

## CHAPTER 256

### HUMAN SERVICES

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#### 256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.

*[For text of subd 1, see M.S.1984]*

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services 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, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. 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.

(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 statewide 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 human services 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 statewide 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).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$400,000. When the balance in the account exceeds \$400,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

*[For text of subd 3, see M.S.1984]*

**Subd. 4. Duties as state agency.** The state agency shall:

(1) supervise the administration of assistance to dependent children under Laws 1937, chapter 438, by the county agencies in an integrated program with other service for dependent children maintained under the direction of the state agency;

(2) may subpoena witnesses and administer oaths, make rules and regulations, and take such action as may be necessary, or desirable for carrying out the provisions of Laws 1937, chapter 438. All rules and regulations made by the state agency shall be binding on the counties and shall be complied with by the respective county agencies;

(3) establish adequate standards for personnel employed by the counties and the state agency in the administration of Laws 1937, chapter 438, and make the necessary rules and regulations to maintain such standards;

(4) prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable;

(5) cooperate with the federal government and its public welfare agencies in any reasonable manner as may be necessary to qualify for federal aid for aid to dependent children and in conformity with the provisions of Laws 1937, chapter 438, including the making of such reports and such forms and containing such information as the Federal Social Security Board may from time to time require, and comply with such provisions as such board may from time to time find necessary to assure the correctness and verification of such reports; and

(6) may cooperate with other state agencies in establishing reciprocal agreements in instances where a child receiving aid to dependent children moves or contemplates moving into or out of the state, in order that such child may continue to receive supervised aid from the state from which he has moved until he shall have resided for one year in the state to which he has moved; and

(7) on or before October 1 in each even-numbered year make a biennial report to the governor concerning the activities of the agency;

(8) prepare a plan and submit it to the full productivity and opportunity coordinator in each even-numbered year, according to standards established by the coordinator, for use in developing a biennial statewide employment and training plan; and

(9) enter into agreements with other departments of the state as necessary to meet all requirements of the federal government.

**Subd. 5. Gifts, contributions, pensions and benefits; acceptance.** The commissioner shall have the power and authority to accept in behalf of the state contribu-

tions and gifts for the use and benefit of children under the guardianship or custody of the commissioner; he may also receive and accept on behalf of such children, and on behalf of patients and residents at the several state hospitals for persons with mental illness or mental retardation during the period of their hospitalization and while on provisional discharge therefrom, money due and payable to them as old age and survivors insurance benefits, veterans benefits, pensions or other such monetary benefits. Such gifts, contributions, pensions and benefits shall be deposited in and disbursed from the social welfare fund provided for in sections 256.88 to 256.92.

*[For text of subds 6 to 11, see M.S.1984]*

**History:** 1985 c 21 s 48,49; 1Sp1985 c 14 art 9 s 15

## 256.12 DEFINITIONS.

*[For text of subds 9 to 19, see M.S.1984]*

Subd. 20. **Assistance unit.** "Assistance unit" means the group of individuals who are applying for or receiving assistance and whose needs are included in the grant of assistance as determined under sections 256.72 to 256.87.

*[For text of subds 21 and 22, see M.S.1984]*

**History:** 1985 c 252 s 5

## 256.73 ASSISTANCE, RECIPIENTS.

*[For text of subd 1, see M.S.1984]*

Subd. 2. **Allowance barred by ownership of property.** Ownership by an assistance unit of property as follows is a bar to any allowance under sections 256.72 to 256.87:

(1) The value of real property other than the homestead, which when combined with other assets exceeds the limits of paragraph (2), unless the assistance unit is making a good faith effort to sell the nonexcludable real property. The time period for disposal must not exceed nine months and the assistance unit shall execute an agreement to dispose of the property to repay assistance received during the nine months up to the amount of the net sale proceeds. The payment must be made when the property is sold. If the property is not sold within the required time or the assistance unit becomes ineligible for any reason the entire amount received during the nine months is an overpayment and subject to recovery. For the purposes of this section "homestead" means the house owned and occupied by the child, relative or other member of the assistance unit as his dwelling place, together with the land upon which it is situated in an area no greater than two contiguous lots in a platted or laid out city or town or 80 contiguous acres in rural areas; or

(2) Personal property of an equity value in excess of \$1,000 for the entire assistance unit, exclusive of personal property used as the home, one motor vehicle of an equity value not exceeding \$1,500, one burial plot for each member of the assistance unit, one prepaid burial contract with an equity value of no more than \$1,000 for each member of the assistance unit, clothing and necessary household furniture and equipment and other basic maintenance items essential for daily living, in accordance with rules promulgated by and standards established by the commissioner of human services.

Subd. 3a. **Persons ineligible.** No assistance shall be given under sections 256.72 to 256.87:

(1) on behalf of any person who is receiving supplemental security income under title XVI of the Social Security Act unless permitted by federal regulations;

(2) for any month in which the assistance unit's gross income, without application of deductions or disregards, exceeds 185 percent of the standard of need for a family of the same size and composition; except that the earnings of a dependent child who is a full-time student may be disregarded for six calendar months per year and the earnings of a dependent child who is a full-time student that are derived from the jobs training and partnership act may be disregarded for six calendar months per year. If a stepparent's income is taken into account in determining need, the disregards specified in section 256.74, subdivision 1a shall be applied to determine income available to the assistance unit before calculating the unit's gross income for purposes of this paragraph;

(3) to any assistance unit for any month in which any caretaker relative with whom the child is living is, on the last day of that month, participating in a strike;

(4) on behalf of any other individual in the assistance unit, nor shall the individual's needs be taken into account for any month in which, on the last day of the month, the individual is participating in a strike;

(5) to an assistance unit if its eligibility is based on a parent's unemployment and the parent who is the principal earner, without good cause, fails or refuses to seek work, to participate in the work incentive program under section 256.736, if this program is available, to accept employment, or to register with a public employment office, unless the principal earner is exempt from these work requirements.

*[For text of subd 4, see M.S.1984]*

**Subd. 5. Aid for unborn children.** (a) For the purposes of sections 256.72 to 256.87, assistance payments shall be made during the final three months of pregnancy to a woman who has no other children but who otherwise qualifies for assistance except for medical assistance payments which shall be made at the time that pregnancy is confirmed by a physician if the pregnant woman has no other children and otherwise qualifies for assistance as provided in section 256B.06, subdivision 1. No payments shall be made for the needs of the unborn or for any special needs occasioned by the pregnancy except as provided in clause (b). The commissioner of human services shall promulgate, pursuant to the administrative procedures act, rules to implement this subdivision.

(b) The commissioner may, according to rules, make payments for the purpose of meeting special needs occasioned by or resulting from pregnancy both for a pregnant woman with no other children as well as for a pregnant woman receiving assistance as provided in sections 256.72 to 256.87. The special needs payments shall be dependent upon the needs of the pregnant woman and the resources allocated to the county by the commissioner and shall be limited to payments for medically recognized special or supplemental diet needs and the purchase of a crib and necessary clothing for the future needs of the unborn child at birth. The commissioner shall, according to rules, make payments for medically necessary prenatal care of the pregnant woman and the unborn child.

**Subd. 6. Reports by recipient.** An assistance unit with a recent work history or with earned income shall report monthly to the local agency on income received and other circumstances affecting eligibility or assistance amounts. All other assistance units shall report on income and other circumstances affecting eligibility and assistance amounts at less frequent intervals, as specified by the state agency. All income not specifically disregarded by the Social Security Act, the Code of Federal Regulations, or state law, rules and regulations, shall be income applicable to the budgetary needs of the family. If any amount of aid to families with

dependent children assistance is paid to a recipient thereof in excess of the payment due it shall be recoverable by the local agency. The agency shall give written notice to the recipient of its intention to recover the overpayment. Overpayments to a current assistance unit shall be recovered either through repayment by the individual in part or in full or by reducing the amount of aid payable to the assistance unit of which the individual is a member. For any month in which an overpayment must be recovered, recoupment may be made by reducing the grant but only if the reduced assistance payment, together with the assistance unit's liquid assets and total income after deducting actual work expenses equals at least 95 percent of the standard of need for the assistance unit, except that if the overpayment is due solely to agency error, this total after deducting actual work expenses shall equal at least 99 percent of the standard of need. In cases when there is both an overpayment and underpayment the local agency shall offset one against the other in correcting the payment. The local agency shall make reasonable efforts to recover overpayments made to persons no longer on assistance in accordance with standards established by the commissioner of human services. The local agency need not attempt to recover overpayments of less than \$35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of fraud under section 256.98. The recipient may appeal the agency's determination that an overpayment has occurred in accordance with section 256.045. The county agency shall promptly repay the recipient for any underpayment and shall disregard that payment when determining the assistance unit's income and resources in the month when the payment is made and the following month.

**History:** 1985 c 45 s 1; 1985 c 252 s 6-8

## **256.736 EMPLOYMENT AND TRAINING PROGRAMS.**

Subdivision 1. [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

Subd. 2. [Repealed, 1Sp1985 c 14 art 9 s 78 subd 1]

Subd. 3. **Operation of programs.** To determine who shall be designated as an appropriate individual for certification for employment and training services, the commissioner of jobs and training shall provide, by rule, standards for county boards consistent with the standards promulgated by the secretary of health and human services. County boards shall certify appropriate individuals for employment and training services, shall notify the commissioner of human services, and shall require that every individual certified, as a condition of receiving aid to families with dependent children, register for employment services, training, and employment, unless such individual is:

(1) a child who is under age 16, a child age 16 or 17 who is attending elementary or secondary school or a secondary level vocational or technical school full time, or a full-time student age 18 who is attending a secondary school or a secondary level vocational or technical program and who is expected to complete the school or program before reaching age 19;

(2) a person who is ill, incapacitated or of advanced age;

(3) a person so remote from an employment and training service and where transportation is not reasonably available that his effective participation is precluded;

(4) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a parent or other caretaker relative of a child under the age of six who personally provides full-time care for the child;

(6) a parent or other caretaker if another adult relative in the assistance unit is registered and has not, without good cause, failed or refused to participate or accept employment;

(7) a pregnant woman in the last trimester of pregnancy; or

(8) a parent who is not the principal earner if the parent who is the principal earner is not exempt under clauses (1) to (7).

Any individual referred to in clauses (5) to (8) must be advised of the option to register for employment services, training services, and employment if the individual so desires, and must be informed of the child care and other services available if the individual decides to register.

If, after planning with a recipient, a decision is made that the recipient must register for employment services, training, and employment, the county board shall give notice in writing to the recipient stating that he or she must register for participation in an employment and training service and that the recipient has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

**Subd. 4. Conditions of certification.** The commissioner of human services shall:

(1) Arrange for or provide any relative or child required to register for employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) Pay ten percent of the cost of the work incentive program and any other costs that are required of that agency by federal regulation for employment and training services for recipients of aid to families with dependent children;

(3) Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of jobs and training is disregarded and the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulations; and

(4) Provide that when it has been certified by the commissioner of jobs and training, certification to be binding upon the commissioner of human services, that a relative or child certified under an employment and training program to the commissioner of jobs and training has been found by the commissioner, after a hearing conducted in the manner prescribed by section 268.10, subdivision 3, with the right of review in accordance with the provisions of section 268.10, subdivision 8, to have refused without good cause to participate in appropriate employment and training services or to have refused without good cause to accept a bona fide offer of public or other employment, the county board shall provide that:

(a) If the relative makes the refusal, the relative's needs shall not be taken into account in making the grant determination, and aid for any dependent child in the family will be made in the form of protective or vendor payments, except that when protective payments are made, the local agency may continue payments to the relative if a protective payee cannot reasonably be found.

(b) Aid with respect to a dependent child will be denied if a child who makes the refusal is the only child receiving aid in the family.

(c) If there is more than one child receiving aid in the family, aid for the child who makes the refusal will be denied and his or her needs will not be taken into account in making the grant determination.

(d) If the assistance unit's eligibility is based on the nonexempt principal earner's unemployment and this principal earner fails or refuses without good cause

to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87, if the family is subject to requirements of the work incentive program.

**Subd. 5. Extension of employment and training opportunities.** The commissioner of human services shall cooperate with the commissioner of jobs and training to extend the availability of training and employment opportunities on a statewide basis.

*[For text of subd 6, see M.S.1984]*

**Subd. 7. Rulemaking.** The commissioner of human services, in cooperation with the commissioner of jobs and training, may make rules necessary to qualify for any federal funds available under this section and to carry out this section.

**Subd. 8. Special needs.** The commissioner of human services shall amend the state plan for aid to families with dependent children to provide, as special needs payments, money for the costs of child care, transportation, tuition, and items associated with education or seeking employment to the extent allowed under federal regulations and state appropriations.

**Subd. 9. Changes in state plan and rules; waivers.** The commissioner of human services shall make changes in the state plan and rules or seek any waivers or demonstration authority necessary to minimize barriers to participation in the employment and training services or to employment. Changes must be sought in at least the following areas: allowances, child care, work expenses, the amount and duration of earnings incentives, medical care coverage, limitations on the hours of employment, and administrative standards and procedures. The commissioner shall implement each change as soon as possible. Before implementing any demonstration project or a program that is a result of a waiver, the conditions under section 256.01, subdivision 1, clause (12), must be met, and the chair of the senate health and human services committee and the chair of the house of representatives health and human services committee must be notified.

**History:** 1985 c 252 s 9,10; 1Sp1985 c 14 art 9 s 17-22

NOTE: Subdivision 1 was also amended by Laws 1985, First Special Session chapter 14, article 9, section 16, to read as follows:

"Subdivision 1. **Commissioner.** To the extent permitted by law, the commissioner of jobs and training shall administer, on behalf of the commissioner of human services, the aspects of the aid to families with dependent children program, excluding categorical and financial eligibility, that directly relate to:

- (1) recipients' participation in employment and training services;
- (2) requirements for and conditions of participating in employment and training services;
- (3) the design and administration of employment and training services; and
- (4) the supervision of county boards in carrying out responsibilities related to employment and training services.

The commissioner of jobs and training and the commissioner of human services may implement those programs and authorities, including supported work programs, employment search, and demonstration projects authorized under federal regulations to increase services or federal reimbursement available to provide employment and training services for recipients of aid to families with dependent children. Before a demonstration project is implemented, the conditions under section 256.01, subdivision 2, clause 12, must be met."

## **256.737 COMMUNITY WORK EXPERIENCE PROGRAM.**

**Subdivision 1. Pilot programs.** 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 human services may continue the pilot community work experience demonstration programs that were approved by January 1, 1984. No new pilot community work experience demonstration programs may be established under this subdivision. The commissioner shall: (a) assist counties in the design, implementation, and evaluation of these demonstration programs; (b) promulgate, in accordance with chapter 14, emergency 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, 1985. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

Projects end no later than June 30, 1987, and a report shall be made to the legislature by February 15, 1987, on the feasibility of permanent implementation and on the cost effectiveness of each of the demonstration programs.

**Subd. 2. Additional programs.** In addition to the pilot programs established in subdivision 1, the commissioner may approve the application of up to eight additional counties to enter into a community work experience program. The programs under this subdivision are governed by subdivision 1 except as in paragraphs (a) and (b).

(a) As a condition to placing a person receiving aid to families with dependent children in a program under this subdivision, the county shall first provide the recipient the opportunity to participate in the following services:

- (1) placement in suitable subsidized or unsubsidized employment; or
- (2) basic educational or vocational or occupational training for an identifiable job opportunity.

(b) If the recipient refuses suitable employment and a training program, the county may require the recipient to participate in a community work experience program as a condition of eligibility.

**History:** *1Sp1985 c 9 art 2 s 30; 1Sp1985 c 14 art 9 s 23*

## **256.74 ASSISTANCE.**

**Subdivision 1. Amount.** The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an assistance unit must be budgeted in the normal retrospective cycle. The number of months of ineligibility is determined by dividing the amount of the lump sum income and all other income, after application of the applicable disregards, by the standard of need for the assistance unit. An amount remaining after this calculation is income in the first month of eligibility. If the total monthly income including the lump sum income is larger than the standard of need for a single month the first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. In making its determination the county agency shall disregard the following from family income:

- (1) all of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student or part-time student, and not a

full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment as well as all the earned income derived from the job training and partnership act (JTPA) for a dependent child for six calendar months per year, together with unearned income derived from the job training and partnership act;

(2) all educational grants and loans awarded pursuant to a federal law when public assistance was considered in making the award and the award was made on the basis of financial need; and that part of any other educational grant or loan which is used for educational purposes, such as tuition, fees, equipment, transportation and child care expenses necessary for school attendance;

(3) the first \$75 of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) an amount equal to the actual expenditures but not to exceed \$160 for the care of each dependent child or incapacitated individual living in the same home and receiving aid. In the case of a person not engaged in full-time employment or not employed throughout the month, the commissioner shall prescribe by rule a lesser amount to be disregarded;

(5) thirty dollars plus one-third of the remainder of each individual's earned income not already disregarded for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has:

(a) reduced his earned income without good cause within 30 days preceding any month in which an assistance payment is made; or

(b) refused without good cause to accept an offer of suitable employment; or

(c) left employment or reduced his earnings without good cause and applied for assistance so that he might later return to employment with the advantage of the income disregard; or

(d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services.

Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment.

The disregard of \$30 and one-third of the remainder of earned income described in clause (5) shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of clause (5)(a) to (5)(d) shall be considered as one of the four months. An additional \$30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined \$30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under clause (d), the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the

assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(6) the first \$50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit; and

(7) insurance settlements to pay medical bills, to compensate a member of an assistance unit for partial or permanent loss of function or a body part, or to repair or replace insured property.

The first \$50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit shall be paid to the assistance unit within 15 days of the collection of such periodic support payments and shall be disregarded in determining the amount of assistance.

**Subd. 1a. Stepparent's income.** In determining income available, the county agency shall take into account the remaining income of the dependent child's stepparent who lives in the same household after disregarding:

(1) the first \$75 of the stepparent's gross earned income. The commissioner shall prescribe by rule lesser amounts to be disregarded for stepparents who are not engaged in full-time employment or not employed throughout the month;

(2) an amount for support of the stepparent and any other individuals whom the stepparent claims as dependents for tax purposes and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.72 to 256.87. The amount equals the standard of need for a family of the same composition as the stepparent and these other individuals;

(3) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for tax purposes; and

(4) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

**Subd. 2. Application.** Application for assistance under sections 256.72 to 256.87 shall be made to the county agency of the county in which the dependent child lives. If the child is not living within the state at the time of application but is eligible for assistance, the application may be made to the agency of the county where the child is present and forwarded to the agency of the county where the child last lived. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state agency and verified by the oath of the applicant or in lieu thereof shall contain the following declaration which shall be signed by the applicant: "I declare that this application has been examined by me and to the best of my knowledge and belief is a true and correct statement of every material point." The application shall be made by the person with whom the child will live and contain information as to the age and residence of the child and such other information as may be required by the rules and regulations of the state agency. One application may be made for several children of the same family if they live with the same person.

**Subd. 5. Assignment of support and maintenance rights.** An applicant for assistance, or a recipient of assistance, under sections 256.72 to 256.87 or an applicant or recipient for whom foster care maintenance is provided under Title IV-E of the Social Security Act 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 under sections 256.72 to 256.87 or Title IV-E. 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 or that the applicant or family member is eligible for foster care maintenance under Title IV-E of the Social Security Act;

(3) terminates when an applicant ceases to receive assistance under sections 256.72 to 256.87 or when the applicant or family member ceases to receive foster care maintenance under Title IV-E of the Social Security Act, except with respect to the amount of any unpaid support or maintenance obligation, or both, under the assignment.

**History:** 1985 c 131 s 1,2; 1985 c 252 s 11-13

## **256.76 ASSISTANCE, DETERMINATION OF AMOUNT.**

Subdivision 1. Upon the completion of such investigation the county agency shall decide whether the child is eligible for assistance under the provisions of sections 256.72 to 256.87, determine the amount of such assistance, and the date on which such assistance shall begin. Notwithstanding section 393.07, the county agency shall not delay approval or issuance of assistance pending formal action of the county board of commissioners. The first month's grant shall be based upon that portion of the month from the date of application, or from the date that the applicant meets all eligibility factors, whichever occurs later, provided that on the date that assistance is first requested, the local agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, or other emergency assistance. If an emergency need is found to exist, the applicant shall be granted assistance pursuant to section 256.871 within a reasonable period of time. It shall make a grant of assistance which shall be binding upon the county and be complied with by the county until such grant is modified or vacated. If the applicant is subsequently found to have been eligible for assistance under sections 256.72 to 256.87, assistance rendered under section 256.871 must be considered as a regular AFDC payment and not a payment under section 256.871. The county agency shall notify the applicant of its decision in writing. Such assistance shall be paid monthly to the applicant or to the vendor of medical care upon order of the county agency from funds appropriated to the county agency for this purpose. The county agency shall, upon the granting of assistance under these sections, file an order on the form to be approved by the state agency with the auditor of the county and thereafter warrants shall be drawn and payments made only in accordance with this order to or for recipients of this assistance or in accordance with any subsequent order.

*[For text of subd 2, see M.S.1984]*

**History:** 1985 c 252 s 14

## **256.78 ASSISTANCE GRANTS RECONSIDERED.**

All assistance granted under sections 256.72 to 256.87 shall be reconsidered as frequently as may be required by the rules of the state agency. After such further investigation as the county agency may deem necessary or the state agency may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county agency find that the child's circumstances have altered sufficiently to warrant such action. The period of ineligibility for AFDC which results when an assistance unit receives lump sum income must be reduced when:

(1) the assistance unit's standard of need increases due to changes in state law or due to changes in the size or composition of the assistance unit, so that the amount of aid the assistance unit would have received would have increased had it not become ineligible;

(2) the lump sum income, or a portion of it becomes unavailable to the assistance unit due to expenditures to avoid a life-threatening circumstance, theft, or dissipation which is beyond the family's control by a member of the family who is no longer part of the assistance unit when the lump sum income is not used to meet the needs of members of the assistance unit; or

(3) the assistance unit incurs and pays medical expenses for care and services specified in section 256B.02, subdivision 8.

The county agency may for cause at any time revoke, modify, or suspend any order for assistance previously made. When assistance is thus revoked, modified, or suspended the county agency shall at once report to the state agency such decision together with supporting evidence required by the rules of the state agency. All such decisions shall be subject to appeal and review by the state agency as provided in section 256.045.

**History:** 1985 c 252 s 15

#### **256.79 REMOVAL TO ANOTHER COUNTY.**

Any child qualified for and receiving assistance pursuant to the provisions in sections 256.72 to 256.87 in any county in this state, who moves or is taken to another county in this state shall be entitled to continue to receive assistance from the county from which the child has moved or has been taken until the child shall have resided for two months in the county to which the child has moved. When the child has resided two months in the county to which the child has moved, or has been taken, the local agency of the county from which the child has moved shall transfer all necessary records relating to the child to the county agency of the county to which the child has moved. Where the child's assistance is terminated for 30 days or less before a reapplication is made, that assistance must continue to be the financial obligation of the county from which the child has moved until the two-month residence requirement has been met.

Notwithstanding the provisions of section 256.73, subdivision 4, the county of financial responsibility shall not change because application for assistance is not made prior to initial placement, or when living in a battered woman's shelter or maternity shelter, or as a result of successive placements in one or more counties pursuant to a plan of treatment for health, rehabilitation, foster care, child care or training, nor as a result of placement in any correctional program. In the case of a child who has no established county of residence prior to placement, the county of financial responsibility is the county in which the child resides at the time the application is made and the applicable eligibility criteria are met.

**History:** 1985 c 252 s 16

#### **256.82 PAYMENTS BY STATE.**

*[For text of subd 1, see M.S.1984]*

**Subd. 2. Foster care maintenance payments.** Notwithstanding subdivision 1, for the purposes of foster care maintenance payments under Title IV-E of the federal Social Security Act, United States Code, title 42, sections 670 to 676, during the period beginning July 1, 1985, and ending December 31, 1985, the county paying the maintenance costs shall be reimbursed for the costs from those federal funds

available for that purpose together with an amount of state funds equal to a percentage of the difference between the total cost and the federal funds made available for payment. This percentage shall not exceed the percentage specified in subdivision 1 for the aid to families with dependent children program. In the event that the state appropriation for this purpose is less than the state percentage set in subdivision 1, the reimbursement shall be rateably reduced to the county. Beginning January 1, 1986, for the purpose of foster care maintenance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the county paying the maintenance costs must be reimbursed for the costs from the federal money available for the purpose.

*[For text of subd 3, see M.S.1984]*

**History:** *1Sp1985 c 9 art 2 s 31*

## **256.87 CONTRIBUTION BY PARENTS.**

**Subdivision 1. Actions against parents for assistance furnished.** A parent of a child is liable for the amount of assistance furnished under sections 256.72 to 256.87 to and for the benefit of the child, including any assistance furnished for the benefit of the caretaker of the child, which the parent has had the ability to pay. The parent's liability is limited to the amount of assistance furnished during the two years immediately preceding the commencement of the action, except 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 up to the full amount of assistance furnished. 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 five months 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. 3. Continuing contributions to former recipient.** The order for continuing support contributions shall remain in effect following the five-month 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 five months 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 authorizes use of the public authority's collection services.

*[For text of subds 4 to 6, see M.S.1984]*

**History:** 1985 c 131 s 3,4; 1Sp1985 c 9 art 2 s 32

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

*[For text of subds 1 and 2, see M.S.1984]*

Subd. 3. **County of responsibility.** No state or county durational residence is required to qualify for such assistance. The county which shall be financially responsible and grant assistance shall be the county wherein the child lives who is found to be in emergency need.

Subd. 4. **Emergency defined.** An emergency is a situation or set of circumstances which endangers or threatens to endanger the health or safety of a child or his or her relative caretaker. Examples of emergencies which create the need for such assistance include natural disasters such as floods, fires, or storms; civil disorders; strikes; illness; accident; death; eviction from shelter; migrant families in necessitous circumstances; or other crises, as defined by the commissioner, in accordance with directives of the United States secretary of health and human services. The commissioner shall limit, entirely or in part, emergency assistance payments for utilities and housing when eligible families do not demonstrate that they have made a good faith effort to meet those payments.

*[For text of subds 5 to 7, see M.S.1984]*

**History:** 1985 c 252 s 17; 1Sp1985 c 9 art 2 s 33

## **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 human services 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 with mental retardation, chemical dependency, or mental illness, 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 human services, 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:** 1985 c 21 s 50

## **256.93 COMMISSIONER OF HUMAN SERVICES, POSSESSION OF ESTATES.**

Subdivision 1. **Limitations.** In any case where the guardianship of the person of any mentally retarded, 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 human services, and in any case where the guardianship or conservatorship of the person of any person with mental retardation has been committed to the commissioner of human services, 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.1984]*

**History:** 1985 c 21 s 51

**256.967** [Repealed, 1Sp1985 c 9 art 2 s 104]

## **256.969 INPATIENT HOSPITALS.**

**Subdivision 1. Annual cost index.** The commissioner of human services shall develop a prospective payment system for inpatient hospital service under the medical assistance and general assistance medical care programs. Rates established for licensed hospitals for rate years beginning during the fiscal biennium ending June 30, 1987, 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 until the commissioner can begin to reimburse hospitals for services under the medical assistance and general assistance medical care programs based upon a diagnostic classification system appropriate to the service populations. On July 1, 1984, the commissioner shall begin to utilize to the extent possible existing classification systems, including medicare. The commissioner may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based upon diagnosis classifications. The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital.

**Subd. 2a. Audit adjustments to inpatient hospital rates.** Inpatient hospital rates established under subdivision 2 using 1981 historical medicare cost-report data may be adjusted based on the findings of audits of hospital billings and patient



records performed by the commissioner that identify billings for services that were not delivered or never ordered. The audit findings may be based on a statistically valid sample of billings of the hospital. After the audits are complete, the commissioner shall adjust rates paid in subsequent years to reflect the audit findings and recover payments in excess of the adjusted rates or reimburse hospitals when audit findings indicate that underpayments were made to the hospital.

*[For text of subds 3 to 6, see M.S.1984]*

**History:** *1Sp1985 c 9 art 2 s 34-36*

#### **256.99 REVERSE MORTGAGE PROCEEDS DISREGARDED.**

All reverse mortgage loan proceeds received pursuant to section 47.58, including interest or earnings thereon, shall be disregarded and shall not be considered available to the borrower for purposes of determining initial or continuing eligibility for, or amount of, medical assistance, Minnesota supplemental assistance, general assistance, general assistance medical care, or a federal or state low interest loan or grant. This section applies regardless of the time elapsed since the loan was made or the disposition of the proceeds.

For purposes of medical assistance eligibility provided under section 256B.06, proceeds from a reverse mortgage must be disregarded as income in the month of receipt but are a resource if retained after the month of receipt.

**History:** *1985 c 252 s 18*