Division of Lands and Minerals, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045; phone: (612) 296-4807. Each application must be accompanied by a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources in the sum of the following amounts: a) an application fee of \$100.00 for each mining unit for which a preference rights lease is requested; and b) rental for one full calendar year for each mining unit for which a preference rights lease is requested.

Applications may be submitted in person or by mail to the office of the Division of Lands and Minerals, Fourth Floor, DNR Building, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045. Applications will only be accepted during the hours of 8:30 a.m. to 4:00 p.m. on regularly scheduled business days. Applications received at any other time will not be officially accepted until the next regularly scheduled business day, and the Commissioner assumes no responsibility for applications submitted in person at any time other than the time specified.

Evidence of qualification to hold a state mineral lease, as specified in *Minnesota Rules*, part 6125.0410, must be submitted with the application. The rules state that a lease will only be issued to an applicant qualified to do business in Minnesota and qualified to conduct exploratory borings in Minnesota. Within ten days after receipt of an application, the Commissioner will send written acknowledgment that the application was received. The Commissioner may request evidence that the lease applicant is technically and financially capable of performing under the terms of a state mineral lease. The requested evidence must be provided within 45 days of the request from the Commissioner or the application will be rejected.

A lease shall be awarded by the Commissioner, with the approval of the State Executive Council, to the first qualified applicant who files an application that is not rejected. The right is reserved to the State, through the Executive Council, to reject any and all

applications for preference rights leases. Preference rights leases shall be in the form set out in *Minnesota Rules*, part 6125.0700. The rental and royalty rates shall not be less than prescribed in *Minnesota Rules*, part 6125.0700. Upon the award of a lease, the application fee submitted with the application will be deposited with the State Treasurer as a fee for the lease. If the application for a preference rights lease is rejected, the rental payment accompanying the application will be returned to the applicant. The application fee will not be refunded under any circumstances.

The purpose of Minnesota's metallic minerals rules is to promote and regulate the prospecting for, mining and removal of metallic minerals on state-owned and state-administered lands. These rules, and the leases issued under the rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals which increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the submission of exploration plans. In addition, the state lessee must comply with all applicable regulatory laws.

Dated: 26 December 2000

Allen Garber, Commissioner  
Department of Natural Resources  
St. Paul, Minnesota  
By William C. Brice, Director  
Division of Lands and Minerals

## Public Utilities Commission

### Comments Sought on Proposed Revision to Remove Obsolete Provisions in *Minnesota Rules*, Chapters 7810, 7827, 7829 and 7853

**Subject of Rules.** The Minnesota Public Utilities Commission requests comments on its proposed repeal of obsolete provisions in *Minnesota Rules*, Chapters 7810, 7827, 7829 and 7853. The Commission has initiated **Docket No. U-999/R-00-1661** for this purpose.

The Commission proposes to repeal provisions in the following parts of *Minnesota Rules*:

- 7810.0700, 7810.4300 - .4600, and 7810.4800, regarding telephone meters. Much of this language is a vestige of rural telephone service, and no longer applies to contemporary service.
- 7810.3400, subp. 2, regarding eight-party local telephone service. This rule is obsolete because multi-party service has been virtually eliminated by *Minnesota Statutes*, section 237.068, and Commission orders implementing that section.
- 7810.8100(C); 7810.8625, subp. 5; 7810.8630, subp. 6; 7810.8635, subp. 2(C); 7810.8800; and 7810.8900 - .8940; implementing *Minnesota Statutes*, sections 237.58 and 237.62. Those sections expired on August 1, 1999 pursuant to *Minnesota Statutes*, section 237.5799, rendering aspects of these rules obsolete.
- 7810.8100(D) and 7829.2200, implementing *Minnesota Statutes*, section 237.625. That section expired on August 1, 1999 pursuant to *Minnesota Statutes*, section 237.5799, rendering aspects of these rules obsolete.
- 7810.8200, subp. 17; 7810.8500(D); and 7810.8740 - .8755; implementing § 237.60, subd. 2. That section expired on August 1, 1999 pursuant to *Minnesota Statutes*, section 237.5799, rendering aspects of these rules obsolete.
- Chapter 7827, implementing the federal Tax Reform Act of 1986. This rule is now unnecessary because adjustments for the Tax Reform Act are now fully implemented.
- 7853.0010, subp. 13; 7853.0030; 7853.0210 - .0230; 7853.0300; 7853.0320 - .0400; 7853.0440, subp. 3; and 7853.0700 - .0790; regarding large oil facilities and oil refineries. The legislature removed these entities from Commission jurisdiction when it changed the definition of "large energy facility" at *Minnesota Statutes*, section 216B.2421, subd. 2.

**Persons Affected.** The Commission expects that this rulemaking to have no effect besides the elimination of needless rules. The language identified for repeal 1) was designed to implement statutes that have expired, 2) has been superceded by statute, 3) pertains to obsolete technology, or 4) provides for a transition to implement laws that are now fully implemented. While the Commission will maintain a list of persons who wish to receive notices pertaining to this rulemaking, it does not anticipate appointing an advisory committee for this rulemaking.

**Statutory Authority.** At least four statutes authorize the Commission to set the rules governing the matters within its jurisdiction. *Minnesota Statutes*, section 216A.05, authorizes the Commission to set rules with respect to the control and conduct of the businesses coming within its jurisdiction. Section 216B.08 authorizes the Commission to set rules in furtherance of the purposes of

## State Grants & Loans

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chapter 216B, governing energy utilities. Section 237.10 authorizes the Commission to set rules pertaining to the conduct of intrastate telephone business. And section 237.16 authorizes the Commission to set rules applicable to all telephone companies and telecommunications carriers required to obtain or having obtained a certificate for provision of telephone service.

**Public Comment.** The Commission invites interested persons or groups to submit comments or information on the proposed rule repeal in writing or orally until 4:30 p.m. on January 25, 2001. Interested persons or groups may also request to be included on the Commission's list of persons who wish to receive notices pertaining to this rulemaking. Written or oral comments, questions, requests to receive a draft of the language when it is prepared, and requests for more information on this proposed rulemaking should be addressed to Eric Witte, Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147, **phone:** (651) 296-7814. **All communications in this matter should include a reference to Docket No. U-999/R-00-1661.**

This document can be made available in alternative formats (i.e., large print or audio tape) **phone:** (612) 297-4596, **TTY:** (612) 297-1200, **TTY relay service:** (800) 627-3529.

Burl W. Haar  
Executive Secretary

## State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

## Minnesota Center for Crime Victim Services

### Notice of Availability of Funds for Crime Victim Services - FY01/02

The Minnesota Center for Crime Victim Services announces the availability of grant funds for victim services. The following grants are for the fifteen-month period April 1, 2001 through June 30, 2002, and are available through an open competitive funding process.

1. Grants ranging between \$50,000 to \$140,000 are available to provide direct services for:
  - a) battered women, general crime, and sexual assault victims in Norman, Pennington, Red Lake, and Roseau Counties; and b) battered women and sexual assault victims in Kittson, Marshall, and Polk Counties. Applicants must demonstrate how all three types of victim services (battered women, general crime, and sexual assault) will be or are provided within the county for which they are applying. Private non-profit organizations, Indian tribal governments, and local units of government are eligible to apply.
2. One grant of up to \$50,000 is available to establish criminal justice intervention services for battered women in one or more of the following counties: Kittson, Marshall, Norman, Pennington, Polk, Red Lake, and Roseau. Private non-profit organizations and Indian tribal governments whose programming is specifically designed to address the needs of battered women are eligible to apply.

All applicants are responsible for planning and implementing services according to minimum programmatic standards. Successful applicants may be eligible to apply for continued funding in FY03.

**Applications are due Tuesday, February 22, 2001.** To receive a request for proposals (application packet) which provides complete information and describes how to apply, contact:

Minnesota Center for Crime Victim Services  
245 East Sixth Street, Suite 705  
St. Paul, MN 55101  
**Phone:** (651) 282-6256  
**Toll-free:** (888) 622-8799  
**TTY:** (651) 205-4827

## State Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$25,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: agency name and address, name of agency contact person, description of project and tasks, cost estimate and final submission date and time of completed proposal. Certain quasi-state agencies and MnSCU institutions are exempted from these provisions. In accordance with *Minnesota Rules* 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. Certified Economically Disadvantaged Businesses and individuals shall receive the equivalent of a 4% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (651) 296-2600 or [TTY (651) 282-5799.]

## Department of Agriculture

### Agricultural Development Division

#### Notice of availability for Request for Proposals for "Integrated Pest Management (IPM) Research Projects for Minnesota Fruits and Vegetables."

Multiple contracts will be awarded under this request for proposals with a total of \$180,000 to be awarded. The amount of an individual contract must not exceed \$45,000.

Full proposal is available from the contact persons listed below.

Jean Ciborowski, Project Coordinator  
Minnesota Department of Agriculture  
Agricultural Development Division  
90 West Plato Boulevard  
St. Paul, MN 55107-2094  
**Phone:** (651) 297-3217

OR:

Mary Hanks  
**Phone:** (651) 296-1277  
Address is above

All proposals must be received no later than 4:00 p.m., January 19, 2001, as indicated by the notation of date and time on each response by the receptionist, Agricultural Development Division, Room 211, 90 West Plato Boulevard, St. Paul, MN.

#### Statement of Project Purpose:

The Minnesota Department of Agriculture, Agricultural Development Division requests proposals from qualified individuals at Minnesota higher educational institutions, Extension Specialists, and/or fruit and vegetable growers groups for integrated pest management demonstration or research projects on fruit or vegetable crops in Minnesota. The objective is to effect adoption of production practices that bring about the increased use of integrated pest management practices by fruit and vegetable producers. Integrated pest management (IPM) is characterized by practices that promote environmental stewardship using a combination of approaches that incorporate the judicious application of ecological principles, management techniques, cultural and biological controls, and chemical methods, to keep pests below levels where they do economic damage.

Funding will be awarded to innovative, promising and worthwhile research or demonstration projects of IPM practices for fruit or vegetable crops in Minnesota. All disciplines are invited to submit proposals and multidisciplinary projects are acceptable, but not required. The following crops are INELIGIBLE for funding: dry beans, canola, wild rice, sunflowers, soybeans, field corn, sugarbeets and small grains. Funding will not be provided for projects that duplicate previously funded projects

## Minnesota State Colleges and Universities

### Proposals sought for addition to Rainy River Community College Humanities

DEPARTMENT: Minnesota State Colleges and Universities

Sealed Proposals for: **Humanities Addition  
Humanities & Fine Arts Building  
Rainy River Community College  
International Falls, Minnesota**

will be received by: Business Manager  
Rainy River Community Manager  
Office of the Business Manager  
Administration Building  
1501 West Highway 71  
International Falls, Minnesota 56649

until **2:00 p.m., January 18, 2001**, at which time the proposals will be opened and publicly read aloud. Proposal Forms, Contract Documents, Plans and Specifications as prepared by the Project Architect/Engineer: Architectural Resources, Inc., 704 East Howard Street, Hibbing, Minnesota 55746, (218) 263-6868, are on a file at the office of the:

- 1) Above named Architect Engineer.
- 2) Following Builders Exchanges: Duluth, St. Paul, and Minneapolis.
- 3) National Association of Minority Contractors.
- 4) Construction Bulletin Plan Room.
- 5) Dodge Plan Room.

Sets of proposals forms, Contract Documents, Plans and Specifications for use by contractors in submitting a bid may be obtained at the following address:

Architectural Resources, Inc.  
704 East Howard Street  
Hibbing, Minnesota 55746  
**Phone:** (218) 263-6868  
**Fax:** (218) 772-6803

A deposit of \$100.00 is required for each set.

Each bid which totals over \$15,000.00 must be accompanied by either a certified check, payable to the State of Minnesota, in the sum of not less than five percent (5%) of the total bid or a corporate surety bond for the same amount by a surety company authorized to do business in the State of Minnesota.

No pre-bid meeting will be held.

## Department of Labor and Industry

### Information Technology Services

#### Proposals Sought for Mapper Programming

The Minnesota Department of Labor and Industry (DLI), Information Technology Services (ITS) division is requesting proposals from Vendors who are experienced in doing MapperC programming, for the purpose of maintenance and enhancements of current mapper programs.

The current programs are written in several levels of Mapper and MapperC. From Level 28 in Mapper to Level 6R1 in Unix MapperC.

The purpose of this master contract is to write work orders against the contract if and when the need to modify programs is deemed necessary.



**Proposals are due no later than 3:30 p.m., January 16, 2001**

For a copy of the complete Request for Proposal contact:

Jeanne Bortz  
Labor and Industry  
443 Lafayette Rd  
St Paul MN, 55155  
**Phone:** (651) 297-4592  
**Fax::** (651) 215-0427  
**Email:** *jeanne.bortz@state.mn.us*

## Department of Transportation

### Office of Research and Strategic Services

#### Notice of Availability of a Contract to Evaluate Mn/DOT's Web Site for the Local Road Research Board

The Department of Transportation (Mn/DOT) is requesting proposals to enter into a contract to obtain services of a consultant for the purpose of evaluating the Local Road Research Board's web site. The evaluation will include current web site usage, a review of related web sites (i.e., Mn/ROAD, Research Services, Maintenance, Mn/DOT Library, University's Center for Transportation Studies, etc.) for partnering opportunities, and an assessment of current features (from both the user and maintenance standpoint). The consultant selected for this study will also be asked to identify and estimate costs of new features and/or design changes and to test and implement any of these new features or design changes selected for addition to the web site by the project's technical panel.

Call or write for the full RFP which will be sent free of charge to interested vendors:

Karen Billiar, M.S. 330  
Office of Research & Strategic Services  
Department of Transportation  
395 John Ireland Boulevard, Rm. 175  
St. Paul, MN 55155  
**Phone:** (651) 282-2266  
**Fax:** (651) 215-0443

All proposals must be sent to and received by reception staff at the above address not later than 3:00 p.m., CDT, January 23, 2001.

This Request for Proposal does not obligate the State to complete the proposed project, and the State reserves the right to cancel the solicitation if it is considered to be in its' best interest.

## Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

## Metropolitan Council

### Request for Bids for Process Chemicals

Sealed bids will be received in the office of the Metropolitan Council, Environmental Services Division, (MCES), 230 East 5th Street, St. Paul, Minnesota 55101, for the delivery of process chemicals to MCES facilities in the seven county metro area.

**Bids will be received until TUESDAY, JANUARY 9, 2001 at 2:00 p.m.**, at which time and place the bids will be publicly opened and read aloud.

Copies of the specifications and bid instructions may be obtained from the offices of the Metropolitan Council or **phone:** (651) 602-1499 or **fax:** request at (651) 602-1083.

All bids to be considered must be submitted on **Council approved bid forms.**

The award will be based upon, but not necessarily limited to, factors of price, lead time, agreement to the terms and conditions and past experience with the Metropolitan Council.

The Metropolitan Council shall consider all bids received and intends to award a contract to the responsive and responsible bidder submitting the lowest total cost to the Council, by the due date and time, provided, however, that the Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions of any bid, to obtain new bids, or to proceed to do the work otherwise.

## University of Minnesota

### Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at [bidinfo.umn.edu](http://bidinfo.umn.edu) or call the BIS Coordinator at (612) 625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.

Available at Minnesota Bookstore – Birds, Butterflies & Loons  
Order form on back page



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Full-color, spiral-bound book includes diagrams for building bird houses, nest boxes and platforms to attract and keep your favorite wildlife coming back to your property. Features 50 species of birds and mammals. Spiral-bound, 112pp. **Stock No. 9-14 \$9.95**

**Birds of Minnesota Field Guide**

This pocket-sized field guide features over 100 birds commonly found in Minnesota. Learn about nest types, number and color of eggs, color of females and juveniles and more. A unique compare & contrast section provides help in distinguishing between similar birds. Softcover, 256pp. **Stock No. 9-16 \$12.95**

**Call of the Loon**

Informative, insightful book that takes its rightful place as the defining publication on loons. Virtually every page has a full-color photo of our state bird. Softcover, 141pp.  
**Stock No. 19-71 \$12.95**

**Common Loons**

A great introduction to this noteworthy Minnesota symbol. Learn about the loon's voice, behavior, breeding, and more. Softcover, 30pp. **Stock No. 19-88 \$4.95**

**Birds in Minnesota**

A field guide to the distribution of 400 species of birds in Minnesota. A color section illustrates some of the more interesting birds. Softcover, 352pp. **Stock No. 9-7 \$15.95**

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A Pictorial Guide**

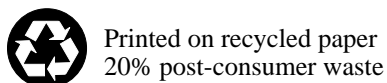
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