

## CHAPTER 256

## HUMAN SERVICES

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|--|--|----------|---|
| 256.01   | Commissioner of human services; powers, duties.                                | 256.84   | United States government assistance not to bar aid.                 |
| 256.011  | Administration of federal grants-in-aid.                                       | 256.85   | Liberal construction.   |
| 256.012  | Minnesota merit system.  | 256.851  | Rules.  |
| 256.014  | State and county systems.  | 256.86   | United States funds to be appropriated to state agency.             |
| 256.02   | Investigations; examinations; supervision.                                     | 256.863  | Recovery of moneys; apportionment.                                  |
| 256.045  | Administrative and judicial review of welfare matters.                         | 256.87   | Contribution by parents.  |
| 256.05   | Supervision over paroled patients; state agents appointed.                     | 256.871  | Emergency assistance to needy families with children under age 21.  |
| 256.06   | Guardianship of inmates.   | 256.879  | Supplemental housing allowance.                                     |
| 256.08   | Insane persons in state hospitals; consent to operation.                       | 256.88   | Social welfare fund established.                                    |
| 256.09   | No civil or criminal liability.  | 256.89   | Fund deposited in state treasury.                                   |
| 256.10   | Records kept.  | 256.90   | Social welfare fund; use; disposition; depositories.                |
| 256.12   | Definitions.   | 256.91   | Purposes.   |
| 256.25   | Old age assistance to be allowed as claim in probate court.                    | 256.92   | Commissioner of human services, accounts.                           |
| 256.263  | Land acquired by state under old age assistance liens.                         | 256.93   | Commissioner of human services, possession of estates.              |
| 256.462  | Applicability of other law; recovery and disbursement of assistance furnished. | 256.935  | Funeral expenses, payment by county agency.                         |
| <b>COUNCIL FOR THE HANDICAPPED</b>             |  | 256.94   | Conferences of various officials.                                   |
| 256.481  | Handicapped person; definition.  | 256.95   | Expense of attendance at conference.                                |
| 256.482  | Council for the handicapped.   | 256.96   | Cooperation with other boards.                                      |
| <b>AID TO FAMILIES WITH DEPENDENT CHILDREN</b> |  | 256.965  | Red Lake Indian reservation; payments by state.                     |
| 256.72   | Duties of county agencies.   | 256.966  | Medical care payments; allowable increase in cost per service unit. |
| 256.73   | Assistance, recipients.  | 256.968  | Limitation on inpatient chemical dependency treatment.              |
| 256.736  | Employment and training programs.  | 256.969  | Inpatient hospitals.  |
| 256.737  | Community work experience program.   | 256.971  | Services for deaf.  |
| 256.74   | Assistance.  | 256.975  | Minnesota board on aging.   |
| 256.75   | Investigations to be made by county agencies.                                  | 256.9753 | Volunteer programs for retired senior citizens.                     |
| 256.76   | Assistance, determination of amount.   | 256.976  | Foster grandparents program.  |
| 256.78   | Assistance grants reconsidered.  | 256.977  | Senior companion program.   |
| 256.79   | Removal to another county.   | 256.978  | Location of parents deserting their children, access to records.    |
| 256.80   | County board to appropriate money; mandatory.                                  | 256.98   | Wrongfully obtaining assistance; theft.                             |
| 256.81   | County agency, duties.   | 256.99   | Reverse mortgage proceeds disregarded.                              |
| 256.82   | Payments by state.   | 256.991  | Rules.  |

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

Subdivision 1. **Powers transferred.** All the powers and duties now vested in or imposed upon the state board of control by the laws of this state or by any law of the United States are hereby transferred to, vested in, and imposed upon the commissioner of human services, except the powers and duties otherwise specifically transferred by Laws 1939, chapter 431, to other agencies. The commissioner of human services is hereby constituted the "state agency" as defined by the Social Security Act of the United States and the laws of this state.

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, rules, 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.

**Subd. 3. Executive council, powers transferred.** All the powers and duties now vested in or imposed upon the executive council, or any other agency which may have succeeded to its authority, relating to the administration and distribution of direct relief to the indigent or destitute, including war veterans and their families and dependents, are hereby transferred to, vested in, and imposed upon the commissioner of human services.

**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 take such action as may be necessary, or desirable for carrying out the provisions of Laws 1937, chapter 438. All rules 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 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 moved from until the child shall have resided for one year in the state moved to; 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 contributions and gifts for the use and benefit of children under the guardianship or custody of the commissioner; the commissioner 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.

**Subd. 6. Advisory task forces.** The commissioner may appoint advisory task forces to provide consultation on any of the programs under the commissioner's administration and supervision. A task force shall expire and the compensation, terms of office and removal of members shall be as provided in section 15.059.

**Subd. 7. Special consultant on aging.** The commissioner of human services may appoint a special consultant on aging in the classified service. Within the limits of appropriations available therefor, the commissioner may appoint such other employees in the classified service as the commissioner deems necessary to carry out the purposes of Laws 1961, Chapter 466. Such special consultant and staff shall encourage cooperation among agencies, both public and private, including the departments of the state government, in providing services for the aging. They shall provide consultation to county welfare boards in developing local services for the aging, shall promote volunteer services programs and stimulate public interest in the problem of the aging.

**Subd. 8. County services coordinators.** Any county or group of counties acting through its or their welfare board or boards may designate a county services coordinator who shall coordinate services and activities, both public and private, that may further the well being of the aging and meet their social, psychological, physical and economic needs. The coordinator shall perform such other duties as the board may direct to stimulate, demonstrate, initiate, and coordinate local public, private, and voluntary services within the county dedicated to providing the maximum opportunities for self help, independence, and productivity of individuals concerned. The board may appoint a citizens advisory committee which shall advise the coordinator and the board on the development of services and perform such other functions at the county level as are prescribed for the Minnesota board on aging at the state level. The members shall serve without compensation. Members of citizens advisory committees required by federal law for programs for the aging who receive federal money in payment for a portion of their actual expenses incurred in performance of their duties may receive the remaining portion from state money appropriated for programs for the aging.

**Subd. 9. Staff assistance to the Minnesota board on aging.** The board shall be provided staff assistance from the department of human services through the special consultant on aging, who shall serve as the executive secretary to the board and its committees.

**Subd. 10. Authority to accept and disburse funds.** The Minnesota board on aging

is authorized to accept through the department of human services grants, gifts, and bequests from public or private sources for implementing programs and services on behalf of the aging, and to disburse funds to public and private agencies for the purpose of research, demonstration, planning, training, and service projects pertaining to the state's aging citizens.

**Subd. 11. Centralized disbursement system.** The state agency may establish a system for the centralized disbursement of (1) assistance payments to recipients of aid to families with dependent children, (2) emergency assistance payments to needy families with dependent children as defined in Minnesota Statutes 1976, section 256.12, and (3) the benefit documents for food stamp recipients. The state agency shall adopt rules and set guidelines for the operation of the statewide system. If required by federal law or regulations promulgated thereunder, or by state law, or by rule of the state agency, each county shall pay to the state treasurer that portion of assistance for which the county is responsible. The commissioner shall designate the date on which a centralized disbursement system shall be established in any designated geographic area in the state and after that date sections 256.81, clause (2); 256.82; and 256.871, subdivision 1, shall be superseded by this section as to any county agency in the designated area. Federal funds available for administrative reimbursement shall be disbursed between the state and local welfare agencies on the same basis that reimbursements are earned.

**History:** (3199-102, 8688-4) 1937 c 438 s 2; 1939 c 431 art 7 s 2(a)(c); 1943 c 7 s 1; 1943 c 177 s 1; 1943 c 570 s 1; 1943 c 612 s 1,2; 1949 c 40 s 1; 1949 c 512 s 5,6; 1949 c 618 s 1; 1949 c 704 s 1; 1951 c 330 s 1; 1951 c 403 s 1; 1951 c 713 s 27; 1953 c 30 s 1; 1953 c 593 s 2; 1955 c 534 s 1; 1955 c 627 s 1; 1955 c 847 s 21; 1957 c 287 s 3; 1957 c 641 s 1; 1957 c 762 s 1,2; 1957 c 791 s 1; 1959 c 43 s 1; 1959 c 609 s 1; 1961 c 466 s 3-6; 1963 c 794 s 1; 1967 c 122 s 1; 1967 c 148 s 2; 1969 c 365 s 1; 1969 c 493 s 2; 1969 c 703 s 1; 1969 c 1157 s 1; 1971 c 24 s 26; 1973 c 540 s 4; 1973 c 717 s 12; 1974 c 536 s 2; 1975 c 271 s 6; 1975 c 437 art 2 s 1; 1976 c 2 s 89; 1976 c 107 s 1; 1976 c 149 s 52; 1976 c 163 s 55; 1977 c 400 s 1; 1980 c 357 s 21; 1980 c 618 s 8; 1983 c 7 s 3; 1983 c 10 s 1; 1983 c 243 s 5 subd 3; 1983 c 312 art 5 s 3; 1984 c 654 art 5 s 21,58; 1985 c 21 s 48,49; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 15; 1986 c 444

## 256.011 ADMINISTRATION OF FEDERAL GRANTS-IN-AID.

**Subdivision 1.** If, when and during such time as grants-in-aid are provided by the federal government for relief of the poor and accepted by this state, such aid shall be administered pursuant to and in accordance with rules promulgated and adopted by the commissioner of human services; and during such time any provision of Minnesota Statutes 1945, chapter 261, as amended by Laws 1947, chapter 546, of Minnesota Statutes 1945, chapter 262, and of Minnesota Statutes 1945, chapter 263, in conflict with such rules shall be and remain, to the extent of such conflict, inoperative and suspended.

**Subd. 2.** Grants-in-aid received from the federal government for any welfare, assistance or relief program or for administration under the jurisdiction of the commissioner of human services shall, in the first instance, be credited to a federal grant fund and shall be transferred therefrom to the credit of the commissioner of human services in the appropriate account upon certification of the commissioner of human services that the amounts so requested to be transferred have been earned or are required for the purposes and programs intended. Moneys received by the federal grant fund need not be budgeted as such, provided transfers from the fund are budgeted for allotment purposes in the appropriate appropriations.

**Subd. 3.** The commissioner of human services shall negotiate with the federal government, or any agency, bureau, or department thereof, for the purpose of securing or obtaining any grants or aids. Any grants or aids thus secured or received are appropriated to the commissioner of human services and made available for the uses and purposes for which they were received but shall be used to reduce the direct appropriations provided by law unless federal law prohibits such action or unless the

# MINNESOTA STATUTES 1986

256.011 HUMAN SERVICES

5006

commissioner of human services obtains approval of the governor who shall seek the advice of the legislative advisory commission.

**History:** 1949 c 618 s 2; 1953 c 593 s 2; 1976 c 163 s 56; 1984 c 654 art 5 s 58; 1985 c 248 s 70

## 256.012 MINNESOTA MERIT SYSTEM.

The commissioner of human services shall promulgate by rule personnel standards on a merit basis in accordance with federal standards for a merit system of personnel administration for all employees of county boards engaged in the administration of community social services or income maintenance programs, all employees of human services boards that have adopted the rules of the Minnesota merit system, and all employees of county welfare boards.

Excluded from the rules are employees of institutions and hospitals under the jurisdiction of the aforementioned boards; employees of county personnel systems otherwise provided for by law that meet federal merit system requirements; duly appointed or elected members of the aforementioned boards; and the director of community social services and employees in positions that, upon the request of the appointing authority, the commissioner chooses to exempt, provided the exemption accords with the federal standards for a merit system of personnel administration.

**History:** 1980 c 614 s 129; 1984 c 654 art 5 s 58; 1986 c 444

**256.013** [Repealed, 1965 c 45 s 73; 1965 c 116 s 1]

## 256.014 STATE AND COUNTY SYSTEMS.

**Subdivision 1. Establishment of systems.** The commissioner of human services shall establish and enhance computer systems necessary for the efficient operation of the programs the commissioner supervises, including:

- (1) management and administration of the food stamp and income maintenance programs;
- (2) the central clearinghouse project for the child support enforcement program; and
- (3) administration of medical assistance and general assistance medical care.

The commissioner shall distribute the nonfederal share of the costs of operating and maintaining the systems to the commissioner and to the counties participating in the system in a manner that reflects actual system usage. Development costs must not be assessed against local agencies.

**Subd. 2. State systems account created.** A state systems account is created in the state treasury. Money collected by the commissioner of human services for the programs in subdivision 1 must be deposited in the account. Money in the state systems account and federal matching money is appropriated to the commissioner of human services for purposes of this section.

**Subd. 3. Report.** The commissioner of human services shall report to the chair of the house appropriations committee and the chair of the senate finance committee on January 1 of each year detailing project expenditures to date, methods used to maximize county participation, and the fiscal impact on programs, counties, and clients.

**History:** 1Sp1986 c 1 art 8 s 4

## 256.02 INVESTIGATIONS; EXAMINATIONS; SUPERVISION.

**Subdivision 1. Duties.** The commissioner of human services shall investigate the whole system of public charities and charitable institutions in the state, especially infirmaries and public hospitals, and examine their condition and management. The commissioner may require the officers in charge of any such institution to furnish such information and statistics as the commissioner deems necessary, upon blanks furnished

by the commissioner. The commissioner shall examine all plans for new infirmaries, or for repairs at an estimated cost of over \$200, before the same are adopted by the county or other municipal board, and have an advisory supervision over all such institutions. Upon the request of the governor, the commissioner shall specially investigate any charitable institution and report its condition; and for this purpose the commissioner is hereby authorized to send for persons and papers, administer oaths, and take testimony to be transcribed and included in the report.

Subd. 2. [Temporary]

**History:** (4448) *RL s 1899; 1949 c 228 s 1; 1961 c 750 s 27 subd 1; 1984 c 654 art 5 s 58; 1986 c 444*

**256.03** [Repealed, 1961 c 561 s 17]

**256.04** [Temporary]

## **256.045 ADMINISTRATIVE AND JUDICIAL REVIEW OF WELFARE MATTERS.**

**Subdivision 1. Powers of the state agency.** The commissioner of human services may appoint one or more state welfare referees to conduct hearings and recommend orders in accordance with subdivision 3. The commissioner may appoint one or more local welfare referees to conduct hearings and issue rulings pursuant to subdivision 2, in counties requesting local welfare hearings. Welfare referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

**Subd. 2. Local welfare hearings.** In counties in which the commissioner of human services has appointed a local welfare referee, any person applying for, receiving, or having received public assistance granted by a local agency pursuant to sections 256.72 to 256.87, chapters 256B, 256D, 261, the Federal Food Stamp Act or a program of social services whose application for assistance is denied, or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, may contest that action or decision before the local welfare referee by submitting a written request for a hearing to the local agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant or recipient shows good cause why the request was not submitted within the 30 day time limit. The local welfare referee shall conduct a hearing on the matter and shall issue a ruling affirming, reversing, or modifying the action or decision of the local agency. The ruling of the local welfare referee shall be binding upon the local agency and the aggrieved party unless appeal is taken in the manner provided by subdivision 3.

**Subd. 3. State agency hearings.** In counties in which the commissioner of human services has not appointed a local welfare referee, any person applying for, receiving or having received 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, terminated, or claimed to have been incorrectly paid, 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 or party 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 human services. 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.

**Subd. 4. Conduct of hearings.** All hearings held pursuant to subdivision 2 or 3 shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. The hearing shall not be held earlier than five days after filing of the required notice with the local or state agency. The local welfare referee or state welfare referee shall notify all interested persons of the time, date and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient shall have the opportunity to examine the contents of the case file and all documents and records to be used by the local agency at the hearing at a reasonable time before the date of the hearing and during the hearing. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3.

**Subd. 5. Orders of the commissioner of human services.** The commissioner of human services may accept the recommended order of a state welfare referee and issue the order to the local agency and the applicant, recipient, or former recipient. The commissioner on refusing to accept the recommended order of the state welfare referee, shall notify the local agency and the applicant, recipient, or former recipient of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten day period, the commissioner shall issue an order on the matter to the local agency and the applicant, recipient, or former recipient. Any order of the commissioner issued in accordance with this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7.

**Subd. 6. Additional powers of the commissioner; subpoenas.** The commissioner of human services may initiate a review of any action or decision of a local agency and direct that the matter be presented to a state welfare referee for a hearing held pursuant to subdivision 3. In all matters dealing with public welfare committed by law to the discretion of the local agency, the commissioner's judgment may be substituted for that of the local agency. Any party to a hearing held pursuant to subdivision 2 or 3 may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing.

**Subd. 7. Judicial review.** Any party who is aggrieved by an order of the commissioner of human services may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision. The commissioner may elect to become a party to the proceedings in the district court. Any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the state welfare referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal.

**Subd. 8. Hearing.** Any party may obtain a hearing at a special term of the district court by serving a written notice of the time and place of the hearing at least ten days prior to the date of the hearing. The court may consider the matter in or out of chambers, and shall take no new or additional evidence unless it determines that such evidence is necessary for a more equitable disposition of the appeal.

**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 human services, 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 human services, district court, court of appeals, or supreme court.

**History:** 1976 c 131 s 1; 1978 c 560 s 7; 1982 c 424 s 130; 1983 c 247 s 108,109; 1983 c 312 art 5 s 4; 1984 c 534 s 14-18; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1986 c 444; 1Sp1986 c 3 art 1 s 82

#### **256.05 SUPERVISION OVER PAROLED PATIENTS; STATE AGENTS APPOINTED.**

The commissioner of human services so far as possible shall exercise supervision over paroled patients of the state hospitals for the mentally ill and of the state schools and hospitals for mentally retarded persons and persons having epilepsy; and, when deemed necessary for that purpose, may appoint one or more state agents and fix their salary. The commissioner may appoint suitable persons in any part of the state for the same purpose. Every such agent or person shall perform such duties as the commissioner of human services may prescribe in behalf or in supervision of patients paroled from any such institution, including assistance in obtaining employment and the return of paroled patients when necessary. The duty of the commissioner of human services or the superintendent of any state institution exercising such supervision over any patient who has been or may be paroled to the custody of the superintendent or other proper officer or authority in charge or control of any United States veterans bureau neuropsychiatric hospital shall cease to exist upon acceptance of the patient's custody thereby.

**History:** (4419, 4420) 1907 c 292 s 1,2; 1917 c 208 s 1; 1925 c 308; 1965 c 45 s 36; 1983 c 10 s 1; 1984 c 654 art 5 s 58; 1986 c 444

#### **256.06 GUARDIANSHIP OF INMATES.**

The commissioner of human services shall be deemed the guardian of the persons of the inmates of any state hospital or asylum for the insane or of any school for feeble-minded and colony for persons having epilepsy for the purpose of consenting to any surgical operation necessary to save the life, health, eyesight, hearing, or a limb of any inmate committed thereto.

**History:** (4422) 1907 c 145 s 2; 1983 c 10 s 1; 1984 c 654 art 5 s 58

#### **256.07 [Repealed, 1975 c 208 s 35]**

#### **256.08 INSANE PERSONS IN STATE HOSPITALS; CONSENT TO OPERATION.**

When any person has been committed as insane to the custody of the superintendent of a state hospital for the insane and has been an inmate of such hospital for at least six consecutive months, the commissioner of human services, after consultation with the superintendent of the hospital wherein such person is an inmate, a reputable physician, and psychologist selected by the commissioner of human services, and after a careful investigation of all the circumstances of the case, may, with the written consent of the patient and of the spouse or nearest kin, or the duly appointed guardian of such insane person, cause such insane person to be sterilized by a competent surgeon by the operation of vasectomy or tubectomy.

**History:** (4422-2) 1925 c 154 s 2; 1984 c 654 art 5 s 58

#### **256.09 NO CIVIL OR CRIMINAL LIABILITY.**

Sterilization, as outlined in section 256.08, shall be lawful and shall not render the commissioner of human services, or department employees, or other persons participating in the examination or operation, liable either civilly or criminally.

**History:** (4422-3) 1925 c 154 s 3; 1980 c 509 s 99; 1984 c 654 art 5 s 58; 1986 c 444

**256.10 RECORDS KEPT.**

A complete record of the case shall be made and kept as a permanent file in the office of the commissioner of human services.

**History:** (4422-4) 1925 c 154 s 4; 1984 c 654 art 5 s 58

**256.11** [Repealed, 1973 c 717 s 33]**256.12 DEFINITIONS.**

Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. [Repealed, 1973 c 717 s 33]

Subd. 3. [Repealed, 1973 c 717 s 33]

Subd. 4. [Repealed, 1973 c 717 s 33]

Subd. 5. [Repealed, 1973 c 717 s 33]

Subd. 6. [Repealed, 1973 c 717 s 33]

Subd. 7. [Repealed, 1973 c 717 s 33]

Subd. 8. [Repealed, 1973 c 717 s 33]

Subd. 9. **County agency.** As used in sections 256.72 to 256.87, "county agency" means the county board of public welfare as established by law.

Subd. 10. **State agency.** As used in sections 256.72 to 256.87, the term "state agency" means the commissioner of human services in the department of human services.

Subd. 11. [Repealed, 1973 c 717 s 33]

Subd. 12. [Repealed, 1973 c 717 s 33]

Subd. 13. [Repealed, 1973 c 717 s 33]

Subd. 14. **Dependent child.** "Dependent child," as used in sections 256.72 to 256.87 and 256.872, means a child under the age of 18 years, or a child under the age of 19 years who is regularly attending as a full-time student, and is expected to complete before reaching age 19, a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment, who is found to be deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity of a parent, or who is a child of an unemployed parent as that term is defined by the commissioner of human services, such definition to be consistent with and not to exceed minimum standards established by the Congress of the United States and the secretary of health and human services, and whose relatives, liable under the law for the child's support are not able to provide adequate care and support of the child, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of these relatives as a home.

The term "dependent child" also means a child who has been removed from the home of a relative after a judicial determination that continuance in the home would be contrary to the welfare and best interests of the child and whose care and placement in a foster home or a private licensed child care institution is, in accordance with the rules of the commissioner, the responsibility of the state or county agency under sections 256.72 to 256.87. This child is eligible for benefits only through the foster care and adoption assistance program contained in Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, and is not entitled to benefits under sections 256.72 to 256.87.

Subd. 15. **Continued absence from the home.** "Continued absence from the home," as used in sections 256.72 to 256.87, means the absence from the home of the parent, whether or not entitled to the custody of the child, by reason of being an inmate of a penal institution or a fugitive after escape therefrom, or absence from the home by the parent for a period believed to be, and declared by applicant to be, of a continuous duration together with failure on the part of the absent parent to support

the child, provided that prior to the granting of such aid all reasonable efforts have been made to secure support for such child.

Subd. 16. [Repealed, 1973 c 717 s 33]

Subd. 17. [Repealed, 1973 c 717 s 33]

Subd. 18. [Repealed, 1969 c 329 s 1]

Subd. 19. **Intermediate care facility.** An intermediate care facility is any facility so defined by the state department of health pursuant to rules adopted under the state administrative procedure act.

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.

Subd. 21. **Caretaker relative.** "Caretaker relative" means a relative specified by rule to be an eligible relative and who exercises responsibility for the care and control of the dependent child.

Subd. 22. **Principal earner.** "Principal earner" means, in a home where both parents of the dependent child live, the parent who earned the greater amount of income in the 24-month period immediately preceding the month of application.

**History:** (3199-63, 8688-3) *Ex1936 c 95 s 2; 1937 c 324 s 1; 1937 c 438 s 1; 1939 c 195 s 1; 1943 c 6 s 1; 1947 c 628 s 1; 1951 c 229 s 1; 1951 c 600 s 1,2; 1951 c 618 s 1; 1953 c 639 s 1; 1953 c 725 s 1; 1955 c 711 s 1; 1957 c 690 s 1; 1963 c 794 s 2; 1965 c 51 s 50; 1967 c 879 s 1; 1969 c 387 s 1; 1969 c 740 s 1; 1969 c 1026 s 1; 1973 c 191 s 1; 1973 c 717 s 13; 3Sp1981 c 3 s 1-4; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1985 c 252 s 5; 1986 c 444*

**256.13** [Repealed, 1973 c 717 s 33]

**256.14** Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. [Repealed, 1959 c 622 s 7]

Subd. 3. [Repealed, 1959 c 622 s 7]

Subd. 4. [Repealed, 1959 c 622 s 7]

Subd. 5. [Repealed, 1959 c 622 s 7]

**256.15** Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. [Repealed, 1973 c 717 s 33]

Subd. 3. [Repealed, 1951 c 92 s 1]

Subd. 4. [Repealed, 1973 c 717 s 33]

**256.151** [Repealed, 1951 c 92 s 2]

**256.16** [Repealed, 1973 c 717 s 33]

**256.17** [Repealed, 1973 c 717 s 33]

**256.18** [Repealed, 1973 c 717 s 33]

**256.183** MS 1949 [Expired]

**256.184** MS 1949 [Expired]

**256.185** MS 1949 [Expired]

**256.19** Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. [Repealed, 1973 c 717 s 33]

Subd. 3. [Repealed, 1973 c 717 s 33]

Subd. 4. [Repealed, 1971 c 681 s 5]

**256.20** [Repealed, 1973 c 717 s 33]

**256.21** [Repealed, 1973 c 717 s 33]

**256.22** [Repealed, 1973 c 717 s 33]

**256.23** [Repealed, 1973 c 717 s 33]

**256.24** [Repealed, Ex1971 c 16 s 6]

**256.25 OLD AGE ASSISTANCE TO BE ALLOWED AS CLAIM IN PROBATE COURT.**

On the death of any person who received any old age assistance under this or any previous old age assistance law of this state, or on the death of the survivor of a married couple, either or both of whom received old age assistance, the total amount paid as old age assistance to either or both, without interest, shall be allowed as a claim against the estate of such person or persons by the court having jurisdiction to probate the estate. If the value of the estate of any such person has been enhanced as a result of the failure on the part of a recipient to make a full disclosure of the amount or value of the recipient's property, or the amount or value of the combined property of a married couple, in any old age assistance proceeding, the claim shall be allowed by the probate court as a preferred claim and have preference to the extent of such enhancement over all other claims, excepting only claims for expenses of administration, funeral expenses, and expenses of last sickness. If the value of any such estate, exclusive of household goods, wearing apparel, and a burial lot, is more than the value of the property of such person, as disclosed by the applicant in any old age assistance proceeding, it shall be prima facie evidence that the value of such estate was enhanced by the payment of old age assistance to the extent of the excess, but not exceeding the total amount of old age assistance paid to such person or persons. The statute of limitations which limits the county agency or the state agency, or both, to recover only for assistance granted within six years shall not apply to any claim made under Minnesota Statutes 1971, sections 256.11 to 256.43 for reimbursement for any assistance granted hereunder.

**History:** (3199-25) Ex1935 c 95 s 15; 1939 c 242 s 1; 1Sp1981 c 4 art 1 s 123; 1986 c 444

**256.26 Subdivision 1. [Repealed, 1973 c 717 s 33]**

- Subd. 2. [Repealed, 1973 c 717 s 33]
- Subd. 3. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 4. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 5. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 6. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 7. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 8. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 9. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 10. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]
- Subd. 11. [Repealed, 1973 c 78 s 2; 1973 c 717 s 33]

**256.263 LAND ACQUIRED BY STATE UNDER OLD AGE ASSISTANCE LIENS.**

**Subdivision 1. Duty of county board.** When land shall have been acquired by the state under the provisions of Minnesota Statutes 1971, section 256.26, either by conveyance in settlement of the lien held by the state, or by foreclosure of such lien, it shall be the duty of the county board to manage and lease the real estate while the state continues to own it.

**Subd. 2. Management.** While the state owns such real estate, if the county board by resolution stating the price to be paid in cash shall recommend the sale and conveyance thereof, and transmit a copy of such resolution to the state agency, the state agency shall make an order approving the sale for the price recommended and transmit a copy thereof to the county auditor, in the county where the land is situated. Thereupon, when the purchase price is paid by the purchaser to the treasurer of such county, the chair of the county board shall execute a deed in the name of the state, which shall be attested by the county auditor, conveying such land to the purchaser.

**History:** 1945 c 172 s 1,2; 1Sp1981 c 4 art 1 s 124; 1986 c 444

- 256.27 [Repealed, 1973 c 717 s 33]
- 256.28 Subdivision 1. [Repealed, 1973 c 717 s 33]  
 Subd. 2. [Repealed, 1967 c 89 s 2; 1967 c 885 s 6]
- 256.29 [Repealed, 1973 c 717 s 33]
- 256.30 [Repealed, 1973 c 717 s 33]
- 256.31 [Repealed, 1971 c 550 s 2]
- 256.32 [Repealed, 1973 c 717 s 33]
- 256.33 [Repealed, 1973 c 717 s 33]
- 256.34 [Repealed, 1973 c 717 s 33]
- 256.35 [Repealed, 1973 c 717 s 33]
- 256.36 [Repealed, 1973 c 717 s 33]
- 256.37 [Repealed, Ex1971 c 16 s 6]
- 256.38 [Repealed, 1973 c 717 s 33]
- 256.39 [Repealed, 1973 c 717 s 33]
- 256.40 [Repealed, 1973 c 717 s 33]
- 256.41 [Repealed, 1973 c 717 s 33]
- 256.42 [Repealed, 1973 c 717 s 33]
- 256.43 [Repealed, 1973 c 717 s 33]
- 256.431-256.434 MS 1949 [Expired]
- 256.44 [Repealed, 1947 c 535 s 16]
- 256.45 [Repealed, 1947 c 535 s 16]
- 256.451 [Repealed, 1973 c 717 s 33]
- 256.452 Subdivision 1. [Repealed, 1973 c 717 s 33]  
 Subd. 2. [Repealed, 1973 c 717 s 33]  
 Subd. 3. [Repealed, 1973 c 717 s 33]  
 Subd. 4. [Repealed, 1973 c 717 s 33]  
 Subd. 5. [Repealed, 1973 c 717 s 33]  
 Subd. 6. [Repealed, 1973 c 717 s 33]  
 Subd. 7. [Repealed, 1973 c 717 s 33]  
 Subd. 8. [Repealed, 1967 c 885 s 6]  
 Subd. 9. [Repealed, 1967 c 885 s 6]  
 Subd. 10. [Repealed, 1967 c 885 s 6]  
 Subd. 11. [Repealed, 1973 c 717 s 33]  
 Subd. 12. [Repealed, 1973 c 717 s 33]
- 256.453 [Repealed, 1973 c 717 s 33]
- 256.454 [Repealed, 1973 c 717 s 33]
- 256.455 [Repealed, 1973 c 717 s 33]
- 256.456 [Repealed, 1973 c 717 s 33]
- 256.457 [Repealed, 1973 c 717 s 33]
- 256.458 [Repealed, 1973 c 717 s 33]
- 256.459 [Repealed, 1973 c 717 s 33]
- 256.46 [Repealed, 1947 c 535 s 16]
- 256.461 [Repealed, 1973 c 717 s 33]

**256.462 APPLICABILITY OF OTHER LAW; RECOVERY AND DISBURSEMENT OF ASSISTANCE, FURNISHED.**

Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. **Applicability.** The provisions of Minnesota Statutes 1949, section 256.25, as to the allowance as claims in the probate court of amounts paid as old age

assistance are made applicable to amounts paid as assistance under the provisions of sections 256.451 to 256.475.

**Subd. 3. Recovery of assistance furnished; apportionment.** When any amount shall be recovered from any source for assistance furnished under the provisions of any public assistance program, there shall be paid to the United States the amount which shall be due under the terms of the social security act, and the balance thereof shall be paid into the treasuries of the state and county, substantially in the proportion in which they respectively contributed toward the total assistance paid. The amount due the respective participating units of government shall be determined by rule adopted by the commissioner of human services pursuant to a formula of reimbursement prescribed or authorized by the federal social security administration.

**Subd. 4.** [Repealed, 1973 c 717 s 33]

**Subd. 5.** [Repealed, 1973 c 717 s 33]

**Subd. 6.** [Repealed, 1973 c 717 s 33]

**Subd. 7.** [Repealed, 1973 c 717 s 33]

**History:** 1953 c 617 s 11; 1959 c 25 s 1; 1973 c 717 s 14; 1984 c 654 art 5 s 58; 1985 c 248 s 70

**256.463** [Repealed, 1973 c 717 s 33]

**256.464** [Repealed, 1973 c 717 s 33]

**256.465** Subdivision 1. [Repealed, 1971 c 550 s 2]

**Subd. 2.** [Repealed, 1973 c 717 s 33]

**256.466** [Repealed, 1973 c 717 s 33]

**256.467** [Repealed, 1973 c 717 s 33]

**256.468** [Repealed, 1973 c 717 s 33]

**256.469** [Repealed, 1973 c 717 s 33]

**256.47** [Repealed, 1947 c 535 s 16]

**256.471** [Repealed, 1973 c 717 s 33]

**256.472** [Repealed, 1973 c 717 s 33]

**256.473** [Repealed, 1973 c 717 s 33]

**256.474** [Repealed, 1973 c 717 s 33]

**256.475** [Repealed, 1973 c 717 s 33]

**256.48** [Repealed, 1947 c 535 s 16]

## COUNCIL FOR THE HANDICAPPED

### 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:** 1973 c 757 s 1; 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, human services, health, jobs and training, 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 a 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, human services, jobs and training, 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 jobs and training 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.

Subd. 6. [Repealed, 1975 c 315 s 26]

**History:** 1973 c 254 s 3; 1973 c 757 s 2; 1975 c 61 s 1; 1975 c 271 s 6; 1975 c 315 s 18; 1975 c 359 s 23; 1977 c 177 s 2; 1977 c 305 s 45; 1977 c 430 s 14; 1983 c 216 art 2 s 5; 1983 c 260 s 56; 1983 c 277 s 2; 1983 c 299 s 25; 1984 c 654 art 5 s 58; 1Sp1985 c 14 art 9 s 75; 1986 c 444

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

**256.49** Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. [Repealed, 1955 c 711 s 3]

**256.50** [Repealed, 1973 c 717 s 33]

**256.51** [Repealed, 1973 c 717 s 33]

**256.515** [Repealed, 1973 c 717 s 33]

**256.52** [Repealed, 1973 c 717 s 33]

**256.53** Subdivision 1. [Repealed, 1973 c 717 s 33]

Subd. 2. [Repealed, Ex1971 c 16 s 6]

**256.54** [Repealed, 1973 c 717 s 33]

**256.55** [Repealed, 1973 c 717 s 33]

**256.56** [Repealed, 1973 c 717 s 33]

**256.57** [Repealed, 1973 c 717 s 33]

**256.58** [Repealed, 1973 c 717 s 33]

**256.59** [Repealed, 1973 c 717 s 33]

**256.60** [Repealed, 1973 c 717 s 33]

**256.61** [Repealed, 1973 c 717 s 33]

**256.62** [Repealed, 1973 c 717 s 33]

**256.63** [Repealed, 1973 c 717 s 33]

**256.64** [Repealed, 1973 c 717 s 33]

**256.65** [Repealed, 1973 c 574 s 2]

**256.66** [Repealed, 1973 c 717 s 33]

**256.67** [Repealed, 1973 c 717 s 33]

**256.68** [Repealed, 1971 c 550 s 2]

**256.69** [Repealed, 1973 c 717 s 33]

**256.70** [Repealed, 1973 c 717 s 33]

**256.71** [Repealed, 1973 c 717 s 33]



## AID TO FAMILIES WITH DEPENDENT CHILDREN

**256.72 DUTIES OF COUNTY AGENCIES.**

The county agencies shall:

(1) Administer the provisions of sections 256.72 to 256.87 in the respective counties subject to the rules prescribed by the state agency pursuant to the provisions of those sections;

(2) Report to the state agency at such times and in such manner and form as the state agency may from time to time direct; and

(3) Submit quarterly and annually to the county board of commissioners a budget containing an estimate and supporting data setting forth the amount of money needed to carry out the provisions of those sections.

(4) In addition to providing financial assistance, provide such services as will help to maintain and strengthen family life and promote the support and personal independence of parents and relatives insofar as such help is consistent with continuing parental care and protection.

**History:** (8688-5) 1937 c 438 s 3; 1963 c 794 s 3; 1985 c 248 s 70

**256.73 ASSISTANCE, RECIPIENTS.**

Subdivision 1. **Dependent children.** Assistance shall be given under sections 256.72 to 256.87 to or on behalf of any dependent child who:

(1) Resides in Minnesota;

(2) Is otherwise eligible; the child shall not be denied aid because of conditions of the home in which the child resides.

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 a 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 all 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. 3. [Repealed, 1973 c 717 s 33]

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.

**Subd. 4. Residence, county of financial responsibility.** The county of financial responsibility for the payment of assistance under sections 256.72 to 256.87 shall be the county in which the child is residing at the time of application for the assistance.

**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 and rules, 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:** (8688-6) 1937 c 438 s 4; 1939 c 195 s 2; 1943 c 7 s 2; 1951 c 229 s 2; 1953 c 140 s 1,2; 1953 c 639 s 2; 1955 c 414 s 1; 1955 c 743 s 1; 1957 c 690 s 2; 1963 c 794 s 4; 1965 c 799 s 4; 1973 c 26 s 4; 1974 c 575 s 18; 1977 c 412 s 1,3-5; 1977 c 448 s 5; 1979 c 50 s 71; 1980 c 614 s 130; 1981 c 360 art 2 s 19; 1Sp1981 c 4 art 4 s 63; 3Sp1981 c 3 s 5-8; 1984 c 654 art 5 s 58; 1985 c 45 s 1; 1985 c 248 s 70; 1985 c 252 s 6-8; 1986 c 398 art 5 s 1; 1986 c 444

**256.735** [Repealed, 1969 c 334 s 2]

## **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 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 notify the recipient in writing of the need to 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 the child's 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.

**Subd. 6. Protection from garnishment.** Earnings of a recipient while participating in full or part-time employment or training shall be protected from garnishment. This protection shall extend for a period of six months from the date of termination of a recipient's grant of assistance.

**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:** 1969 c 567 s 1; 1969 c 750 s 1; 1973 c 254 s 3; 1974 c 498 s 1,2; 1977 c 430 s 15-18; 1980 c 509 s 100; 3Sp1981 c 3 s 9,10; 1984 c 654 art 5 s 58; 1985 c 252 s 9,10; 1Sp1985 c 14 art 9 s 17-22; 1986 c 444

**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:** 1983 c 249 s 1; 1984 c 640 s 32; 1984 c 654 art 5 s 22,58; 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 students 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 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 earnings without good cause and applied for assistance so as to be able later to 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 clauses (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 of the state agency. One application may be made for several children of the same family if they live with the same person.

**Subd. 3.** [Repealed, Ex1971 c 16 s 6]

**Subd. 4.** [Repealed, Ex1971 c 16 s 6]

**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 the applicant's 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:** (8688-7, 8688-8) 1937 c 438 s 5,6; 1943 c 580 s 1; 1945 c 320 s 1; 1947 c 192 s 1; 1949 c 606 s 1; 1951 c 229 s 3; 1955 c 763 s 1,2; 1957 c 690 s 3; 1963 c 296 s 1; 1963 c 794 s 5; 1967 c 653 s 1; 1969 c 478 s 1; 1969 c 747 s 1; 1979 c 250 s 1; 3Sp1981 c 3 s 11,12; 1982 c 640 s 1,2; 1983 c 308 s 1; 1984 c 654 art 5 s 58; 1985 c 131 s 1,2; 1985 c 248 s 70; 1985 c 252 s 11-13; 1986 c 444

## **256.75 INVESTIGATIONS TO BE MADE BY COUNTY AGENCIES.**

When a county agency receives a notification of the dependency of a child or an application for assistance an investigation and record shall be made within a reasonable time of the circumstances to ascertain the dependency of the child or the facts supporting the application made under sections 256.72 to 256.87 and such other information as may be required by the rules of the state agency.

**History:** (8688-9) 1937 c 438 s 7

## **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.

Subd. 2. If upon the investigation the county agency decides that the application was not filed in the county from which the dependent child is entitled to receive assistance under section 256.73, subdivision 4, but that the applicant is otherwise eligible for assistance, it shall while providing assistance to the applicant in accordance with subdivision 1, transmit to the state agency and to the agency of the county it believes responsible for payment of such assistance a copy of the application together with such information and records as the state agency shall require. The state agency shall make such investigation as it deems appropriate and shall, if necessary, make an order determining the county responsible for payment and referring the application to such county for appropriate action, including reimbursement by such county of any assistance which another county has provided to the applicant in accordance with this subdivision. A copy of the order of the state agency shall be mailed to the county found responsible and to the applicant. The order shall be binding and shall be complied with unless reversed on appeal and shall be complied with pending any appeal. Any order of the state agency hereunder may be appealed in the manner provided by section 256.045, subdivisions 7 to 9.

**History:** (8688-10) 1937 c 438 s 8; 1951 c 229 s 4; 1957 c 690 s 4; 1971 c 681 s 4; 1980 c 509 s 101; 1981 c 360 art 2 s 20; 1985 c 252 s 14

**256.77** [Repealed, 1976 c 131 s 2]

#### **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:** (8688-12) 1937 c 438 s 10; 1980 c 509 s 102; 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:** 1937 c 438 s 11; 1945 c 83 s 1; 1977 c 412 s 6; 1978 c 560 s 8; 1985 c 252 s 16

#### **256.80 COUNTY BOARD TO APPROPRIATE MONEY; MANDATORY.**

The county board of commissioners in each county in this state shall appropriate annually such sum as may be needed to carry out the provisions of sections 256.72 to 256.87, including expenses of administration based upon a budget prepared by the county agency, after taking into account state aid, and to include in the tax levy for such county the sum or sums appropriated for that purpose. Should the sum so appropriated be expended or exhausted during the year and for the purpose for which it was appropriated additional sums shall be appropriated by the board of county commissioners.

**History:** (8688-14) 1937 c 438 s 12

#### **256.81 COUNTY AGENCY, DUTIES.**

(1) The county agency shall keep such records, accounts, and statistics in relation to aid to families with dependent children as the state agency shall prescribe.

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency except in those instances in which the county agency subject to the rules of the state agency determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is

living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child.

(3) The county shall be paid from state and federal funds available therefor the amount provided for in section 256.82.

(4) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made.

**History:** (8688-15) 1937 c 438 s 13; 1943 c 619 s 2; 1951 c 229 s 5; 1963 c 794 s 6; 1967 c 885 s 5; 1969 c 451 s 1; 1969 c 749 s 4; 1985 c 248 s 70

## 256.82 PAYMENTS BY STATE.

**Subdivision 1. Monthly payments.** Based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month, together with an amount of state funds equal to 70 percent of the difference between the total estimated cost and the federal funds so available for payments made after December 31, 1979 and before January 1, 1981, and 85 percent of the difference for payments made after December 31, 1980. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month.

**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.

**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:** (8688-16) 1937 c 438 s 14; 1943 c 619 s 1; 1951 c 229 s 6; 1977 c 423 art 3 s 3; 1979 c 303 art 2 s 1; 1980 c 607 art 2 s 2; 1982 c 553 s 1; 1983 c 312 art 5 s 5; 1Sp1985 c 9 art 2 s 31

## 256.83 [Repealed, 1971 c 550 s 2]

## 256.84 UNITED STATES GOVERNMENT ASSISTANCE NOT TO BAR AID.

The receipt or possession by any person of sums received from United States government war risk insurance or any government compensation shall not be a bar to the granting of an allowance provided for in sections 256.72 to 256.87 if, in the opinion of the county agency having jurisdiction to order the allowance, such insurance or compensation is not sufficient to maintain the children, in whose behalf an allowance is requested, in their own home.

**History:** (8688-18) 1937 c 438 s 16

**256.85 LIBERAL CONSTRUCTION.**

Sections 256.72 to 256.87 shall be liberally construed with a view to accomplishing their purpose, which is to enable the state and its several counties to cooperate with responsible primary caretakers of children in rearing future citizens, when the cooperation is necessary on account of relatively permanent conditions, in order to keep the family together in the same household, reasonably safeguard the health of the children's primary caretaker and secure personal care and training to the children during their tender years.

**History:** (8688-19) 1937 c 438 s 17; 1981 c 31 s 6

**256.851 RULES.**

The commissioner of human services shall promulgate emergency and permanent rules necessary to implement Laws 1981, Third Special Session chapter 3, sections 1 to 19, and sections 256.72 to 256.871.

**History:** 3Sp1981 c 3 s 13; 1984 c 640 s 32; 1984 c 654 art 5 s 23,58

**256.86 UNITED STATES FUNDS TO BE APPROPRIATED TO STATE AGENCY.**

All moneys received, or to be received, from the United States government for aid to dependent children are hereby appropriated to the state agency for the purpose of carrying out the provisions of sections 256.72 to 256.87.

**History:** (8688-20) 1937 c 438 s 18

**256.863 RECOVERY OF MONEYS; APPORTIONMENT.**

When any amount shall be recovered from any source for assistance furnished under the provisions of sections 256.72 to 256.87, there shall be paid to the United States the amount which shall be due under the terms of the Social Security Act and the balance thereof shall be paid into the treasury of the state or county substantially in the proportion in which they have respectively contributed toward the total assistance paid. The amount due the respective participating units of government shall be determined by rule adopted by the commissioner of human services pursuant to a formula of reimbursement prescribed or authorized by the federal Social Security Administration.

**History:** 1953 c 55 s 1; 1959 c 24 s 1; 1976 c 239 s 80; 1984 c 654 art 5 s 58; 1985 c 248 s 70

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

Subd. 3. MS 1980 [Repealed, 1981 c 360 art 2 s 52]

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.

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.

Subd. 6. **Notice of docketing judgment.** Any order for support or maintenance issued under this section shall provide for a conspicuous notice that, if the obligor fails to make the support or maintenance payments, the public agency responsible for support or maintenance enforcement may obtain docketing of a judgment for the unpaid amounts under the provisions of section 548.091. The notice shall enumerate the conditions that must be met before the judgment can be docketed.

**History:** (8688-21, 8688-22, 8688-23) 1937 c 438 s 19-21; 1953 c 639 s 3; 1977 c 282 s 1; 1980 c 408 s 1; 1981 c 360 art 2 s 21; 1983 c 308 s 2; 1984 c 547 s 2; 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.**

Subdivision 1. **County welfare agency; duties.** The county welfare agency shall grant emergency financial assistance and services to any needy family with a child under the age of 21 years who is or was within six months prior to application living with an eligible relative specified in section 256.12, subdivision 14.

Subd. 2. **Eligibility for emergency assistance.** Notwithstanding any other eligibility provision of this chapter, any child without resources immediately available to meet emergency needs shall be furnished assistance for a period not in excess of 30 days during any 12-month period. Assistance shall be furnished under the following conditions:

(a) The child is without resources immediately available to meet emergency needs.

(b) Assistance is necessary to avoid destitution or provide emergency shelter arrangements.

(c) The child's destitution or need for living arrangements did not arise because the child or the relative refused without good cause to accept employment or training for employment.

(d) Assistance shall be in the form of money payments, vendor payments, pay-

ments in kind or interest free loans for tools, equipment or expenses required for return to employment. Such loans shall not exceed \$100 and shall be considered only when other private or public resources are not immediately available.

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 the child's 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.

Subd. 5. **County welfare authority.** The county welfare board shall designate a person or persons who shall be authorized to immediately grant emergency assistance pursuant to this section.

Subd. 6. **Estimated expenditures; payments.** The county agency shall submit to the state agency an estimate of expenditures for each succeeding month in such form as required by the state agency. Payment shall be made monthly in advance by the state agency to the counties, of federal funds available for that purpose for each succeeding month, together with an amount of state funds equal to ten percent of the difference between the total estimated cost and the federal funds so available. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month.

Subd. 7. **Authority of the commissioner.** The commissioner is hereby authorized, subject to the provisions of chapter 14, to promulgate permanent rules and may promulgate emergency rules not inconsistent with this section as necessary to qualify for maximum federal funds to implement sections 256.72 to 256.871.

**History:** 1971 c 943 s 1; 1983 c 216 art 1 s 38; 1984 c 580 s 1; 1984 c 640 s 32; 1985 c 252 s 17; 1Sp1985 c 9 art 2 s 33; 1986 c 444

**256.872** [Repealed, 1983 c 308 s 32]

**256.873** [Repealed, 1983 c 308 s 32]

**256.874** [Repealed, 1982 c 488 s 8]

**256.875** [Repealed, 1982 c 488 s 8]

**256.876** [Repealed, 1983 c 308 s 32]

**256.877** [Repealed, 1982 c 488 s 8]

**256.878** [Repealed, 1982 c 488 s 8]

## **256.879 SUPPLEMENTAL HOUSING ALLOWANCE.**

Subdivision 1. The commissioner of human services may, with the approval of the federal department of health, education and welfare, provide an annual supplemental housing allowance for recipients of the aid to families with dependent children program who would otherwise qualify for the credit set forth in sections 290A.01 to 290A.22.

Subd. 2. The amount of the supplemental housing allowance, if any, shall be calculated in the same manner as the income adjusted homestead credit set forth at sections 290A.01 to 290A.22. Recipients may apply for this supplement in the same manner as claims submitted to the department of revenue under sections 290A.01 to 290A.22. The supplemental allowance shall be paid by local welfare agencies.

Subd. 3. The supplemental housing allowance shall be financed from funds appropriated to the department of revenue pursuant to chapter 290A. The commissioner of human services and the commissioner of revenue shall cooperate with the federal department of health, education and welfare in any reasonable manner as may be necessary to qualify for reimbursement under the aid to families with dependent children program for costs incurred in the provision of the supplemental housing allowance.

**History:** 1976 c 334 s 1; 1984 c 654 art 5 s 58

#### **256.88 SOCIAL WELFARE FUND ESTABLISHED.**

Except as otherwise expressly provided, all moneys and funds held by the commissioner of human services 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:** (4462) 1923 c 106 s 1; 1939 c 8 s 1; 1983 c 7 s 4; 1983 c 243 s 5 subd 4; 1984 c 654 art 5 s 58

#### **256.89 FUND DEPOSITED IN STATE TREASURY.**

The social welfare fund and all accretions thereto shall be deposited in the state treasury, as a separate and distinct fund, to the credit of the commissioner of human services as trustee for the beneficiaries thereof in proportion to their several interests. The state treasurer shall be responsible only to the commissioner of human services for the sum total of the fund, and shall have no duties nor direct obligations toward the beneficiaries thereof individually. Subject to the rules of the commissioner of human services money so received by a county welfare board may be deposited by the executive secretary of the county welfare board in a local bank carrying federal deposit insurance, designated by the county welfare board for this purpose. The amount of such deposit in each such bank at any one time shall not exceed the amount protected by federal deposit insurance.

**History:** (4463) 1923 c 106 s 2; 1939 c 8 s 2; 1984 c 654 art 5 s 58; 1985 c 248 s 70

#### **256.90 SOCIAL WELFARE FUND; USE; DISPOSITION; DEPOSITORIES.**

The commissioner of human services at least 30 days before the first day of January and the first day of July in each year shall file with the state treasurer an estimate of the amount of the social welfare fund to be held in the treasury during the succeeding six-month period, subject to current disbursement. Such portion of the remainder thereof as may be at any time designated by the request of the commissioner of human services may be invested by the state treasurer in bonds in which the permanent trust funds of the state of Minnesota may be invested, upon approval by the state board of investment. The portion of such remainder not so invested shall be placed by the treasurer at interest for the period of six months, or when directed by the commissioner of human services, for the period of 12 months thereafter at the highest rate of interest obtainable in a bank, or banks, designated by the board of deposit as a suitable depository therefor. All the provisions of law relative to the designation and qualification of depositories of other state funds shall be applicable to sections 256.88 to 256.92, except as herein otherwise provided. Any bond given, or collateral assigned or both, to secure a deposit hereunder may be continuous in character to provide for the repayment of any moneys belonging to the fund theretofore or thereafter at any time deposited in such bank until its designation as such depository is revoked and the security thereof shall be not impaired by any subsequent agreement or understanding as to the rate of interest to be paid upon such deposit, or as to time for its repayment.

The amount of money belonging to the fund deposited in any bank, including other state deposits, shall not at any time exceed the amount of the capital stock thereof. In the event of the closing of the bank any sum deposited therein shall immediately become due and payable.

**History:** (4464) 1923 c 106 s 3; 1925 c 253; 1943 c 236 s 1; 1984 c 654 art 5 s 58

#### **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 the commissioner 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:** (4465) 1923 c 106 s 4; 1983 c 7 s 5; 1983 c 243 s 5 subd 5; 1984 c 654 art 5 s 58; 1985 c 21 s 50; 1986 c 444

#### **256.92 COMMISSIONER OF HUMAN SERVICES, ACCOUNTS.**

It shall be the duty of the commissioner of human services and of the county welfare boards of the several counties of this state to cause to be deposited with the state treasurer all moneys and funds in their possession or under their control and designated by section 256.91 as and for the social welfare fund; and all such moneys and funds shall be so deposited in the state treasury as soon as received. The commissioner of human services shall keep books of account or other records showing separately the principal amount received and deposited in the social welfare fund for the benefit of any person, together with the name of such person, and the name and address, if known to the commissioner of human services, of the person from whom such money was received; and, at least once every two years, the amount of interest, if any, which the money has earned in the social welfare fund shall be apportioned thereto and posted in the books of account or records to the credit of such beneficiary.

The provisions of sections 256.88 to 256.92 shall not apply to any fund or money now or hereafter deposited or otherwise disposed of pursuant to the lawful orders, decrees, judgments, or other directions of any probate or district court having jurisdiction thereof.

**History:** (4466, 4467) 1923 c 106 s 5,6; 1984 c 654 art 5 s 58

#### **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.



Subd. 2. **Annual report.** The commissioner of human services shall annually or at such other times as the probate court may direct file with the court an account of moneys received and disbursed by the commissioner for wards and conservatees, pursuant to subdivision 1. Upon petition of the ward or conservatee or of any person interested in such estate and upon notice to the commissioner the probate court may terminate such trust and require final accounting thereof.

**History:** (4467-1, 4467-2) 1929 c 55 s 1, 2; 1939 c 9; 1943 c 612 s 4, 5; 1949 c 32 s 1; 1975 c 208 s 31, 32; 1983 c 7 s 6; 1983 c 10 s 1; 1983 c 243 s 5 subd 6; 1984 c 654 art 5 s 58; 1985 c 21 s 51; 1986 c 444

#### **256.935 FUNERAL EXPENSES, PAYMENT BY COUNTY AGENCY.**

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding \$370 and actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the children, or spouse, who were legally responsible for the support of the deceased while living, are able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The state shall reimburse the county for 50 percent of any payments made for funeral expenses.

Subd. 2. [Repealed, 3Sp1981 c 3 s 20]

**History:** Ex1971 c 16 s 4, 5; 1973 c 717 s 15; 1976 c 239 s 81; 1986 c 444

#### **256.94 CONFERENCES OF VARIOUS OFFICIALS.**

For the purpose of promoting economy and efficiency in the enforcement of laws relating to children, and particularly of laws relating to defective, delinquent, dependent, and neglected children, the commissioner of human services may, at such times and places as the commissioner deems advisable, call an annual conference with officials responsible for the enforcement of such laws. When practicable such conference shall be held at the same time and place as the state conference of social work.

**History:** (4468) 1917 c 224 s 1; 1921 c 403 s 1; 1984 c 654 art 5 s 58; 1986 c 444

#### **256.95 EXPENSE OF ATTENDANCE AT CONFERENCE.**

The necessary expenses of all probate judges and of one member of the county child welfare board in each county invited to attend such conference shall be paid out of the funds of their respective counties.

**History:** (4469) 1917 c 224 s 2; 1921 c 403 s 2

#### **256.96 COOPERATION WITH OTHER BOARDS.**

The commissioner of human services and the several county child welfare boards within their respective jurisdictions, upon request of county boards, city councils, town boards, or other public boards or authorities charged by law with the administration of the laws relating to the relief of the poor, may cooperate with such boards and authorities in the administration of such laws.

**History:** (4461) 1923 c 152 s 1; 1973 c 123 art 5 s 7; 1984 c 654 art 5 s 58

**256.965 RED LAKE INDIAN RESERVATION; PAYMENTS BY STATE.**

Notwithstanding any other law to the contrary, the state agency shall pay to the county agencies 100 percent of the difference between the total estimated cost for payments on behalf of members of the Red Lake Indian reservation and the federal funds available therefor under the following programs:

- (a) the aid to families with dependent children program;
- (b) the medical assistance program;
- (c) the emergency assistance to needy families with dependent children program;
- (d) the social services program; and

(e) the administrative costs of these programs. Payments to the county agencies under this section shall be subject to the rules and procedures established by the commissioner of human services. The commissioner shall deduct any payments made to a county to equalize the cost of welfare attributable to the Red Lake Indian reservation, from the amount determined to be payable to a county pursuant to this section.

**History:** 1975 c 361 s 1; 1984 c 654 art 5 s 58; 1985 c 248 s 70

**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.

Subd. 2. **Health maintenance organizations.** Notwithstanding the provisions of subdivision 1, rates paid to health maintenance organizations may increase beyond eight percent. The actual rate paid per month to health maintenance organizations shall not exceed 90 percent of the projected average monthly per capita fee for service payments made on behalf of eligible recipients who qualify to be members of the health maintenance organization who choose not to be members. Rates shall be calculated by the department of human services.

**History:** 1981 c 360 art 2 s 1; 1982 c 640 s 9; 1983 c 312 art 5 s 6; 1984 c 580 s 2; 1984 c 654 art 5 s 58

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

**256.968 LIMITATION ON INPATIENT CHEMICAL DEPENDENCY TREATMENT.**

The commissioner of human services 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 inpatient hospital to one treatment episode per calendar year per recipient if the hospital is being reimbursed on a per episode basis or to 30 days per calendar year in a licensed hospital or certified

nursing home reimbursed under other methodologies unless need for extended care is certified by the attending physician and has received prior approval from the commissioner.

**History:** 1981 c 360 art 2 s 3; 1983 c 312 art 5 s 8; 1984 c 534 s 19; 1984 c 654 art 5 s 58

## **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. Effective August 1, 1985, the computation of the base year cost per admission and the computation of the relative values of the diagnostic categories must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs and days beyond that point. Claims paid for care provided on or after August 1, 1985, shall be adjusted to reflect a recomputation of rates. The commissioner may reconstitute the diagnostic categories to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period. After May 1, 1986, acute care hospital billings under the medical assistance and general assistance medical care programs must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments with inpatient hospitals that have individual patient lengths of stay in excess of 30 days regardless of diagnosis-related group. For purposes of establishing interim rates, the commissioner is exempt from the requirements of chapter 14. 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.

Subd. 3. **Special considerations.** In determining the rate, the commissioner of human services 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 human services shall promulgate emergency and permanent rules to implement a system of prospective payment for inpatient hospital services pursuant to chapter 14, the administrative procedure act. Notwithstanding section 14.53, emergency rule authority authorized by Laws 1983, chapter 312, article 5, section 9, subdivision 6, shall extend to August 1, 1985.

**History:** 1983 c 312 art 5 s 9; 1984 c 534 s 20,21; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1Sp1985 c 9 art 2 s 34-36; 1986 c 420 s 6; 1Sp1986 c 3 art 2 s 51

**256.97** [Repealed, 1957 c 737 s 2]

#### **256.971 SERVICES FOR DEAF.**

The commissioner of human services shall provide such services for the deaf and hard of hearing in the state as will best promote their personal, economic and social well being. The commissioner shall maintain a register of all such persons, with such information as the commissioner deems necessary to improve services for them. The commissioner shall gather and disseminate information relating to the causes of deafness, collect statistics on the deaf and ascertain what trades or occupations are most suitable for them, and use best efforts to aid them in securing vocational rehabilitation and employment, through cooperation with other agencies, both public and private.

**History:** 1957 c 737 s 1; 1984 c 654 art 5 s 58; 1986 c 444

#### **256.975 MINNESOTA BOARD ON AGING.**

Subdivision 1. **Creation.** There is created a Minnesota board on aging consisting of 25 members to be appointed by the governor. At least one member shall be appointed from each congressional district and the remaining members shall be appointed at large. No member shall be appointed for more than two consecutive terms of four years each. In making appointments, the governor shall give consideration to individuals having a special interest in aging, and so far as practicable, shall include persons affiliated with agriculture, labor, industry, education, social work, health, housing, religion, recreation, and voluntary citizen groups, including senior citizens.

The governor shall designate the chair. Other officers, including vice-chair and secretary, shall be elected by the board members.

Subd. 1a. **Removal; vacancies.** The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575.

Subd. 2. **Duties.** The board shall carry out the following duties:

(a) to advise the governor and heads of state departments and agencies regarding policy, programs, and services affecting the aging;

(b) to provide a mechanism for coordinating plans and activities of state departments and citizens' groups as they pertain to aging;

(c) to create public awareness of the special needs and potentialities of older persons;

(d) to gather and disseminate information about research and action programs, and to encourage state departments and other agencies to conduct needed research in the field of aging;

(e) to stimulate, guide, and provide technical assistance in the organization of local councils on aging;

(f) to provide continuous review of ongoing services, programs and proposed legislation affecting the elderly in Minnesota; and

(g) to administer and to make policy relating to all aspects of the older americans act of 1965, as amended, including implementation thereof.

Subd. 3. **Policy.** The board shall recommend to the state legislature no later than January 1, 1977, a proposed state policy for citizens dependent on long term care and services. The proposed state policy shall address, but need not be limited to, the following:

(a) Developing alternatives to institutionalization in long term care facilities and other programs which will assist each citizen dependent on long term care and services to maintain the highest level of self-sufficiency and independence which the citizen's mental and physical condition allows;

(b) Developing methods for ensuring citizens dependent on long term care and services an effective voice in determining which programs and services are made available to them;

(c) Protecting citizens dependent on long term care and services from unnecessary governmental interference in private and personal affairs; and

(d) Informing citizens dependent on long term care and services of the programs and services for which they are eligible.

Subd. 4. **Home-delivered meals.** The board on aging shall take appropriate action to secure reimbursement from public and private medical care programs, health plans, and health insurers for home-delivered meals that are a necessary part of medical treatment for the elderly.

**History:** 1961 c 466 s 1,2; 1974 c 536 s 1; 1975 c 271 s 6; 1976 c 134 s 59,60; 1976 c 275 s 1; 1986 c 404 s 10; 1986 c 444

## 256.9753 VOLUNTEER PROGRAMS FOR RETIRED SENIOR CITIZENS.

Subdivision 1. **Policy.** The legislature finds that the services of volunteers are crucial to the effectiveness of public and private human services programs in the state. The legislature further finds that retired senior citizens are an excellent source of volunteer services, and that by recognizing and supporting retired senior volunteer programs the state will be serving the interests of human services as well as the interests of those senior citizens who participate in the volunteer programs.

Subd. 2. **State support.** The board on aging, with the cooperation of heads of other affected state agencies, shall provide staff and material support and shall make financial grants consistent with the purposes of subdivisions 1 to 4, to retired senior volunteer programs in the state. This support may include reimbursement of expenses incurred by program participants in the performance of their volunteer activities.

Subd. 3. **Expenditures.** The board shall consult with the office of volunteer services prior to expending money available for the retired senior volunteer programs. Expenditures shall be made (1) to strengthen and expand existing retired senior volunteer programs, and (2) to encourage the development of new programs in areas

in the state where these programs do not exist. Grants shall be made consistent with applicable federal guidelines.

**Subd. 4. Report.** The board shall report to the governor and the legislature by July 1, 1981, on (1) the number, type and location of human services activities assisted by retired senior volunteer programs supported pursuant to subdivisions 1 to 4; (2) the number of retired seniors participating in these activities; (3) the sources and recipients of direct support for the volunteer programs; and (4) any other information which the board believes will assist the governor and the legislature in evaluating the programs.

**History:** 1980 c 455 s 1-4

#### **256.976 FOSTER GRANDPARENTS PROGRAM.**

**Subdivision 1.** There is established a foster grandparents program which will engage the services of low income persons aged 60 or over to provide supportive person to person assistance in health, education, welfare, and related fields to persons receiving care in resident group homes for dependent and neglected persons, day care centers or other public or private nonprofit institutions or agencies providing care for neglected and disadvantaged persons who lack close personal relationships.

**Subd. 2.** Persons employed as foster grandparents shall be compensated for no more than 20 hours per week and at an hourly rate not to exceed the federal minimum wage by more than 20 percent. In addition to such compensation foster grandparents shall be eligible for protective clothing, including replacement of glasses; transportation assistance, not to exceed mileage payments for 20 miles per day or chartered transportation service, for travel between residence and place of employment; workers' compensation; annual physical examinations; food services during employment, generally provided by the employing agency or institution; and such other assistance as the Minnesota board on aging may prescribe. No person employed as a foster grandparent shall be terminated because of redefinition of income standards, or a change of income, marital status, or number of dependents.

**Subd. 3.** The Minnesota board on aging, hereinafter called the board, may make grants-in-aid for the employment of foster grandparents to qualified resident group homes for dependent and neglected persons, day care centers and other public or nonprofit private institutions and agencies providing care for neglected and disadvantaged persons who lack close personal relationships. Agencies and institutions seeking aid shall apply on a form prescribed by the board. Priority shall be given to agencies and institutions providing care for retarded children. Grants shall not be made to local public or nonprofit agencies until 40 percent of the recognized need for foster grandparents within state institutions has been met. Grants shall be for a period of 12 months or less, and grants to local public and nonprofit agencies or institutions shall be based on 90 percent state, and ten percent local sharing of program expenditures authorized by the board. Grants shall not be used to match other state funds nor shall any person paid from grant funds be used to replace any staff member of the grantee. Grants may be used to match federal funds. Each grantee shall file a semiannual report with the board at the time and containing such information as the board shall prescribe.

**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:** 1971 c 938 s 1; 1973 c 302 s 1,2; 1975 c 271 s 6; 1975 c 359 s 23; 1983 c 216 art 1 s 39

#### **256.977 SENIOR COMPANION PROGRAM.**

**Subdivision 1. Citation.** This section may be cited as the "Minnesota senior companion act."

**Subd. 2. Establishment of program.** There is established a senior companion program to engage the services of low income persons aged 60 or over to provide

supportive person to person assistance in health, education, welfare and related fields primarily to handicapped adults and elderly people living in their own homes. Senior companions may also be used to provide such services to handicapped adults and elderly persons living or receiving care in resident group homes for dependent and neglected persons, nursing homes, private homes, or other public or private nonprofit institutions or agencies providing care for handicapped adults or elderly persons. Foster grandparents currently serving individuals over 21 years of age pursuant to section 256.976 shall, after July 1, 1976, be called senior companions.

**Subd. 3. Compensation.** Persons serving as senior companions shall be compensated for no more than 20 hours per week at an hourly rate not to exceed the rate established under the older americans act. In addition, senior companions shall receive such other assistance as the Minnesota board on aging may prescribe. No person serving as a senior companion shall be terminated as a result of a change in the eligibility requirements set by the Minnesota board on aging, nor as a result of a change in income, marital status, or number of dependents.

**Subd. 4. Grants.** The Minnesota board on aging may make grants-in-aid for the purchase of senior companion services by nonprofit agencies and institutions and individuals who have access to or responsibility for handicapped adults and the elderly. Applications to provide senior companion services to individuals in their homes shall have priority over applications to provide services to individuals living in group homes, nursing homes, or other institutions. Applications for grants shall be made on forms prescribed by the Minnesota board on aging.

Grants shall be paid as follows: 90 percent of the program expenditures authorized by the Minnesota board on aging shall be paid by the state and ten percent shall be paid by local matching funds. Grants shall be for a period of 12 months or less. Grants shall not be used to match other state funds nor shall any person paid from grant funds be used to replace any staff members of the grantee. Each grantee shall file a semiannual report with the Minnesota board on aging at the time and containing the information as the board shall prescribe.

**Subd. 5. Rules.** The Minnesota board on aging shall promulgate rules necessary to implement the provisions of this section and may employ necessary assistance in performing its administrative duties. Rules adopted shall be consistent with applicable federal guidelines.

**History:** 1976 c 323 s 1-2; 1986 c 444

## **256.978 LOCATION OF PARENTS DESERTING THEIR CHILDREN, ACCESS TO RECORDS.**

The commissioner of human services, in order to carry out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children, may request information from the records of all departments, boards, bureaus or other agencies of this state, which shall, notwithstanding the provisions of section 290.61, section 268.12, subdivision 12 or any other law to the contrary, provide the information necessary for this purpose. Information relative to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of support may be requested and used or transmitted by the commissioner pursuant to the authority conferred by this section. The commissioner of human services may make such information available only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents who have, or appear to have, deserted their children. Any person who, pursuant to this section, obtains information from the department of revenue the confidentiality of which is protected by law shall not divulge the information except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

**History:** 1963 c 401 s 1; 1982 c 488 s 1; 1984 c 654 art 5 s 58

**256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.**

A person who obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, assistance to which the person is not entitled or assistance greater than that to which the person is entitled, or who knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the local agency with intent to defeat the purposes of sections 256.12, 256.72 to 256.872, chapter 256B, is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (1), (2) and (5). The amount of the assistance incorrectly paid shall be the difference between the amount of assistance actually received and the amount to which the recipient would have been entitled under state and federal law had the welfare agency been informed of all material facts. The amount of any assistance determined to have been incorrectly paid shall be recoverable from the recipient or the recipient's estate by the county or the state as a debt due the county or the state or both in proportion to the contribution of each. Any amounts recovered shall be paid to the appropriate units of government in the same manner as provided in section 256.863. To prosecute or to recover assistance wrongfully obtained under this section, 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.

**History:** 1971 c 550 s 1; 1973 c 348 s 1; 1973 c 717 s 16; 1975 c 437 art 2 s 2; 1977 c 225 s 1; 1986 c 444

**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:** 1979 c 265 s 2; 3Sp1981 c 3 s 16; 1985 c 252 s 18

**256.991 RULES.**

The commissioner of human services may promulgate emergency 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 emergency 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 emergency rules as necessary to establish the methods and standards for determining inappropriate utilization of medical assistance services.

The commissioner of human services shall adopt emergency 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 emergency 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 emergency 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; 1984 c 640 s 32; 1984 c 654 art 5 s 58