

CHAPTER 256

PUBLIC WELFARE

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256.01 COMMISSIONER OF PUBLIC WELFARE; POWERS, DUTIES.

[For text of subd 1, see M.S.1982]

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of public welfare shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner.

(2) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(3) Administer and supervise all noninstitutional service to handicapped persons. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(4) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(5) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(6) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(7) Administer and supervise any additional welfare activities and services as are vested by law in the department.

(8) The commissioner is designated as guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded or epileptic.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or state-wide schedules of maximum fees and charges which may be paid by local agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of public welfare is authorized to waive the enforcement of existing specific statutory program requirements, regulations, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed two years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan including estimated project costs and the proposed order establishing the waiver shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to state-wide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs and shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for that program. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

[For text of subds 3 to 11, see M.S.1982]

History: 1983 c 7 s 3; 1983 c 243 s 5 subd 3; 1983 c 312 art 5 s 3

256.045 ADMINISTRATIVE AND JUDICIAL REVIEW OF WELFARE MATTERS.

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. **State agency hearings.** In counties in which the commissioner of welfare has not appointed a local welfare referee, any person applying for or receiving any of the forms of public assistance described in subdivision 2 whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, or terminated by a local agency, or any patient or relative aggrieved by an order of the commissioner under section 252.27, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient or relative shows good cause why the request was not submitted within the 30 day time limit. A local agency, applicant, recipient, patient or relative aggrieved by a ruling of a local welfare referee may appeal the ruling to the state agency by filing a notice of appeal with the state agency within 30 days after receiving the ruling of the local welfare referee. A state welfare referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of public welfare. In appeals from rulings of local welfare referees, the hearing may be limited, upon stipulation of the parties, to a review of the record of the local welfare referee.

[For text of subds 4 to 8, see M.S.1982]

Subd. 9. **Appeal.** Any party aggrieved by the order of the district court may appeal the order as in other civil cases. No costs or disbursements shall be taxed against any party nor shall any filing fee or bond be required of any party.

Subd. 10. **Payments pending appeal.** If the commissioner of welfare, local welfare referee, or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of welfare, district court, court of appeals, or supreme court.

History: 1983 c 247 s 108,109; 1983 c 312 art 5 s 4

256.481 HANDICAPPED PERSON; DEFINITION.

For the purposes of sections 256.481 to 256.482 "handicapped person" means any person who:

(a) has a physical, mental, or emotional impairment which substantially limits one or more major life activities;

- (b) has a record of such an impairment; or
- (c) is regarded as having such an impairment.

History: 1983 c 260 s 55; 1983 c 277 s 1

256.482 COUNCIL FOR THE HANDICAPPED.

Subdivision 1. Establishment; members. There is hereby established the council for the handicapped which shall consist of 21 members appointed by the governor. Members shall be appointed from the general public and from organizations which provide services for handicapped persons. A majority of council members shall be handicapped persons or parents or guardians of handicapped persons. There shall be at least one member of the council appointed from each of the state development regions. The commissioners of the departments of education, public welfare, health, economic security, and human rights and the directors of the division of vocational rehabilitation and state services for the blind or their designees shall serve as ex officio members of the council without vote. In addition, there may be ex officio members from other bureaus, divisions, or sections of state departments which are directly concerned with the provision of services to handicapped persons.

The terms of members serving as of December 31, 1983, shall expire on that date. Thereafter, notwithstanding the provisions of section 15.059, each member of the council appointed by the governor shall serve a three-year term and until his or her successor is appointed and qualified, provided that of the members initially appointed to serve starting in 1984, one-third shall be appointed for one year, one-third for two years, and one-third for three years as designated by the governor. The compensation and removal of all members and expiration of the council shall be as provided in section 15.059. The governor shall appoint a chair of the council from among the members appointed from the general public or handicapped persons or their parents or guardians. Vacancies shall be filled by the appointing authority for the remainder of the unexpired term. The council shall not expire as provided in section 15.059.

Subd. 2. Executive director; staff. The council may select an executive director of the council by a vote of a majority of all council members. The executive director shall be in the unclassified service of the state and shall provide administrative support for the council and provide administrative leadership to implement council mandates, policies, and objectives. The executive director shall employ and direct staff authorized according to state law and necessary to carry out council mandates, policies, activities, and objectives. The salary of the executive director and staff shall be established pursuant to chapter 43A. The executive director and staff shall be reimbursed for the actual and necessary expenses incurred as a result of their council responsibilities.

Subd. 3. Receipt of funds. Whenever any person, firm or corporation offers to the council funds by the way of gift, grant or loan, for purposes of assisting the council to carry out its powers and duties, the council may accept such offer by majority vote and upon such acceptance the chair shall receive such funds subject to the terms of the offer, but no money shall be accepted or received as a loan nor shall any indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

Subd. 4. Organization; committees. The council shall organize itself in conformity with its responsibilities under sections 256.481 to 256.482 and shall establish committees which shall give detailed attention to the special needs of each category of handicapped persons. The members of such committees shall be

designated by the chair with the approval of a majority of the council. Committees established shall include a committee on children which shall study the special needs of handicapped children and a committee on employment which shall study the special employment needs of handicapped persons. The council shall serve as liaison in Minnesota for the president's committee on employment of the handicapped and for any other organization for which it is so designated by the governor or state legislature.

Subd. 5. Duties and powers. The council shall have the following duties and powers:

(1) to advise and otherwise aid the governor; appropriate state agencies, including but not limited to the departments of education, public welfare, economic security, human rights, and the divisions of vocational rehabilitation and services for the blind; the state legislature; and the public on matters pertaining to public policy and the administration of programs, services and facilities for handicapped persons in Minnesota;

(2) to encourage and assist in the development of coordinated, interdepartmental goals and objectives and the coordination of programs, services and facilities among all state departments and private providers of service as they relate to handicapped persons;

(3) to serve as a source of information to the public regarding all services, programs and legislation pertaining to handicapped persons;

(4) to review and make comment to the governor, state agencies, the legislature, and the public concerning adequacy of state programs, plans and budgets for services to handicapped persons and for funding under the various federal grant programs;

(5) to research, formulate and advocate plans, programs and policies which will serve the needs of handicapped persons;

(6) to advise the departments of labor and industry and economic security on the administration and improvement of the workers' compensation law as the law relates to programs, facilities and personnel providing assistance to injured and handicapped workers;

(7) to advise the workers' compensation division of the department of labor and industry and the workers' compensation court of appeals as to the necessity and extent of any alteration or remodeling of an existing residence or the building or purchase of a new or different residence which is proposed by a licensed architect under section 176.137.

History: 1983 c 216 art 2 s 5; 1983 c 260 s 56; 1983 c 277 s 2; 1983 c 299 s 25

NOTE: Subdivision 2 was amended by Laws 1983, chapters 260, section 56; 277, section 2; and 299, section 25. The language in the two earlier chapters reads "state law" rather than "chapter 43A" in the fourth sentence. The language from Laws 1983, chapter 299, section 25 was incorporated. All other amendments could be merged.

256.483 [Repealed, 1983 c 260 s 68; 1983 c 277 s 3]

256.737 COMMUNITY WORK EXPERIENCE PROGRAM.

In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of public welfare may establish pilot community work experience demonstration programs. The commissioner shall: (a) assist counties in the design, implementation, and evaluation of these demonstration programs; (b)

promulgate, in accordance with chapter 14, temporary rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until the termination of the demonstration programs; and (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law. The commissioner shall prohibit use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983.

Projects shall end no later than June 30, 1984, and a preliminary report shall be made to the legislature by February 15, 1984, on the feasibility of permanent implementation and on the cost effectiveness of each of the demonstration programs.

History: 1983 c 249 s 1

256.74 ASSISTANCE.

[For text of subds 1 to 2, see M.S.1982]

Subd. 5. Assignment of support and maintenance rights. An applicant for assistance, or a recipient of assistance, under sections 256.72 to 256.87 is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support and maintenance from any other person the applicant may have in his own behalf or in the behalf of any other family member for whom application is made. The assignment:

(1) is effective as to both current and accrued child support and maintenance obligations;

(2) takes effect upon a determination that the applicant is eligible for assistance under sections 256.72 to 256.87;

(3) terminates when an applicant ceases to receive assistance under sections 256.72 to 256.87, except with respect to the amount of any unpaid support or maintenance obligation, or both, accrued under the assignment.

History: 1983 c 308 s 1

256.82 PAYMENTS BY STATE.

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. Setting foster care standard rates. The commissioner shall annually establish minimum standard maintenance payment rates for foster care maintenance for all children in foster care, and require county boards to establish difficulty of care payment rates for all children in foster care.

History: 1983 c 312 art 5 s 5

256.87 CONTRIBUTION BY PARENTS.

Subdivision 1. Actions against parents for assistance furnished. At any time during the continuance of assistance to a child granted under sections 256.72 to 256.87 except as set forth below, a parent of a child is liable for the amount of assistance furnished during the two years immediately preceding the commencement of the action which the parent is reasonably able to pay. Provided, however, that where child support has been previously ordered, the state or county agency providing the assistance, as assignee of the obligee, shall be entitled to judgments for child support payments accruing within ten years preceding the date of the

commencement of the action to collect. The action may be ordered by the state agency or county agency and shall be brought in the name of the county by the county attorney of the county in which the assistance was granted, or by the state agency against the parent for the recovery of the amount of assistance granted, together with the costs and disbursements of the action.

Subd. 1a. Continuing support contributions. In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. Except as provided in subdivision 4, the order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and for 90 days thereafter the order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Subd. 2. [Repealed, 1983 c 308 s 32]

Subd. 3. Continuing contributions to former recipient. The order for continuing support contributions shall remain in effect following the 90 day period after public assistance granted under sections 256.72 to 256.87 is terminated if:

(a) the former recipient files an affidavit with the court within 90 days of the termination of assistance requesting that the support order remain in effect;

(b) the public authority serves written notice of the filing by mail on the parent responsible for making the support payments at that parent's last known address and notice that the parent may move the court under section 518.64 to modify the order respecting the amount of support or maintenance; and

(c) the former recipient makes an application to use the public authority's collection services.

Subd. 4. Order for modification. In any order modifying the amount of support or maintenance under this section, the court may make the modification retroactive to the date public assistance was terminated or reinstated.

Subd. 5. Child not receiving assistance. A parent having custody of a dependent child not receiving assistance under sections 256.72 to 256.87 has a cause of action for child support against the child's absent parent. Upon an order to show cause and a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518.

History: 1983 c 308 s 2

256.871 EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN UNDER AGE 21.

[For text of subds 1 to 6, see M.S.1982]

Subd. 7. Authority of the commissioner. The commissioner is authorized, subject to the provisions of chapter 14, to promulgate rules not inconsistent with this section as necessary to qualify for maximum federal funds.

History: 1983 c 216 art 1 s 38

256.872 [Repealed, 1983 c 308 s 32]

256.873 [Repealed, 1983 c 308 s 32]

256.876 [Repealed, 1983 c 308 s 32]

256.88 SOCIAL WELFARE FUND ESTABLISHED.

Except as otherwise expressly provided, all moneys and funds held by the commissioner of public welfare and the county welfare boards of the several counties in trust or for the benefit of handicapped, dependent, neglected, and delinquent children, children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children, persons determined to be mentally retarded, mentally ill or chemically dependent, or other wards or beneficiaries, under any law, shall be kept in a single fund to be known as the "social welfare fund" which shall be deposited at interest, held, or disbursed as provided in sections 256.89 to 256.92.

History: 1983 c 7 s 4; 1983 c 243 s 5 subd 4

256.91 PURPOSES.

From that part of the social welfare fund held in the state treasury subject to disbursement as provided in section 256.90 the commissioner of public welfare at any time may pay out such amounts as he deems proper for the support, maintenance, or other legal benefit of any of the handicapped, dependent, neglected, and delinquent children, children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children, persons found to be mentally retarded, chemically dependent or mentally ill, or other wards or persons entitled thereto, not exceeding in the aggregate to or for any person the principal amount previously received for the benefit of the person, together with the increase in it from an equitable apportionment of interest realized from the social welfare fund.

When any such person dies or is finally discharged from the guardianship, care, custody, and control of the commissioner of public welfare, the amount then remaining subject to use for the benefit of the person shall be paid as soon as may be from the social welfare fund to the persons thereto entitled by law.

History: 1983 c 7 s 5; 1983 c 243 s 5 subd 5

256.93 COMMISSIONER OF PUBLIC WELFARE, POSSESSION OF ESTATES.

Subdivision 1. **Limitations.** In any case where the guardianship of the person of any handicapped, dependent, neglected or delinquent child, or a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born, has been committed to the commissioner of public welfare, and in any case where the guardianship or conservatorship of the person of any mentally retarded or epileptic person has been committed to the commissioner of public welfare, the probate court having jurisdiction of the estate may on such notice as the court may direct, authorize the commissioner to take possession of the personal property in the estate, liquidate it, and hold the proceeds in trust for the ward, to be invested, expended and accounted for as provided by sections 256.88 to 256.92.

[For text of subd 2, see M.S.1982]

History: 1983 c 7 s 6; 1983 c 243 s 5 subd 6

256.966 MEDICAL CARE PAYMENTS; ALLOWABLE INCREASE IN COST PER SERVICE UNIT.

Subdivision 1. **In general.** For the biennium ending June 30, 1985, the annual increase in the cost per service unit paid to any vendor under medical assistance and general assistance medical care shall not exceed five percent, except that the five percent annual increase limitation applied to vendors under this subdivision does not apply to nursing homes licensed under chapter 144A or boarding care homes licensed under sections 144.50 to 144.56. The estimated acquisition cost of prescription drug ingredients is not subject to the five percent increase limit, any general state payment reduction, or cost limitation described in this section, except as required under federal law or regulation. For vendors enrolled in the general assistance medical care program, the annual increase in cost per service unit allowable during state fiscal year 1984 shall not exceed five percent. The basis for measuring growth shall be the cost per service unit that would have been reimbursable in state fiscal year 1983 if payments had not been rateably reduced and if payments had been based on the 50th percentile of usual and customary billings for medical assistance in 1978. The increase in cost per service unit allowable for vendors in the general assistance medical care program during state fiscal year 1985 shall not exceed five percent. The basis for measuring growth shall be state fiscal year 1984.

[For text of subd 2, see M.S.1982]

History: 1983 c 312 art 5 s 6

256.967 MEDICAL CARE PAYMENTS; LIMITATIONS ON FEES.

For the biennium ending June 30, 1985, all payments for vendors of medical care under general assistance medical care shall be based upon this standard: the 50th percentile of usual and customary fees based upon medical assistance billings during calendar year 1978. All payments for vendors of medical care under medical assistance shall be limited to the 50th percentile of usual and customary fees based upon billings during calendar year 1979 for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and xray services.

History: 1983 c 312 art 5 s 7

256.968 LIMITATION ON INPATIENT CHEMICAL DEPENDENCY TREATMENT.

The commissioner of public welfare shall limit medical assistance and general assistance medical care reimbursement for treatment of alcoholism, chemical dependency or drug addiction which is rendered in a licensed hospital or certified nursing home to 30 days unless need for extended care is certified by the attending physician and has received prior approval from the commissioner.

History: 1983 c 312 art 5 s 8

256.969 INPATIENT HOSPITALS.

Subdivision 1. **Annual cost index.** The commissioner of public welfare shall develop a prospective payment system for inpatient hospital service under the medical assistance and general assistance medical care programs. Rates paid to licensed hospitals for rate years beginning during the fiscal biennium ending June

30, 1985, shall not exceed an annual hospital cost index for the final rate allowed to the hospital for the preceding year not to exceed five percent in any event. The annual hospital cost index shall be obtained from an independent source representing a statewide average of inflation estimates determined for expense categories to include salaries, employee benefits, medical fees, raw food, medical supplies, pharmaceuticals, utilities, repairs and maintenance, insurance other than malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect the regional differences within the state and include a one percent increase to reflect changes in technology. The annual hospital cost index shall be published 30 days before the start of each calendar quarter and shall be applicable to all hospitals whose fiscal years start on or during the calendar quarter.

Subd. 2. **Rates for inpatient hospitals.** Rates paid to inpatient hospitals shall be based on a rate per admission.

Subd. 3. **Special considerations.** In determining the rate, the commissioner of public welfare will take into consideration whether the following circumstances exist:

- (a) minimal medical assistance and general assistance medical care utilization;
- (b) unusual length of stay experience; and
- (c) disproportionate numbers of low income patients served.

Subd. 4. **Appeals board.** An appeals board shall be established for purposes of hearing reports for changes in the rate per admission. The appeals board shall consist of two public representatives, two representatives of the hospital industry, and one representative of the business or consumer community. The appeals board shall advise the commissioner on adjustments to hospital rates under this section.

Subd. 5. **Appeal rights.** Nothing in this section supersedes the contested case provisions of chapter 14, the Administrative Procedure Act.

Subd. 6. **Rules.** The commissioner of public welfare shall promulgate temporary and permanent rules to implement a system of prospective payment for inpatient hospital services pursuant to chapter 14, the Administrative Procedure Act.

History: 1983 c 312 art 5 s 9

256.976 FOSTER GRANDPARENTS PROGRAM.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. The board is authorized, subject to the provisions of chapter 14, to make rules necessary to the operation of the foster grandparent program and to employ assistance in performing its administrative duties. In adopting rules the board shall give consideration to applicable federal guidelines.

History: 1983 c 216 art 1 s 39

256.991 RULES.

The commissioner of public welfare may promulgate temporary and permanent rules as necessary to implement sections 256.82, subdivision 3; 256.966, subdivision 1; 256.968; 256D.03, subdivisions 3, 4, 6, and 7; and 261.23. The commissioner shall promulgate temporary and permanent rules to establish standards and criteria for deciding which medical assistance services require prior authorization and for deciding whether a second medical opinion is required for

an elective surgery. The commissioner shall promulgate permanent and temporary rules as necessary to establish the methods and standards for determining inappropriate utilization of medical assistance services.

The commissioner of public welfare shall adopt temporary rules which meet the requirements of sections 14.29 to 14.36 for the medical assistance demonstration project. Notwithstanding the provisions of section 14.35, the temporary rules promulgated to implement section 256B.69 shall be effective for 360 days and may be continued in effect for an additional 900 days if the commissioner gives notice by publishing a notice in the state register and mailing notice to all persons registered with the commissioner to receive notice of rulemaking proceedings in connection with the project. The temporary rules shall not be effective beyond December 31, 1986, without meeting the requirements of sections 14.13 to 14.20.

History: 1983 c 312 art 5 s 38.