

CHAPTER 256B

MEDICAL ASSISTANCE FOR NEEDY PERSONS

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256B.01 POLICY. Medical assistance for needy persons whose resources are not adequate to meet the cost of such care is hereby declared to be a matter of state concern. To provide such care, a statewide program of medical assistance, with free choice of vendor, is hereby established.

[Ex1967 c 16 s 1]

256B.02 DEFINITIONS. Subdivision 1. "Reside" means to have an established place of abode in one state or county and not to have an established place of abode in another state or county.

Subd. 2. "Excluded time" means any period of time an applicant spends in a hospital, sanatorium, nursing home, or other institution for the hospitalization or care of human beings, as defined in sections 144.50 or 144A.01.

Subd. 3. "County of financial responsibility" means the county in which the applicant resides at the time of making application.

Subd. 4. "Medical institution" means any licensed medical facility that receives a license from the Minnesota health department or department of public welfare or appropriate licensing authority of this state, any other state, or a Canadian province.

Subd. 5. "State agency" means the commissioner of public welfare.

Subd. 6. "County agency" means a county welfare board operating under and pursuant to the provisions of chapter 393.

Subd. 7. "Vendor of medical care" means any person or persons furnishing, within the scope of his respective license, any or all of the following goods or services: medical, surgical, hospital, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and therapeutic services; nursing home and convalescent care; screening and health assessment services provided by public health nurses; health care services provided at the residence of the patient if the services are performed by a public health nurse and the nurse indicates in a statement submitted under oath that the services were actually provided; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies.

Subd. 8. "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of such cost:

- (1) Inpatient hospital services.
- (2) Skilled nursing home services.

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- (3) Physicians' services.
- (4) Outpatient hospital or clinic services.
- (5) Home health care services.
- (6) Private duty nursing services.
- (7) Physical therapy and related services.
- (8) Dental services.
- (9) Laboratory and x-ray services.
- (10) The following if prescribed by a licensed practitioner: drugs, eyeglasses, dentures, and prosthetic devices.
- (11) Diagnostic, screening, and preventive services.
- (12) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act.
- (13) Transportation costs incurred solely for obtaining medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services.

(14) Any other medical or remedial care licensed and recognized under state law.

Subd. 9. "Private health care coverage" means any plan regulated by chapters 62A, 62C or 64A. Private health care coverage also includes any self-insurance plan providing health care benefits.

Subd. 10. "Automobile accident coverage" means any plan, or that portion of a plan, regulated under chapter 65B, which provides benefits for medical expenses incurred in an automobile accident.

[Ex1967 c 16 s 2; 1969 c 395 s 1; 1973 c 717 s 17; 1975 c 247 s 9; 1975 c 384 s 1; 1975 c 437 art 2 s 3; 1976 c 173 s 56; 1976 c 236 s 1; 1976 c 312 s 1]

256B.03 PAYMENTS TO VENDORS. All payments for medical assistance hereunder must be made to the vendor.

[Ex1967 c 16 s 3]

256B.04 DUTIES OF STATE AGENCY. Subdivision 1. The state agency shall: Supervise the administration of medical assistance for eligible recipients by the county agencies hereunder.

Subd. 2. Make uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions hereof in an efficient, economical, and impartial manner, and to the end that the medical assistance system may be administered uniformly throughout the state, having regard for varying costs of medical care in different parts of the state and the conditions in each case, and in all things to carry out the spirit and purpose of this program, which rules and regulations shall be made with the approval of the attorney general on form and legality, shall be furnished immediately to all county agencies, and shall be binding on such county agencies.

Subd. 3. Prescribe the form of, print, and supply to the county agencies, blanks for applications, reports, affidavits, and such other forms as it may deem necessary or advisable.

Subd. 4. Cooperate with the federal department of health, education, and welfare in any reasonable manner as may be necessary to qualify for federal aid in connection with the medical assistance program, including the making of such reports in such form and containing such information as the department of health, education, and welfare may, from time to time, require, and comply with such provisions as such department may, from time to time, find necessary to assure the correctness and verifications of such reports.

Subd. 5. The state agency within 60 days after the close of each fiscal year, shall prepare and print for the fiscal year a report that includes a full account of the operations and expenditure of funds under this chapter, a full account of the activities undertaken in accordance with subdivision 10, adequate and complete statistics divided by counties about all medical assistance provided in accordance with this chapter, and any other information it may deem advisable.

Subd. 6. Prepare and release a summary statement monthly showing by counties the amount paid hereunder and the total number of persons assisted.

Subd. 7. Establish and enforce safeguards to prevent unauthorized disclosure or improper use of the information contained in applications, reports of investigations and medical examinations, and correspondence in the individual case records of recipients of medical assistance.

Subd. 8. Furnish information to acquaint needy persons and the public generally with the plan for medical assistance of this state.

Subd. 9. Cooperate with agencies in other states in establishing reciprocal agreements to provide for payment of medical assistance to recipients who have moved to another state, consistent with the provisions hereof and of Title XIX of the Social Security Act of the United States of America.

Subd. 10. ~~The state agency shall~~ establish by rule general criteria and procedures for the identification and prompt investigation of suspected medical assistance fraud, theft, presentment of false claims, or false statement or representation of material facts by a vendor of medical care. If it appears to the state agency that a vendor of medical care may have acted in a manner warranting civil or criminal proceedings, it shall so inform the attorney general in writing.

Subd. 11. ~~The state agency shall~~ report at least quarterly to the legislative auditor on its activities under subdivision 10 and include in each report copies of any notices sent during that quarter to the attorney general to the effect that a vendor of medical care may have acted in a manner warranting civil or criminal proceedings.

[Ex1967 c 16 s 4; 1976 c 273 s 1-3]

256B.041 CENTRALIZED DISBURSEMENT OF MEDICAL ASSISTANCE PAYMENTS. Subdivision 1. The state agency shall establish on a statewide basis a system for the centralized disbursement of medical assistance payments to vendors.

Subd. 2. An account is established in the state treasury from which medical assistance payments to vendors shall be made. Into such account there shall be deposited federal funds, state funds, and other moneys which are available and which may be paid to the state agency for medical assistance payments and reimbursements from counties or others for their share of such payments.

Subd. 3. The state agency shall prescribe and furnish vendors suitable forms for submitting claims under the medical assistance program.

Subd. 4. The state agency in establishing a statewide system of centralized disbursement of medical assistance payments shall comply with federal requirements in order to receive the maximum amount of federal funds which are available for the purpose, together with such additional federal funds which may be made available for the operation of a centralized system of disbursement of medical assistance payments to vendors.

Subd. 5. If required by federal law or rules promulgated thereunder, or by authorized regulation of the state agency, each county shall pay to the state treasurer the portion of medical assistance paid by the state for which it is responsible. The county's share of cost shall be ten percent of that portion not met by federal funds.

Subd. 6. The commissioners of public welfare and administration may contract with any agency of government or any corporation for providing all or a portion of the services for carrying out the provisions of this section.

Subd. 7. Federal funds available for administrative purposes shall be distributed between the state and the county on the same basis that reimbursements are earned.

[1973 c 717 s 2; 1975 c 437 art 2 s 4]

256B.042 THIRD PARTY LIABILITY. Subdivision 1. When the state agency provides, pays for or becomes liable for medical care, it shall have a lien for the cost of the care upon any and all causes of action which accrue to the person to whom the care was furnished, or to his legal representatives, as a result of the injuries which necessitated the medical care.

Subd. 2. The state agency may perfect and enforce its lien by following the procedures set forth in sections 514.69, 514.70 and 514.71, except that it shall have one year from the date when the last item of medical care was furnished in which to file its verified lien statement, and the statement shall be filed with the appropriate clerk

of court in the county of financial responsibility. The verified lien statement shall contain the following: the name and address of the person to whom medical care was furnished, the date of injury, the name and address of the vendor or vendors furnishing medical care, the dates of the service, the amount claimed to be due for the care, and, to the best of the state agency's knowledge, the names and addresses of all persons, firms or corporations claimed to be liable for damages arising from the injuries. This section shall not affect the priority of any attorney's lien.

Subd. 3. To recover under this section the attorney general, or the appropriate county attorney acting at the direction of the attorney general, shall represent the state agency.

[1975 c 247 s 6; 1976 c 236 s 2]

256B.05 ADMINISTRATION BY COUNTY AGENCIES. Subdivision 1. The county agencies shall administer medical assistance in their respective counties under the supervision of the state agency and shall make such reports, prepare such statistics, and keep such records and accounts in relation to medical assistance as the state agency may require.

Subd. 2. In administering the medical assistance program, no county welfare department shall pay a fee or charge for medical, dental, surgical, hospital, nursing, licensed nursing home care, medicine, or medical supplies in excess of the schedules of maximum fees and charges as established by the state agency. The maximum fee schedule for physicians shall be the usual and customary fee.

Subd. 3. Notwithstanding the provisions of subdivision 2, the commissioner of public welfare shall establish a schedule of maximum allowances to be paid by the state on behalf of recipients of medical assistance toward fees charged for services rendered such medical assistance recipients.

[Ex1967 c 16 s 5; 1971 c 961 s 28]

256B.06 ELIGIBILITY REQUIREMENTS. Subdivision 1. Medical assistance may be paid for any person:

(1) Who is eligible for or receiving public assistance under the aid to families with dependent children program; or

(2) Who is eligible for or receiving supplemental security income for the aged, blind and disabled; or

(3) Who except for the amount of income or resources would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children and is in need of medical assistance; or

(4) Who is under 21 years of age and in need of medical care that neither he nor his relatives responsible under sections 256B.01 to 256B.26 are financially able to provide; or

(5) Who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and without means sufficient to pay the per capita hospital charge; and

(6) Who resides in Minnesota, or, if absent from the state, is deemed to be a resident of Minnesota in accordance with the regulations of the state agency; and

(7) Who alone, or together with his spouse, does not have equity in real property in excess of \$15,000; and

(8) Who, if single, does not have more than \$750 in cash or liquid assets or, if married, whose cash or liquid assets do not exceed \$1,000 plus \$150 for each additional legal dependent; and

(9) Who has or anticipates receiving an annual income not in excess of \$2,600 for a single person, or \$3,250 for two family members (man and wife, parent and child, or two siblings), plus \$625 for each additional legal dependent, or who has income in excess of these maxima and in the month of application, or during the three months prior to the month of application, incurs expenses for medical care that total more than one-half of the annual excess income in accordance with the regulations of the state agency. In excess income cases, eligibility shall be limited to a period of six months beginning with the first of the month in which these medical obligations are first incurred.

Who has continuing monthly expenses for medical care that are more than the amount of his excess income, computed on a monthly basis, in which case eligibility may be established before the total income obligation referred to in the preceding paragraph is incurred, and medical assistance payments may be made to cover the monthly unmet medical need. In licensed nursing home and state hospital cases, both excess income and income over and above that required for justified needs are to be applied to the cost of institutional care; and

(10) Who has applied or agrees to apply all proceeds received or receivable by him or his spouse from automobile accident coverage and private health care coverage to the costs of medical care for himself, his spouse, and children. The state agency may require from any applicant or recipient of medical assistance the assignment of any rights accruing under private health care coverage. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment shall not be effective as to benefits paid or provided under automobile accident coverage and private health care coverage prior to receipt of the assignment by the person or organization providing the benefits.

Subd. 2. [Repealed, 1974 c 525 s 3]

Subd. 3. Notwithstanding any law to the contrary, a migrant agricultural worker who meets all of the eligibility requirements of this section other than that he has a permanent place of abode in another state, shall be eligible for medical assistance and shall have his medical needs met by the county in which he resides at the time of making application.

[Ex 1967 c 16 s 6; 1969 c 841 s 1; 1973 c 717 s 18; 1974 c 525 s 1,2; 1975 c 247 s 10; 1976 c 236 s 3]

256B.061 ELIGIBILITY. If any individual has been determined to be eligible for medical assistance, it will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application for such assistance, if such individual was, or upon application would have been, eligible for medical assistance at the time the care and services were furnished.

[1973 c 717 s 3]

256B.062 CONTINUED ELIGIBILITY. Any family which was eligible for medical assistance in at least three of the six months immediately preceding the month in which such family became ineligible for medical assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible due to the income and resources limitations of this chapter.

[1973 c 717 s 4]

256B.063 COST SHARING. Notwithstanding the provisions of section 256B.05, subdivision 2, the commissioner is authorized to promulgate rules pursuant to the administrative procedures act, and to require a nominal enrollment fee, premium, or similar charge for recipients of medical assistance, if and to the extent required by applicable federal regulation.

[1973 c 717 s 5]

256B.064 INELIGIBLE PROVIDER. Subdivision 1. The commissioner may terminate payments under this chapter to any person or facility providing medical assistance which, under applicable federal law or regulation, has been determined to be ineligible for payments under Title XIX of the Social Security Act.

Subd. 2. Any vendor of medical care who submits to the state agency a claim for reimbursement, a cost report, or a rate application which he knows to be false in whole or in part shall be declared ineligible for further payments of medical assistance funds by the commissioner of public welfare. The commissioner shall determine the time period of ineligibility and any conditions for reinstatement of eligibility. No vendor of medical care shall be declared ineligible without prior notice and an opportunity for a hearing, pursuant to chapter 15, on the commissioner's proposed action.

[1973 c 717 s 6; 1976 c 188 s 1]

256B.065 SOCIAL SECURITY AMENDMENTS. The commissioner shall comply with requirements of the social security amendments of 1972 (P.L. 92-603) necessary in order to avoid loss of federal funds, and shall implement by rule, pursuant to the administrative procedures act, those provisions required of state agencies supervising Title XIX of the Social Security Act.

[1973 c 717 s 7]

256B.07 EXCEPTIONS IN DETERMINING RESOURCES. A local agency may, within the scope of regulations set by the commissioner of public welfare, waive the requirement of liquidation of excess assets when the liquidation would cause undue hardship. Household goods and furniture in use in the home, wearing apparel, insurance policies with cash surrender value not in excess of \$1,000 per insured person, personal property used as a regular abode by the applicant or recipient, and a lot in a burial plot shall not be considered as resources available to meet medical needs.

[Ex1967 c 16 s 7; Ex1971 c 16 s 3; 1973 c 141 s 2; 1975 c 437 art 2 s 5]

256B.08 APPLICATION. An applicant for medical assistance hereunder, or a person acting in his behalf, shall file his application with a county agency in such manner and form as shall be prescribed by the state agency.

[Ex1967 c 16 s 8]

256B.09 INVESTIGATIONS. When an application for medical assistance hereunder is filed with a county agency, such county agency shall promptly make or cause to be made such investigation as it may deem necessary. The object of such investigation shall be to ascertain the facts supporting the application made hereunder and such other information as may be required by the rules of the state agency. Upon the completion of such investigation the county agency shall promptly determine eligibility. No approval by the county agency shall be required prior to payment for medical care provided to recipients determined to be eligible pursuant to this section.

[Ex1967 c 16 s 9; 1973 c 717 s 19]

256B.10 [Repealed, 1976 c 131 s 2]

256B.11 [Repealed, 1976 c 131 s 2]

256B.12 LEGAL REPRESENTATION. The attorney general or the appropriate county attorney appearing at the direction of the attorney general shall be the attorney for the state agency, and the county attorney of the appropriate county shall be the attorney for the local agency in all matters pertaining hereto. To prosecute under this chapter or sections 609.466 and 609.52, subdivision 2, or to recover payments wrongfully made under this chapter, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general may institute a criminal or civil action.

[Ex1967 c 16 s 12; 1975 c 437 art 2 s 6; 1976 c 188 s 2]

256B.121 TREBLE DAMAGES. Any vendor of medical care who willfully submits a cost report, rate application or claim for reimbursement for medical care which the vendor knows is a false representation and which results in the payment of public funds for which the vendor is ineligible shall, in addition to other provisions of Minnesota law, be subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. The damages awarded shall include three times the payments which result from the false representation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent.

[1976 c 188 s 4]

256B.13 SUBPOENAS. Each county agency and the state agency shall have the power to issue subpoenas for witnesses and compel their attendance and the production of papers and writing; and officers and employees designated by any county agency or the state agency may administer oaths and examine witnesses under oath in connection with any application or proceedings hereunder.

[Ex1967 c 16 s 13]

256B.14 RELATIVE'S RESPONSIBILITY. The financial responsibility of a relative for an applicant or recipient of medical assistance shall not extend beyond the relationship of a spouse, or a parent of an applicant who is under 18 years of age.

[Ex1967 c 16 s 14; 1973 c 725 s 46]

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256B.15 CLAIMS AGAINST ESTATES. If a person receives any medical assistance hereunder, on his death, if he is single, or on the death of such person and his surviving spouse, if he is married, and only at a time when he has no surviving child who is under 21 or is blind or totally disabled, the total amount paid for medical assistance rendered for such person, after age 65, without interest, shall be filed as a claim against the estate of such person in the court having jurisdiction to probate the estate. Such claim shall be considered an expense of last illness for the purpose of Minnesota Statutes 1965, Section 525.44. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder.

[*Ex1967 c 16 s 15*]

256B.16 [Repealed, 1971 c 550 s 2]

256B.17 TRANSFERS OF PROPERTY. Any person who has transferred any real or personal property within three years immediately preceding the date of application for medical assistance hereunder or who transfers any such property while receiving medical assistance hereunder without receiving a reasonable consideration therefor shall be presumed to have done so in order to become or remain eligible for medical assistance hereunder or to have deprived himself or his spouse of a resource that might otherwise have been used to meet his or their current needs. Such person shall have the burden of overcoming such presumption to the satisfaction of the county agency.

[*Ex1967 c 16 s 17*]

256B.18 METHODS OF ADMINISTRATION. The state agency shall prescribe such methods of administration as are necessary for compliance with requirements of the social security act, as amended, and for the proper and efficient operation of the program of assistance hereunder. The state agency shall establish and maintain a system of personnel standards on a merit basis for all such employees of the county agencies and the examination thereof, and the administration thereof shall be directed and controlled exclusively by the state agency except in those counties in which such employees are covered by a merit system that meets the requirements of the state agency and the social security act, as amended.

[*Ex1967 c 16 s 18*]

256B.19 DIVISION OF COST. Subdivision 1. The cost of medical assistance paid by each county of financial responsibility shall be borne as follows: Payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the amount required for the succeeding month. Ninety percent of the expense of assistance not paid by federal funds available for that purpose shall be paid by the state and ten percent shall be paid by the county of financial responsibility.

Subd. 2. Federal funds available for administrative purposes shall be distributed between the state and the county in the same proportion that expenditures were made.

[*Ex1967 c 16 s 19; 1971 c 547 s 1; 1975 c 437 art 2 s 7*]

256B.20 COUNTY APPROPRIATIONS. The providing of funds necessary to carry out the provisions hereof on the part of the counties and the manner of administering the funds of the counties and the state shall be as follows:

(1) The board of county commissioners of each county shall annually set up in its budget an item designated as the county medical assistance fund and levy taxes and fix a rate therefor sufficient to produce the full amount of such item, in addition to all other tax levies and tax rate, however fixed or determined, sufficient to carry out the provisions hereof and sufficient to pay in full the county share of assistance and administrative expense for the ensuing year; and annually on or before October 10 shall certify the same to the county auditor to be entered by him on the tax rolls. Such tax levy and tax rate shall make proper allowance and provision for shortage in tax collections.

(2) Any county may transfer surplus funds from any county fund, except the sinking or ditch fund, to the general fund or to the county medical assistance fund in

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order to provide moneys necessary to pay medical assistance awarded hereunder. The money so transferred shall be used for no other purpose, but any portion thereof no longer needed for such purpose shall be transferred back to the fund from which taken.

(3) Upon the order of the county agency the county auditor shall draw his warrant on the proper fund in accordance with the order, and the county treasurer shall pay out the amounts ordered to be paid out as medical assistance hereunder. When necessary by reason of failure to levy sufficient taxes for the payment of the medical assistance in the county, the county auditor shall carry any such payments as an overdraft on the medical assistance funds of the county until sufficient tax funds shall be provided for such assistance payments. The board of county commissioners shall include in the tax levy and tax rate in the year following the year in which such overdraft occurred, an amount sufficient to liquidate such overdraft in full.

(4) Claims for reimbursement shall be presented to the state agency by the respective counties in such manner as the state agency shall prescribe, not later than 10 days after the close of the month in which the expenditures were made. The state agency shall audit such claims and certify to the commissioner of finance the amounts due the respective counties without delay. The amounts so certified shall be paid within 10 days after such certification, from the state treasury upon warrant of the commissioner of finance from any moneys available therefor. The moneys available to the state agency to carry out the provisions hereof, including all federal funds available to the state, shall be kept and deposited by the state treasurer in the revenue fund and disbursed upon warrants in the same manner as other state funds.

[Ex1967 c 16 s 20; 1973 c 492 s 14]

256B.21 CHANGE OF RESIDENCE. When a recipient changes his place of residence, he shall notify the county agency by which his medical assistance hereunder is paid. If he removes to another county, he shall declare whether such absence is temporary or for the purpose of residing therein.

[Ex1967 c 16 s 21]

256B.22 COMPLIANCE WITH SOCIAL SECURITY ACT. The various terms and provisions hereof, including the amount of medical assistance paid hereunder, are intended to comply with and give effect to the program set out in Title XIX of the federal Social Security Act. During any period when federal funds shall not be available or shall be inadequate to pay in full the federal share of medical assistance as defined in Title XIX of the federal Social Security Act, as amended by Public Law 92-603, the state may reduce by an amount equal to such deficiency the payments it would otherwise be obligated to make pursuant to section 256B.041.

[Ex1967 c 16 s 22; 1973 c 717 s 20]

256B.23 USE OF FEDERAL FUNDS. All federal funds made available for the purposes hereof are hereby appropriated to the state agency to be disbursed and paid out in accordance with the provisions hereof.

[Ex1967 c 16 s 23]

256B.24 PROHIBITIONS. No enrollment fee, premium, or similar charge shall be required as a condition of eligibility for medical assistance hereunder.

[Ex1967 c 16 s 24]

256B.25 PAYMENTS TO LICENSED FACILITIES. Payments may not be made hereunder for care in any private or public institution, including but not limited to hospitals and nursing homes, unless licensed by an appropriate licensing authority of this state, any other state, or a Canadian province.

[Ex1967 c 16 s 25; 1969 c 395 s 2]

256B.26 AGREEMENTS WITH OTHER STATE DEPARTMENTS. The commissioner of the department of public welfare is authorized to enter into cooperative agreements with other state departments or divisions of this state or of other states responsible for administering or supervising the administration of health services and vocational rehabilitation services in the state for maximum utilization of such service in the provision of medical assistance under sections 256B.01 to 256B.26.

[Ex1967 c 16 s 26]

256B.27 MEDICAL ASSISTANCE; COST REPORTS. Subdivision 1. In the interests of efficient administration of the medical assistance to the needy program and incident to the approval of rates and charges therefor, the commissioner of public welfare may require any reports, information, and audits of medical vendors which he deems necessary.

Subd. 2. All reports as to the costs of operations or of medical care provided which are submitted by vendors of medical care for use in determining their rates or reimbursement shall be submitted under oath as to the truthfulness of their contents by the vendor or an officer or authorized representative of the vendor.

Subd. 3. The commissioner of public welfare, with the written consent of the recipient, shall be allowed access to all medical records of medical assistance recipients solely for the purposes of investigating whether or not: (a) a vendor of medical care actually provided the medical care for which a claim for reimbursement was made; or (b) the medical care was medically necessary. To the extent feasible, the commissioner shall contract with a review organization, as defined in section 145.61, in determining whether or not the medical care provided was medically necessary. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner of public welfare pursuant to this section.

Subd. 4. No person shall be eligible for medical assistance unless he has authorized in writing the commissioner of public welfare to examine all personal medical records developed while receiving medical assistance for the sole purpose of investigating whether or not a vendor has submitted a claim for reimbursement, cost report or rate application which the vendor knows to be false in whole or in part.

Subd. 5. Medical records obtained by the commissioner of public welfare pursuant to this section are private data, as defined in section 15.162, subdivision 5a.

[1971 c 961 s 24; 1976 c 188 s 3]

256B.30 HEALTH CARE FACILITY REPORT. Every facility required to be licensed under the provisions of sections 144.50 to 144.58, or 144A.02, shall provide annually to the commissioner of public welfare the reports as may be required under law and under rules adopted by the commissioner of public welfare under the administrative procedures act. The rules shall provide for the submission of a full and complete financial report of a facility's operations including:

- (1) An annual statement of income and expenditures;
- (2) A complete statement of fees and charges;
- (3) The names of all persons other than mortgage companies owning any interest in the facility including stockholders with an ownership interest of ten percent or more of the facility.

The financial reports and supporting data of the facility shall be available for inspection and audit by the commissioner of public welfare.

[1973 c 688 s 8; 1976 c 173 c 57]

256B.35 PERSONAL ALLOWANCE, PERSONS IN SKILLED NURSING HOMES OR INTERMEDIATE CARE FACILITIES. Subdivision 1. Notwithstanding any law to the contrary, welfare allowances for clothing and personal needs for individuals receiving medical assistance while confined in any skilled nursing home or intermediate care facility in this state shall not be less than \$25 per month.

Subd. 2. Neither the skilled nursing home, the intermediate care facility nor the department of public welfare shall withhold or deduct any amount of this allowance for any purpose contrary to this section.

[1974 c 575 s 15]

256B.36 PERSONAL ALLOWANCE, HANDICAPPED OR MENTALLY RETARDED RECIPIENTS OF MEDICAL ASSISTANCE. In addition to the personal allowance established in section 256B.35, any handicapped or mentally retarded recipient of medical assistance confined in a skilled nursing home or intermediate care facility shall also be permitted a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation. This special personal allowance shall not exceed (1) the limits set therefor by the commissioner, or (2) the amount of disregarded income the individual would have retained

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had he or she been a recipient of aid to the disabled benefits in December, 1973, whichever amount is lower.

[1974 c 575 s 16]

256B.37 PRIVATE INSURANCE POLICIES. Subdivision 1. Upon furnishing medical assistance to any person having private health care coverage, the state agency shall be subrogated, to the extent of the cost of medical care furnished, to any rights the person may have under the terms of any private health care coverage. The right of subrogation does not attach to benefits paid or provided under private health care coverage prior to the receipt of written notice of the exercise of subrogation rights by the carrier issuing the health care coverage.

Subd. 2. To recover under this section, the attorney general, or the appropriate county attorney, acting upon direction from the attorney general, may institute or join a civil action against the carrier of the private health care coverage.

[1975 c 247 s 7]

256B.39 AVOIDANCE OF DUPLICATE PAYMENTS. Billing statements forwarded to recipients of medical assistance by vendors seeking payment for medical care rendered shall clearly state that reimbursement from the state agency is contemplated.

[1975 c 247 s 8]

NURSING HOME RATES

256B.41 INTENT. Subdivision 1. The state agency shall by rule establish a formula for establishing payment rates for nursing homes which qualify as vendors of medical assistance.

Subd. 2. It is the intent of the legislature to establish certain limitations on the state agency in setting standards for nursing home rate setting for the care of recipients of medical assistance pursuant to this chapter. It is not the intent of the legislature to repeal or change any existing or future rule promulgated by the state agency relating to the setting of rates for nursing homes unless the rule is clearly in conflict with sections 256B.41 to 256B.48. If any provision of sections 256B.41 to 256B.48 is determined by the United States government to be in conflict with existing or future requirements of the United States government with respect to federal participation in medical assistance, the federal requirements shall prevail.

[1976 c 282 s 1]

256B.42 DEFINITIONS. Subdivision 1. For the purpose of sections 256B.41 to 256B.48 the following terms and phrases shall have the meaning given to them.

Subd. 2. "Facility" means the building in which a nursing home is located and all permanent fixtures attached to it. "Facility" does not include the land or any supplies and equipment which are not fixtures.

Subd. 3. "Original value" means the value of the facility established pursuant to section 256B.43, subdivisions 1 and 2.

Subd. 4. "Purchase" means the acquisition of a nursing home by a new owner or the construction of a new nursing home.

Subd. 5. "Net asset value" means the total of the original value of the facility less accumulated depreciation on it and the value of the land.

Subd. 6. "Net debt" means the total of capital indebtedness and loans used for operating expenses.

[1976 c 282 s 2]

256B.43 FIXED ASSETS; DEPRECIATION. Subdivision 1. The state agency shall by rule establish a depreciation allowance for nursing homes purchased on or after January 1, 1977. The depreciation allowance shall be based on the lesser of the purchase price or the appraised value of the facility at the time of the purchase. After the purchase of a nursing home, the purchaser of the nursing home or the state agency may request an appraisal of the facility pursuant to the provisions of subdivision 3. The value of the facility determined pursuant to this subdivision shall be the original value and shall be the basis for depreciation.

Subd. 2. If any nursing home expands its facility or makes any other capital expenditures which increases the value of the facility subsequent to January 1, 1977, the cost of the expansion or capital expenditure shall be added to the original value, and the total shall become the new original value and basis for depreciation. If the state agency disputes the cost attributed to the expansion or capital expenditure, it may request an appraisal pursuant to subdivision 3.

Subd. 3. The state agency shall establish a list of not more than 25 appraisers who have experience in appraising nursing homes. In the event that an appraisal is requested pursuant to this section, or section 256B.45, the state agency and the owner of the nursing home shall select an appraiser from the list in accordance with procedures established by the state agency by rule. The appraisal shall be based on the depreciated replacement cost of the facility. The cost of the appraisal shall be paid by the party requesting it. The cost of an appraisal requested by a nursing home shall not be reimbursed by the state agency.

Subd. 4. Depreciation on any new construction or expansion of facilities commenced on or after January 1, 1977, other than governmentally owned facilities, shall be on a basis of not less than 30 years.

[1976 c 282 s 3]

256B.44 INTEREST EXPENSE. Subdivision 1. Except as provided in subdivision 2, the state agency shall recognize interest expense as an allowable cost for any nonproprietary or governmentally owned nursing home if the interest rate is not in excess of what a borrower would have had to pay in an arms-length transaction in the money market at the time the loan was made, and the net debt is directly related to purchasing or improving the nursing home or providing patient care at the nursing home. Except as provided in subdivision 3, the state agency shall not recognize interest expense as an allowable cost for any proprietary nursing home.

Subd. 2. After the first three years that a nonproprietary or governmentally owned nursing home has been owned by its current owners, the state agency shall not recognize as an allowable cost the expense of interest on net debt for any indebtedness and loans which exceed 100 percent of the net asset value of the facility.

Subd. 3. A proprietary nursing home which pays interest on capital indebtedness at an interest rate in excess of nine percent may be reimbursed for one-half of its interest expenses in excess of the nine percent up to 12 percent if (1) the proceeds of the indebtedness are used for the purchase or operation of the nursing home and (2) the interest rate is not in excess of what a borrower would have had to pay in an arms-length transaction at the time the loan was made.

[1976 c 282 s 4]

256B.45 INVESTMENT ALLOWANCE. Subdivision 1. The state agency shall by rule establish an investment allowance for nursing homes. For the fiscal year beginning July 1, 1977, the allowance for proprietary homes shall be nine percent of the original value of the facility for depreciation purposes. For the fiscal year beginning July 1, 1977, the allowance for nonproprietary homes shall be two percent of the original value of the facility for depreciation purposes. Beginning in 1977 the state agency shall, no later than May 1 of each year, conduct a public hearing pursuant to the rule making provisions of chapter 15 to determine the percentages to be used in the following fiscal year. There shall be no other cost of capital or profit allowance for proprietary homes.

Subd. 2. The owner of a nursing home or the state agency may request a new appraisal of the facility not more often than every seven years. If a new appraisal is made, the new appraised value less depreciation, computed on the basis of the value established pursuant to this subdivision, shall become the new basis for that nursing home's investment allowance. The appraiser shall be selected and the appraisal undertaken in accordance with the provisions of section 256B.43, subdivision 3. The basis for depreciation shall continue to be the original value of the facility established pursuant to section 256B.43.

Subd. 3. The seven year period used for the purposes of subdivision 2 shall commence with the date of purchase. The state agency or the owner of any nursing home purchased before January 1, 1977, may request an appraisal on July 1, 1977 or seven years after the date of purchase, whichever occurs later in time.

Subd. 4. If a nursing home is operated on a lease basis, the state agency shall not recognize as an allowable cost any rental fee in excess of the total amount it would pay to the owner of the facility as interest, investment allowance and depreciation allowance.

[1976 c 282 s 5]

256B.46 INCENTIVE ALLOWANCE. In the event that the United States government disallows the investment allowance provided for in section 256B.45 for nonproprietary homes, the state agency shall by rule establish an incentive allowance for nonproprietary nursing homes consistent with federal requirements. The incentive allowance shall include incentives to reward efficient management and quality care. The incentive allowance may also be graduated so that it increases with (1) the length of time that a nursing home is owned by the same owner and (2) the owner's net investment as a percentage of the net asset value of the facility. The rule shall provide that if a nonproprietary nursing home is operated on a lease basis, the state agency shall not recognize as an allowable cost for the operator any rental fee in excess of the total amount it would pay for depreciation and pursuant to this section.

[1976 c 282 s 6]

256B.47 RATE LIMITS. Subdivision 1. The state agency shall by rule establish separate overall limitations on the costs for items which directly relate to the provision of patient care to residents of nursing homes and those which do not directly relate to the provision of care. The state agency may also by rule, establish limitations for specific cost categories. All costs determined otherwise allowable shall be subject to these limitations. The categorical limits on patient care related items may be hourly limits based on the needs of the residents of the nursing home up to maximum limits established by the state agency.

Subd. 2. The following costs shall not be recognized as allowable: (1) political contributions; (2) salaries or expenses of a lobbyist, as defined in section 10A.01, subdivision 11, for lobbying activities; (3) advertising designed to encourage potential residents to select a particular nursing home; (4) assessments levied by the health department for uncorrected violations; (5) legal fees for unsuccessful challenges to decisions by state agencies; and (6) dues paid to a nursing home or hospital association. The state agency shall by rule exclude the costs of any other items which it determines are not directly related to the provision of patient care.

Subd. 3. On or before January 1, 1977 the state agency shall by rule establish a procedure affording notice of the approved rate for medical assistance recipients to nursing homes within 120 days after the close of the fiscal year of the nursing home.

[1976 c 282 s 7]

256B.48 CONDITIONS FOR PARTICIPATION. Subdivision 1. No nursing home shall be eligible to receive medical assistance payments unless it agrees in writing that it will refrain from:

(a) Charging nonmedical assistance residents rates for similar services which exceed by more than ten percent those rates which are approved by the state agency for medical assistance recipients; effective July 1, 1978, no nursing home shall be eligible for medical assistance if it charges nonmedical assistance recipients rates for similar services which exceed those which are approved by the state agency for medical assistance recipients; provided, however, that the nursing home may (1) charge nonmedical assistance residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance patients are charged separately at the same rate for the same services in addition to the daily rate paid by the state agency;

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay an admission fee in excess of \$100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home; and

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

The prohibitions set forth in clause (b) shall not apply to a nonproprietary retirement home which contains an identifiable unit of fewer than 20 percent of the total number of facility beds to provide nursing care to the residents of the home.

Subd. 2. Effective July 1, 1976, no nursing home shall be eligible to receive medical assistance payments unless it agrees in writing to:

(a) Provide the state agency with its most recent (1) balance sheet and statement of revenues and expenses as audited by a certified public accountant licensed by this state or by a public accountant as defined in section 412.222; (2) statement of ownership for the nursing home; and (3) a separate audited balance sheet and statement of revenues and expenses for each nursing home if more than one nursing home or other business operation is owned by the same owner; a governmentally owned nursing home may comply with the auditing requirements of this clause by submitting an audit report prepared by the state auditor's office;

(b) Provide the state agency with copies of leases, purchase agreements and other related documents related to the lease or purchase of the nursing home; and

(c) Provide to the state agency upon request copies of leases, purchase agreements, or similar documents for the purchase or acquisition of equipment, goods and services which are claimed as allowable costs.

Subd. 3. The state agency may reject any annual cost report filed by a nursing home pursuant to this chapter if it determines that the report or the information required in subdivision 2, clause (a) has been filed in a form that is incomplete or inaccurate. In the event that a report is rejected pursuant to this subdivision, the state agency may make payments to a nursing home at the rate determined for its prior fiscal year, or at an interim rate established by the state agency, until the information is completely and accurately filed.

[1976 c 282 s 8]

256B.51 NURSING HOMES; COST OF HOME CARE. Subdivision 1. To determine the effectiveness of home care in providing or arranging for the care and services which would normally be provided in a nursing home, the commissioner of public welfare may establish an experimental program to subsidize a limited number of eligible agencies or households which agree to carry out a planned program of in-home care for an elderly or physically disabled person. The household or agency to provide the services shall be selected by the person who will receive the services.

This program shall be limited to agencies or households caring for persons who are physically disabled or 60 years of age or older, and who otherwise would require and be eligible for placement in a nursing home.

Subd. 2. Grants to eligible agencies or households shall be determined by the commissioner of public welfare. In determining the grants, the commissioner shall consider the cost of diagnostic assessments, homemaker services, specialized equipment, visiting nurses' or other pertinent therapists' costs, social services, day program costs, and related transportation expenses, not to exceed 50 percent of the average medical assistance reimbursement rate for nursing homes in the region of the person's residence.

Subd. 3. An individual care plan for the person shall be established and agreed upon by the person or agency providing the care, the person or agency receiving the subsidy, the person receiving the care, and the appropriate local welfare agency. The plan shall be periodically evaluated to determine the person's progress.

[1976 c 312 s 2]