

CHAPTER 256

HUMAN SERVICES

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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. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require local agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of local agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require local agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform local agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to local agency administration of the programs.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of 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 four 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. For the medical assistance and AFDC programs, disallowances 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 the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. 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.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

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;

(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;

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

(8) 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 chil-

dren, 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; 1987 c 270 s 1; 1987 c 343 s 1; 1987 c 403 art 2 s 60; art 3 s 2; 1988 c 689 art 2 s 121; 1988 c 719 art 8 s 1

NOTE: Subdivision 2, as amended by Laws 1988, chapter 719, article 8, section 1, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

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 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

256.015 PUBLIC ASSISTANCE LIEN ON RECIPIENT'S CAUSE OF ACTION.

Subdivision 1. State agency has lien. When the state agency provides, pays for, or becomes liable for medical care or furnishes subsistence or other payments to a person, the agency has a lien for the cost of the care and payments on all causes of action that accrue to the person to whom the care or payments were furnished, or to the person's legal representatives, as a result of the occurrence that necessitated the medical care, subsistence, or other payments.

Subd. 2. Perfection; enforcement. The state agency may perfect and enforce its lien under sections 514.69, 514.70, and 514.71, and must file the verified lien statement with the appropriate court administrator in the county of financial responsibility. The verified lien statement must contain the following: the name and address of the person to whom medical care, subsistence, or other payment was furnished; the date of injury; the name and address of vendors furnishing medical care; the dates of the service or payment; the amount claimed to be due for the care or payment; and to the best of the state agency's knowledge, the names and addresses of all persons, firms, or corporations claimed to be liable for damages arising from the injuries.

This section does not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is received by it under subdivision 4, paragraph (c), or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce

the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received, or (2) the date the person's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

Subd. 3. Prosecutor. The attorney general, or the appropriate county attorney acting at the direction of the attorney general, shall represent the state agency to enforce the lien created under this section or, if no action has been brought, may initiate and prosecute an independent action on behalf of the state agency against a person, firm, or corporation that may be liable to the person to whom the care or payment was furnished.

Subd. 4. Notice. The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages to the injured person when the state agency has paid for or become liable for the cost of medical care or payments related to the injury. Notice must be given as follows:

(a) Applicants for public assistance shall notify the state or local agency of any possible claims they may have against a person, firm, or corporation when they submit the application for assistance. Recipients of public assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of public assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A person who is a party to a claim upon which the state agency may be entitled to a lien under this section shall notify the state agency of its potential lien claim before filing a claim, commencing an action, or negotiating a settlement.

Notice given to the local agency is not sufficient to meet the requirements of paragraphs (b) and (c).

Subd. 5. Costs deducted. Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has filed its lien, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of public assistance paid to or on behalf of the person as a result of the injury must be deducted next, and paid to the state agency. The rest must be paid to the public assistance recipient or other plaintiff. The plaintiff, however, must receive at least one-third of the net recovery after attorney fees and other collection costs.

Subd. 6. When effective. The lien created under this section is effective with respect to any public assistance paid on or after August 1, 1987.

Subd. 7. Cooperation required. Upon the request of the department of human services, any state agency or third party payer shall cooperate with the department in furnishing information to help establish a third party liability. The department of human services shall limit its use of information gained from agencies and third party payers to purposes directly connected with the administration of its public assistance programs. The provision of information by agencies and third party payers to the department under this subdivision is not a violation of any right of confidentiality or data privacy.

History: 1987 c 370 art. 2 s 3; 1988 c 689 art 2 s 122

256.016 PLAIN LANGUAGE IN WRITTEN MATERIALS.

(a) To the extent reasonable and consistent with the goals of providing easily understandable and readable materials and complying with federal and state laws governing the programs, all written materials relating to services and determinations of eligibility for or amounts of benefits that will be given to applicants for or recipients of assistance under a program administered or supervised by the commissioner of human services must be understandable to a person who reads at the seventh-grade level, using the Flesch scale analysis readability score as determined under section 72C.09.

(b) All written materials relating to determinations of eligibility for or amounts of

benefits that will be given to applicants for or recipients of assistance under programs administered or supervised by the commissioner of human services must be developed to satisfy the plain language requirements of the plain language contract act under sections 325G.29 to 325G.36. Materials may be submitted to the attorney general for review and certification. Notwithstanding section 325G.35, subdivision 1, the attorney general shall review submitted materials to determine whether they comply with the requirements of section 325G.31. The remedies available pursuant to sections 8.31 and 325G.33 to 325G.36 do not apply to these materials. Failure to comply with this section does not provide a basis for suspending the implementation or operation of other laws governing programs administered by the commissioner.

(c) The requirements of this section apply to all materials modified or developed by the commissioner on or after July 1, 1988. The requirements of this section do not apply to materials that must be submitted to a federal agency for approval, to the extent that application of the requirements prevents federal approval.

(d) Nothing in this section may be construed to prohibit a lawsuit brought to require the commissioner to comply with this section or to affect individual appeal rights granted pursuant to section 256.045.

(e) The commissioner shall report annually to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee on the number and outcome of cases that raise the issue of the commissioner's compliance with this section.

History: 1988 c 689 art 2 s 123

256.017 COMPLIANCE SYSTEM.

Subdivision 1. Authority and purpose. The commissioner shall administer a compliance system for aid to families with dependent children, the food stamp program, emergency assistance, general assistance, work readiness, medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental assistance, preadmission screening, and alternative care grants under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanctions and fiscal disallowances for noncompliance with federal regulations and state statutes.

The commissioner shall utilize training, technical assistance, and monitoring activities, as specified in section 256.01, subdivision 2, to encourage local agency compliance with written policies and procedures.

Subd. 2. Definitions. The following terms have the meanings given for the purpose of this section.

(a) "Administrative penalty" means an adjustment against the local agency's state and federal benefit and federal administrative reimbursement when the commissioner determines that the local agency is not in compliance with the policies and procedures established by the commissioner.

(b) "Quality control case penalty" means an adjustment against the local agency's federal administrative reimbursement and state and federal benefit reimbursement when the commissioner determines through a quality control review that the local agency has made incorrect payments, terminations, or denials of benefits as determined by state quality control procedures for the aid to families with dependent children, food stamp, or medical assistance programs, or any other programs for which the commissioner has developed a quality control system. Quality control case penalties apply only to agency errors as defined by state quality control procedures.

(c) "Quality control" means a review system of a statewide random sample of cases, designed to provide data on the accuracy with which state and federal policies

are being applied in issuing benefits and as a fiscal audit to ensure the accuracy of expenditures. The quality control system is administered by the department. For the aid to families with dependent children, food stamp, and medical assistance programs, the quality control system is that required by federal regulation.

Subd. 3. Quality control case penalty. The department shall disallow, withhold, or deny state and federal benefit reimbursement and federal administrative reimbursement payment to a county when the commissioner determines that the county has incorrectly issued benefits or incorrectly denied or terminated benefits. These cases shall be identified by state quality control reviews.

Subd. 4. Determining the amount of the quality control case penalty. (a) The amount of the quality control case penalty is limited to the amount of the dollar error for the quality control sample month in a reviewed case as determined by the state quality control review procedures for the aid to families with dependent children and food stamp programs or for any other income transfer program for which the commissioner develops a quality control program.

(b) Payment errors in medical assistance or any other medical services program for which the department develops a quality control program are subject to set rate penalties based on the average cost of the specific quality control error element for a sample review month for that household size and status of institutionalization and as determined from state quality control data in the preceding fiscal year for the corresponding program.

(c) Errors identified in negative action cases, such as incorrect terminations or denials of assistance are subject to set rate penalties based on the average benefit cost of that household size as determined from state quality control data in the preceding fiscal year for the corresponding program.

Subd. 5. Administrative penalties. The department shall disallow or withhold state and federal benefit reimbursement and federal administrative reimbursement from local agencies when the actions performed by the local agency are not in compliance with the written policies and procedures established by the commissioner. The policies and procedures must be previously communicated to the local agency. A local agency shall not be penalized for complying with a written policy or procedure, even if the policy or procedure is found to be erroneous and is subsequently rescinded by the commissioner.

Subd. 6. Determining the amount of the administrative penalty. The amount of the penalty imposed on any local agency is based on the numbers of public assistance applicants and recipients that may be affected by the local agency's failure to comply with the policies and procedures established by the commissioner, the fiscal impact of the local agency's action, and the duration of the noncompliance as determined by the commissioner. Administrative penalties shall be imposed independent of any quality control case penalties.

Subd. 7. Process and exception. (a)(1) The department shall notify the local agency in writing of all proposed quality control case penalties.

(2) The local agency may submit a written exception of the quality control error claim and proposed penalty. The exception must be submitted to the commissioner within ten calendar days of the receipt of the penalty notice.

(3) Within 20 calendar days of receipt of the written exception, the commissioner shall sustain, dismiss, or amend the quality control findings and case penalty and notify the local agency, in writing, of the decision and the amount of any penalty. The commissioner's decision is not subject to judicial review.

(b)(1) The department shall notify the local agency in writing of any proposed administrative penalty, the date by which the local agency must correct the issues noted in the penalty, and the time period within which the local agency must submit a corrective action plan for compliance.

(2) If the local agency fails to submit a corrective action plan within the stated time period, or if the corrective action plan does not bring the agency into compliance as

determined by the department, or if the local agency fails to meet the commitments in the corrective action plan, the department shall issue the administrative penalty and notify the local agency in writing.

(3) The local agency may file written exception to the administrative penalty with the commissioner within 30 days of the receipt of the department's notice of issuing the administrative penalty. The local agency must notify the commissioner of its intent to file a written exception within ten days of the delivery of the department's notice of the administrative penalty. If the local agency does not notify the commissioner of its intent to file and does not file a written exception within the prescribed time periods, the department's initial decision shall be final.

(4) The commissioner shall sustain, dismiss, or amend the administrative penalty findings, and shall issue a written order to the local agency within 30 calendar days after receiving the local agency's written exception.

Subd. 8. Judicial review. A local agency that is aggrieved by the order of the commissioner in an administrative penalty of over \$75,000, or 1.5 percent of the total benefit expenditures for the income maintenance programs listed in subdivision 1, for that county, whichever is the lesser amount, may appeal the order to the court of appeals by serving a written copy of a notice of appeal upon the commissioner within 30 days after the date the commissioner issued the administrative penalty order, and by filing the original notice and proof of service with the court administrator of the court of appeals. Service may be made personally or by mail. Service by mail is complete upon mailing. The record of review shall consist of the advance notice of the administrative penalty to the local agency, the local agency corrective action plan if any, the final notice of the administrative penalty, the local agency's written exception to the administrative penalty order, and any other material submitted for the commissioner's consideration, and the commissioner's final written order. The court may affirm the commissioner's decision or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the local agency have been prejudiced because the decision is: (1) in excess of the statutory authority or jurisdiction of the agency; (2) unsupported by substantial evidence in view of the entire record as submitted; (3) arbitrary or capricious; or (4) in violation of constitutional provisions.

Subd. 9. Timing and disposition of penalty and case disallowance funds. Quality control case penalty and administrative penalty amounts shall be disallowed or withheld from the next regular reimbursement made to the county agency for state and federal benefit reimbursements and federal administrative reimbursements for all programs covered in this section, according to procedures established in statute, but shall not be imposed sooner than 30 calendar days from the date of written notice of such penalties. All penalties must be deposited in the county incentive fund provided in section 256.018. All penalties must be imposed according to this provision until a decision is made regarding the status of a written exception. Penalties must be returned to local agencies when a review of a written exception results in a decision in their favor.

Subd. 10. County obligation to make benefit payments. Counties subject to fiscal penalties shall not reduce or withhold benefits from eligible recipients of programs listed in subdivision 1 in order to cover the cost of penalties under this section. County funds shall be used to cover the cost of any penalties.

History: 1988 c 719 art 8 s 2

NOTE: This section is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256.018 COUNTY PUBLIC ASSISTANCE INCENTIVE FUND.

Beginning in 1990, \$1,000,000 is appropriated from the general fund to the department in each fiscal year for awards to counties: (1) that have not been assessed an administrative penalty under section 256.017 in the corresponding fiscal year; and (2) that perform satisfactorily according to indicators established by the commissioner.

After consultation with local agencies, the commissioner shall inform local agen-

cies in writing of the performance indicators that govern the awarding of the incentive fund for each fiscal year by April of the preceding fiscal year.

The commissioner may set performance indicators to govern the awarding of the total fund, may allocate portions of the fund to be awarded by unique indicators, or may set a sole indicator to govern the awarding of funds.

The funds shall be awarded to qualifying local agencies according to their share of benefits for the programs related to the performance indicators governing the distribution of the fund or part of it as compared to the total benefits of all qualifying local agencies for the programs related to the performance indicators governing the distribution of the fund or part of it.

History: 1988 c 719 art 8 s 3

NOTE: This section is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256.019 RECOVERY OF MONEY; APPORTIONMENT.

When an amount is recovered from any source for assistance given under the provisions governing public assistance programs including aid to families with dependent children, emergency assistance, general assistance, work readiness, and Minnesota supplemental aid, there shall be paid to the United States the amount due under the terms of the Social Security Act and the balance must be paid into the treasury of the state or county in accordance with current rates of financial participation; except if the recovery is directly attributable to county effort, the county may keep one-half of the nonfederal share of the recovery. This does not apply to recoveries from medical providers or to recoveries begun by the department of human services' surveillance and utilization review division, state hospital collections unit, and the benefit recoveries division or, by the attorney general's office, or child support collections.

History: 1988 c 719 art 8 s 29

NOTE: This section is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

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 HUMAN SERVICE MATTERS.

Subdivision 1. Powers of the state agency. The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, 4a, and 5. Human services 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. [Repealed, 1987 c 148 s 9]

Subd. 3. **State agency hearings.** (a) Any person applying for, receiving or having received public assistance or a program of social services granted by a local agency under sections 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act 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, or a party aggrieved by a ruling of a prepaid health plan, 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.

(b) All prepaid health plans under contract to the commissioner pursuant to chapter 256B or 256D must provide for a complaint system according to section 62D.11. The prepaid health plan must notify the ombudsman within three working days of any formal complaint made under section 62D.11 by persons enrolled in a prepaid health plan under chapter 256B or 256D. At the time a complaint is made, the prepaid health plan must notify the recipient of the name and telephone number of the ombudsman. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan shall issue a written resolution within 30 days of filing with the prepaid health plan. The ombudsman may waive the requirement that the complaint system procedures be exhausted prior to an appeal if the ombudsman determines that the complaint must be resolved expeditiously in order to provide care in an urgent situation.

(c) A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by an appellant is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner.

(d) In a notice of appeal from a ruling of a prepaid health plan, a recipient may request an expedited hearing. The ombudsman, after discussing with the recipient his or her condition and in consultation with a health practitioner who practices in the specialty area of the recipient's primary diagnosis, shall investigate and determine whether an expedited appeal is warranted. In making the determination, the ombudsman shall evaluate whether the medical condition of the recipient, if not expeditiously diagnosed and treated, could cause physical or mental disability, substantial deterioration of physical or mental health, continuation of severe pain, or death. The ombudsman may order a second medical opinion from the prepaid health plan or order a second medical opinion from a nonprepaid health plan provider at prepaid health plan expense. If the ombudsman determines that an expedited appeal is warranted, the state welfare referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case. In urgent or emergency situations in which a prepaid health plan provider has prescribed treatment, and the prepaid health plan has denied authorization for that treatment, the referee may order the health plan to authorize treatment pending the outcome of the appeal.

Subd. 4. **Conduct of hearings.** All hearings held pursuant to subdivision 3 or 4a 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 state human services 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. 4a. Case management appeals. Any recipient of case management services pursuant to section 256B.092, subdivisions 1 to 1b who contests the local agency's action or failure to act in the provision of those services, other than a failure to act with reasonable promptness or a suspension, reduction, denial, or termination of services, must submit a written request for review to the local agency. The local agency shall inform the commissioner of the receipt of a request for review when it is submitted and shall schedule a conciliation conference. The local agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the conciliation conference. The commissioner shall designate a representative to be present at the conciliation conference to assist in the resolution of the dispute without the need for a hearing. Within 30 days, the local agency shall conduct the conciliation conference and inform the recipient in writing of the action the local agency is going to take and when that action will be taken and notify the recipient of the right to a hearing under this subdivision. The conciliation conference shall be conducted in a manner consistent with the procedures for reconsideration of an individual service plan or an individual habilitation plan pursuant to Minnesota Rules, parts 9525.0075, subpart 5 and 9525.0105, subpart 6. If the county fails to conduct the conciliation conference and issue its report within 30 days, or, at any time up to 90 days after the conciliation conference is held, a recipient may submit to the commissioner a written request for a hearing before a state human services referee to determine whether case management services have been provided in accordance with applicable laws and rules or whether the local agency has assured that the services identified in the recipient's individual service plan have been delivered in accordance with the laws and rules governing the provision of those services. The state human services referee shall recommend an order to the commissioner, who shall, in accordance with the procedure in subdivision 5, issue a final order within 60 days of the receipt of the request for a hearing, unless the commissioner refuses to accept the recommended order, in which event a final order shall issue within 90 days of the receipt of that request. The order may direct the local agency to take those actions necessary to comply with applicable laws or rules.

Subd. 5. Orders of the commissioner of human services. The commissioner of human services may accept the recommended order of a state human services 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 human services 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 human services referee for a hearing held pursuant to subdivision 3 or 4a. In all matters dealing with human services committed by law to the discretion of the local agency, the commissioner's judgment may be substituted for that of the local agency. The commissioner may order an independent examination when appropriate. Any party to a hearing held pursuant to subdivision

3 or 4a 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 human services 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 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; 1987 c 148 s 1-8; 1987 c 403 art 2 s 61

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, 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) *Ex*1936 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; 1987 c 384 art 2 s 61

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 1971, 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 Minnesota Statutes 1971, 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; 1987 c 384 art 2 s 62

- 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 ON DISABILITY

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 ON DISABILITY.

Subdivision 1. Establishment; members. There is hereby established the council on disability 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 persons who have a disability. A majority of council members shall be persons with a disability or parents or guardians of persons with a disability. 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 rehabilitation services and state services for the blind or their designees shall serve as ex officio members of the council without vote. In addition, the council may appoint ex officio members from other bureaus, divisions, or sections of state departments which are directly concerned with the provision of services to persons with a disability.

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. The compensation and removal of all members 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 who are persons with a disability or their parents or guardians. Vacancies shall be filled by the appointing authority for the remainder of the unexpired term. The council expires on June 30, 1993.

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 the offer by majority vote and upon acceptance the chair shall receive the funds subject to the terms of the offer. However, 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 persons who have a disability. The members of the committees shall be designated by the chair with the approval of a majority of the council. 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, and human rights and the divisions of rehabilitation services 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 persons who have a disability 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 persons with a disability;

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

(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 persons with a disability 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 persons who are disabled;

(6) to advise the departments of labor and industry and jobs and training on the administration and improvement of the workers' compensation law as it relates to programs, facilities and personnel providing assistance to workers who are injured and disabled;

(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;

(8) to initiate or seek to intervene as a party in any administrative proceeding and judicial review thereof to protect and advance the right of all persons who are disabled to an accessible physical environment as provided in section 16B.67; and

(9) to initiate or seek to intervene as a party in any administrative or judicial proceeding which concerns programs or services provided by public or private agencies or organizations and which directly affects the legal rights of persons with a disability.

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

Subd. 7. Collection of fees. The council is empowered to establish and collect fees for documents or technical services provided to the public. The fees shall be set at a level to reimburse the council for the actual cost incurred in providing the document or service. Notwithstanding the provisions of section 16A.72, all fees collected shall be deposited into the state treasury and credited to a separate dedicated account for council services. All money in this dedicated account is appropriated by law to the council to provide documents and technical services to the public.

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; 1987 c 354 s 6; 1988 c 629 s 50

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 and to the supervision of the commissioner of human services specified in section 256.01;

(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; 1988 c 719 art 8 s 4

NOTE: This section, as amended by Laws 1988, chapter 719, article 8, section 4, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

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 home owned and occupied by the child, relative, or other member of the assistance unit as a dwelling place, together with the surrounding property which is not separated from the home by intervening property owned by others. Public rights-of-way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property; 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 or the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business, 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. [Repealed, 1987 c 363 s 14]

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 sections 256B.055 and 256B.056. 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. (a) 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.

(b) An assistance unit required to submit a report on the form designated by the commissioner is considered to have continued its application for assistance effective the date the required report is received by the local agency, if a complete report is received within a calendar month after the month in which assistance was received, except that no assistance shall be paid for the period beginning with the end of the month in which the report was due and ending with the date the report was received by the local agency.

Subd. 7. Verification procedures. The commissioner shall form an advisory committee of local agency representatives, state officials, and recipients to recommend and implement ways to reduce verification procedures at the local level. The goal of this effort is to treat clients with dignity and expect client honesty. Verification procedures should be reduced to a minimum at the time of application and increased only as needed. The committee expires as provided in section 15.059, subdivision 5.

Subd. 8. Recovery of overpayments. (a) If an amount of aid to families with dependent children assistance is paid to a recipient 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.

(b) When an overpayment occurs, the local agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. 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 total income after deducting work expenses as allowed under section 256.74, subdivision 1, clauses (3) and (4), 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 allowable work expenses must equal at least 99 percent of the standard of need. Notwithstanding the preceding sentence, beginning on the date on which the commissioner implements a computerized client eligibility and information system in one or more counties, all local agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need or the amount of the monthly payment, whichever is less, for all overpayments whether or not the overpayment is due solely to agency error. In cases when there is both an overpayment and underpayment, the local agency shall offset one against the other in correcting the payment.

(c) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the above aid reductions, until the total amount of the overpayment is repaid.

(d) The local agency shall make reasonable efforts to recover overpayments to persons no longer on assistance in accordance with standards adopted in rule 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.

Subd. 9. Appeal of overpayment determinations. The recipient may appeal the agency's determination that an overpayment has occurred in accordance with section 256.045.

Subd. 10. Underpayments. The local agency shall promptly repay the recipient for any underpayment. The local agency 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.

Subd. 11. Compliance with federal law and regulation. None of the provisions in this section shall be implemented to the extent that they violate federal law or regulation.

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; 1987 c 403 art 3 s 3; 1988 c 629 s 51; 1988 c 689 art 2 s 124-129,268

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. 1a. Definitions. As used in this section and section 256.7365, the following words have the meanings given them:

- (a) "AFDC" means aid to families with dependent children.
- (b) "AFDC-UP" means that group of AFDC clients who are eligible for assistance by reason of unemployment as defined by the commissioner under section 256.12, subdivision 14.
- (c) "Caretaker" means a parent or eligible adult who is part of the assistance unit that has applied for or is receiving AFDC.
- (d) "Employment and training services" means programs, activities, and services related to job training and job placement, including job service programs, job training partnership act programs, wage subsidies, remedial and secondary education programs, post-secondary education programs excluding education leading to a post-baccalaureate degree, vocational education programs, work incentive programs, work readiness programs, employment search, community work experience programs, displaced homemaker programs, self-employment programs, grant diversion, employment experience programs, youth employment programs, community investment programs, supported work programs, refugee employment and training programs, and counseling and support activities necessary to stabilize the caretaker or the family.
- (e) "Employment and training service provider" means an administrative entity certified by the commissioner of jobs and training to deliver employment and training services under section 268.0122, subdivision 3.
- (f) "Minor parent" means a caretaker relative who is the parent of the dependent child or children in the assistance unit and who is under the age of 18.
- (g) "Priority groups" or "priority caretakers" means recipients of AFDC or AFDC-UP designated as priorities for employment and training services under subdivision 2a.
- (h) "Support services" means programs, activities, and services intended to stabilize

families and individuals or provide assistance for family needs related to employment or participation in employment and training services, including child care, transportation, housing assistance, personal and family counseling, crisis intervention services, peer support groups, chemical dependency counseling and treatment, money management assistance, and parenting skill courses.

Subd. 1b. Work incentive subsidized housing program. Within the limit of available appropriations, employed recipients of aid to families with dependent children who meet eligibility requirements established by the commissioner of human services are eligible for a state housing subsidy as an incentive to seek and retain employment. The commissioner of human services shall adopt rules for the work incentive subsidized housing program using eligibility criteria, subsidy amounts, and an administrative system developed jointly by the commissioner of human services and the commissioner of jobs and training. Unless superseded by permanent rules, emergency rules adopted to implement this section remain in effect until July 1, 1989. The rules must:

(1) target recipients who are or are likely to become long-term recipients or who experience substantial barriers to employment;

(2) establish a fixed or sliding scale subsidy amount that will create a significant work incentive yet enable the program to serve the greatest possible number of recipients;

(3) limit the subsidy to persons who become employed while receiving assistance; and

(4) provide for continued subsidy payments for up to one year after termination of assistance to ease the transition from assistance to self-sufficiency.

The program must be coordinated with existing work and training programs and must be designed to maximize savings in the aid to families with dependent children program. The subsidy must be provided as in-kind assistance, and it is not available if it would be considered countable income under state and federal requirements.

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

Subd. 2a. Priority groups. (a) Priority for participation in employment and training services under this section must be given to caretakers who:

(1) are under the age of 21;

(2) have not received a high school diploma or general equivalency diploma; or

(3) have received 24 months or more of AFDC over the last 36 months.

(b) Highest priority for participation in employment and training services under this section must be given to caretakers with two or more of the characteristics listed in paragraph (a).

Subd. 3. Registration. (a) To the extent permissible under federal law, every caretaker or child is required to register for employment and training services, as a condition of receiving AFDC, unless the caretaker or child 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 caretaker who is ill, incapacitated or age 55 or older;

(3) a caretaker for whom participation in an employment and training service would require a round trip commuting time by available transportation of more than two hours;

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

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

- (6) a 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 in clauses (3) and (5) to (8) must be advised of any available employment and training services and must be informed of any available child care and other support services.

(b) To the extent permissible by federal law, applicants for benefits under the AFDC program are registered for employment and training services by signing the application form. Applicants must be informed that they are registering for employment and training services by signing the form. Persons receiving benefits on July 1, 1987, shall register for employment and training services to the extent permissible by federal law. The caretaker has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

Subd. 3a. **Participation.** Caretakers in priority groups must participate in employment and training services under this section to the extent permissible under federal law. However, no assistance unit may be sanctioned for a caretaker's failure to participate in employment and training services under this section if failure results from inadequate funding for employment and training services.

Subd. 3b. **Mandatory school attendance for minor parents.** (a) **Definitions.** The definitions in this paragraph apply to this subdivision.

(1) "Minor parent" means a recipient of AFDC who is under age 18, and who is the natural or adoptive parent of a child living with the minor parent.

(2) "School" means:

(i) an educational program which leads to a high school diploma. The program or coursework may be, but is not limited to, a program under the post-secondary enrollment options of section 123.3514, a regular or alternative program of an elementary or secondary school, a technical institute, or a college;

(ii) coursework for a general educational development (GED) diploma of not less than six hours of classroom instruction per week; or

(iii) any other post-secondary educational program that is approved by the public school or the local agency under subdivision 11.

(b) **School attendance required.** Notwithstanding subdivision 3, a minor parent must attend school if all of the following apply:

(1) the minor parent has no child living with the parent who is younger than six weeks of age;

(2) transportation services needed to enable the minor parent to attend school are available;

(3) licensed or legal nonlicensed child care services needed to enable the minor parent to attend school are available;

(4) the minor parent has not already graduated from high school and has not received a general educational development (GED) diploma; and

(5) the minor parent does not have good cause for failing to attend school, as provided in paragraph (d).

(c) **Enrollment and attendance.** The minor parent must be enrolled in school and meeting the school's attendance requirements. The minor parent is considered to be attending when the minor parent is enrolled but the school is not in regular session, including during holiday and summer breaks.

(d) **Good cause for not attending school.** The local agency shall determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

(1) Good cause exists when the minor parent is ill or injured seriously enough to prevent the minor parent from attending school.

(2) Good cause exists when the minor parent's child is ill or injured and the minor parent's presence in the home is required to care for the child.

(3) Good cause exists when the local agency has verified that the only available school program requires round trip commuting time from the minor parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

(4) Good cause exists when there is an interruption in availability of child care services.

(5) Good cause exists when the minor parent has indicated a desire to attend school, but the public school system is not providing for the minor parent's education and alternative programs are not available.

(6) Good cause exists when the school does not cooperate with the local agency in providing verification of the minor parent's education or attendance.

(7) Good cause exists when the minor parent or the minor parent's child has a medical appointment or an appointment with the local welfare agency, is required to appear in court during the minor parent's normal school hours, or has any other obligation consistent with the case management contract.

(8) For the minor parent of a child between six and 12 weeks of age, good cause exists when child care is not available on the premises of the school, or a medical doctor certifies that it would be better for the health of either the parent or the child for the parent to remain at home with the child for a longer period of time.

(e) **Failure to comply.** If the school notifies the local agency that the minor parent is not enrolled or is not meeting the school's attendance requirements, and the local agency determines that the minor parent does not have good cause, the local agency shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

(f) **Notice and hearing.** A right to notice and fair hearing shall be provided in accordance with section 256.045 and the Code of Federal Regulations, title 45, section 205.10.

(g) **Social services.** When a minor parent has failed to attend school and does not have good cause, the local agency shall refer the minor parent to social services for services, as provided in section 257.33.

(h) **Verification.** No less often than quarterly, the local agency must verify that the minor parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the local agency notifies the school that a minor parent is subject to this subdivision, the school must furnish verification of school enrollment and attendance to the local agency.

Subd. 3c. Minor parents not living with relatives. (a) This subdivision applies to a minor parent who is not living with a parent or other adult relative and who is not living in a group or foster home licensed by the commissioner.

(b) For purposes of this subdivision, the following terms have the meanings given them:

(1) "Minor parent" means an applicant for or recipient of AFDC who is under age 18, and who is the natural or adoptive parent of a child living with the minor parent.

(2) "Other adult relative" means a person who qualifies to be an eligible relative caretaker for AFDC, as specified in federal regulations.

(c) The agency shall determine, for each minor parent who applies for or receives AFDC, whether this section applies. For a minor parent to whom this section applies, the local agency shall refer the minor parent to its social services unit within 30 days of the date the application for assistance is approved for development of a social service plan as required in section 257.33. The agency shall notify the minor parent of the referral to social services and that cooperation in developing and participating in a social service plan is required in order for AFDC eligibility to continue.

(d) In addition to meeting the requirements of section 257.33, the social service

plan may, based upon the social service unit's evaluation of the minor caretaker's needs and parenting abilities, and the health, safety, and parenting needs of the minor caretaker's child, require the minor caretaker to live in a group or foster home or participate in available programs which teach skills in parenting or independent living.

(e) If the minor parent fails to cooperate in developing or participating in the social service plan, the social services unit shall notify the income maintenance unit of the local agency, which shall then notify the minor parent of the determination and of the sanctions in subdivision 4 that will be applied.

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

(1) Arrange for or provide any caretaker or child required to participate in 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 regulation; and

(4) Provide that the county board shall impose the sanctions in clause (5) or (6) when the county board:

(a) is notified that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept a bona fide offer of public or other employment;

(b) determines that a minor parent who is required to attend school under subdivision 3b has, without good cause, failed to attend school;

(c) determines that subdivision 3c applies to a minor parent and the minor parent has, without good cause, failed to cooperate with development of a social service plan or to participate in execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living; or

(d) determines that a caretaker has, without good cause, failed to attend orientation.

(5) To the extent permissible by federal law, the following sanctions must be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c:

(a) For the first failure, 50 percent of the grant provided to the family for the month following the failure shall be made in the form of protective or vendor payments;

(b) For the second and subsequent failures, the entire grant provided to the family must be made in the form of protective or vendor payments. Assistance provided to the family must be in the form of protective or vendor payments until the recipient complies with the requirement; and

(c) When protective payments are required, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found.

(6) When the sanctions provided by clause (5) are not permissible under federal law, the following sanctions shall be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c:

(a) If the caretaker fails to participate, the caretaker'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 caretaker if a protective payee cannot reasonably be found. The standard of assistance for the

remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement.

(b) Aid with respect to a dependent child will be denied if a child who fails to participate 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 fails to participate 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 without good cause to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87.

Subd. 4a. Notice and right of appeal. If the employment and training service provider determines that the caretaker has failed or refused, without good cause, to cooperate or accept employment, the employment and training service provider shall issue to the caretaker a written notice of its determination of noncooperation or refusal to accept employment. The notice must include a detailed explanation of the reason for the determination and must specify the consequences for failure or refusal to cooperate or accept employment, the actions which the employment and training service provider believes are necessary for the caretaker to comply with the employment and training program, and the right to request, within ten days of receipt of the notice, a conciliation conference. If the dispute between the employment and training service provider and the caretaker is not resolved in the conciliation conference or a request for a conciliation conference is not made within the required time, then the employment and training service provider shall notify the county board of a caretaker's failure without good cause to cooperate or accept employment. Any determination, action, or inaction on the part of the county board relating to a caretaker's participation under section 256.736 is subject to the notice and hearing procedures in section 256.045, and Code of Federal Regulations, title 45, section 205.10.

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 caretaker 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 caretaker's grant of assistance.

Subd. 7. Rulemaking. The commissioner of human services, in cooperation with the commissioner of jobs and training, may adopt permanent and emergency 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. The commissioner of human services, with the assistance of the commissioner of education, shall establish a procedure whereby a governmental entity that pays for child care may contract with a county agency authorized to administer AFDC under sections 393.01, subdivision 7, and 393.07, subdivision 2, to make the child care payments on their behalf to AFDC recipients who are eligible for employment special needs funds. The governmental entity shall reimburse the county agency for the nonfederal share of the payments and administrative costs necessary to carry out the contract. The commissioners of human services and education shall provide information and technical assistance to governmental entities about the availability of special needs payments for child care. Governmental entities that receive state aid for child care through the community social services act, the sliding fee child care program, or other programs, shall request special needs payments for child care

provided to AFDC recipients who are potentially eligible for special needs assistance under criteria established by the commissioner of human services.

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.

Subd. 10. County duties. To the extent of available state appropriations, county boards shall:

(1) refer all priority caretakers required to register under subdivision 3 to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider caretakers who fall into the priority groups;

(3) provide all caretakers with an orientation which (a) gives information on available employment and training services and support services, and (b) encourages clients to view AFDC as a temporary program providing grants and services to clients who set goals and develop strategies for supporting their families without AFDC assistance;

(4) work with the employment and training service provider to encourage voluntary participation by caretakers in the priority groups;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage nonpriority caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers required to participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using the employment special needs fund to caretakers who participate in employment and training programs, with priority for services to caretakers in priority groups;

(11) ensure that orientation, employment search, and case management services are made available to appropriate caretakers under this section, except that payment for case management services is governed by subdivision 13; and

(12) explain in its local service unit plan under section 268.88 how it will ensure that priority caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services.

A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

Subd. 11. Case management services. (a) For clients described in subdivision 2a, the case manager shall:

(1) Assess the education, skills, and ability of the caretaker to secure and retain a job which, when added to child support, will support the caretaker's family. The case manager must work with the caretaker in completing this task;

(2) Set goals and develop a timetable for completing education and employment goals. The case manager must work with the caretaker in completing this task. For caretakers who are not literate or who have not completed high school, the first goal for the caretaker must be to complete literacy training or a general education diploma. Caretakers who are literate and have completed high school shall be counseled to set realistic attainable goals, taking into account the long-term needs of both the caretaker and the caretaker's family;

(3) Coordinate services such as child care, transportation, and education assistance necessary to enable the caretaker to work toward the goals developed in clause (2). When a client needs child care services in order to attend a Minnesota public or nonprofit college, university or technical institute, the case manager shall contact the appropriate agency to reserve child care funds for the client. A caretaker who needs child care services in order to complete high school or a general education diploma is eligible for child care under section 268.91;

(4) Develop, execute, and monitor a contract between the local agency and the caretaker. The contract must include: (a) specific goals of the caretaker including stated measurements of progress toward each goal; (b) specific services provided by the county agency; and (c) conditions under which the county will withdraw the services provided;

The contract may include other terms as desired or needed by either party. In all cases, however, the case manager must ensure that the caretaker has set forth in the contract realistic goals consistent with the ultimate goal of self-sufficiency for the caretaker's family; and

(5) Develop and refer caretakers to counseling or peer group networks for emotional support while participating in work, education, or training.

(b) In addition to the duties in paragraph (a), for minor parents and pregnant minors, the case manager shall:

(1) Ensure that the contract developed under paragraph (a)(4) considers all factors set forth in section 257.33, subdivision 2;

(2) Assess the housing and support systems needed by the caretaker in order to provide the dependent children with adequate parenting. The case manager shall encourage minor parents and pregnant minors who are not living with friends or relatives to live in a group home or foster care setting. If minor parents and pregnant minors are unwilling to live in a group home or foster care setting or if no group home or foster care setting is available, the case manager shall assess their need for training in parenting and independent living skills and when appropriate shall refer them to available counseling programs designed to teach needed skills; and

(3) Inform minor parents or pregnant minors of, and assist them in evaluating the appropriateness of, the high school graduation incentives program under section 126.22, including post-secondary enrollment options, and the employment-related and community-based instruction programs.

(c) A caretaker may request a conciliation conference to attempt to resolve disputes regarding the contents of a contract developed under this section or a housing and support systems assessment conducted under this section. The caretaker may request a hearing pursuant to section 256.045 to dispute the contents of a contract or assessment developed under this section. The caretaker need not request a conciliation conference in order to request a hearing pursuant to section 256.045.

Subd. 12. Case managers. (a) Counties may directly employ case managers if certified as an employment and training service provider under section 268.0122, or may contract for case management services with a certified employment and training service provider. Uncertified counties and contracting agencies may provide case management services only if they demonstrate the ability to coordinate employment, training, education, and support services. The commissioner of jobs and training shall determine whether or not an uncertified county or agency has demonstrated such ability.

(b) Counties that employ case managers must ensure that the case managers have

the skills and knowledge necessary to perform the variety of tasks described in subdivision 11. Counties that contract with another agency for case management services must specify in the contract the skills and knowledge needed by the case managers. At a minimum, case managers must:

- (1) have a thorough knowledge of training, education, and employment opportunities;
- (2) have training or experience in understanding the needs of AFDC clients and their families; and
- (3) be able to formulate creative individualized contracts.

Subd. 13. **State share.** (a) The state must pay 75 percent of costs incurred by counties under subdivision 11, except that after July 1, 1988, the commissioner shall adjust the state share to reflect county performance. Factors which the commissioner may consider in adjusting the state share must include, but are not limited to, the following:

- (1) percentage of priority caretakers leaving the AFDC program after one year, two years, and three years;
- (2) percentage of minor parents who finish high school; and
- (3) percentage of priority caretakers who are in training or education and are successfully working toward their contracted goals.

The commissioner may raise or lower the state share of costs by a maximum of ten percent.

(b) If the state appropriation is not sufficient to fund the cost of case management services for all caretakers identified in subdivision 2a, the commissioner must define a statewide subgroup of caretakers which includes all caretakers in subdivision 2a, clause (1) and as many caretakers as possible from subdivision 2a, clauses (2) and (3).

Subd. 14. **Employment search.** (a) The commissioner of human services shall establish an employment search program under United States Code, title 42, section 602(a)(35). The principal wage earner in an AFDC-UP assistance unit must participate in the employment search program within four months of being determined eligible for AFDC-UP unless:

- (1) the caretaker is already participating in another approved employment and training service;
- (2) the caretaker's employability plan specifies other activities; or
- (3) the caretaker is unable to secure employment due to inability to communicate in the English language.

The employment and training service provider shall refer caretakers unable to communicate in the English language to English as a second language courses.

(b) The employment search program must provide the following services:

(1) an initial period of up to four weeks of job search activities for not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county board if the caretaker fails to cooperate with the employment search requirement; and

(2) an additional period of job search following the first period at the discretion of the employment and training service provider. The total of these two periods of job search may not exceed eight weeks.

(c) The employment search program may provide services to non-AFDC-UP caretakers.

Subd. 15. **Reporting.** The commissioner of human services, in cooperation with the commissioner of jobs and training shall develop reporting requirements for local agencies and employment and training service providers. Reporting requirements must, to the extent possible, use existing client tracking systems and must be within the limits of funds available. The requirements must include summary information

necessary for state agencies and the legislature to evaluate the effectiveness of the services.

Subd. 16. Allocation and use of money. (a) State money appropriated for employment and training services under this section must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average monthly number of caretakers receiving AFDC in the county who are under age 21 and the average monthly number of AFDC cases open in the county for 24 or more consecutive months and residing in the county for the 12-month period ending March 31 of the previous fiscal year.

(2) Twenty percent of the state money must be allocated based on the average monthly number of nonpriority caretakers receiving AFDC in the county for the period ending March 31 of the previous fiscal year. Funds may be used to develop employability plans for nonpriority caretakers if resources allow.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending March 31 of the previous fiscal year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for priority group members in each county.

(b) No more than 15 percent of the money allocated under paragraph (a) may be used for administrative activities.

(c) Except as provided in paragraph (d), at least 70 percent of the money allocated to counties must be used for case management services and employment and training services for caretakers in the priority groups. Up to 30 percent of the money may be used for employment search activities and employment and training services for nonpriority caretakers.

(d) A county whose proportion of the statewide average monthly AFDC-UP caseload exceeds its proportion of the statewide AFDC caseload may, with the approval of the commissioner of human services, use up to 40 percent of the money allocated under this section for employment search activities and employment and training services for nonpriority caretakers.

(e) Counties and the department of jobs and training shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of jobs and training that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services for the reimbursement and appropriate the reimbursed money to the county or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

Subd. 17. Phase-in. The commissioner shall implement this section on a statewide basis as quickly as possible. The commissioner may phase in changes under the section in any reasonable manner that ensures a unified, statewide coordinated program by no later than December 31, 1988.

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; 1987 c 403 art 3 s 4-21; 1Sp1987 c 4 art 2 s 4; 1988 c 689 art 2 s 130-134

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."

256.7365 SPECIAL PROJECTS TO ADDRESS DEPENDENCE ON AFDC.

Subdivision 1. Establishment and purpose. The commissioner shall establish a grant program for projects to serve AFDC caretakers who have received AFDC for at least 36 months, AFDC caretakers with substantial barriers to employment, or individuals at risk of long-term dependency on AFDC. The projects shall assist individuals to escape or avoid long-term dependency on AFDC.

Subd. 2. Definitions. For the purpose of this section, the following terms have the meanings given them.

(a) "Substantial barriers to employment" means disabilities, chemical dependency, having children with disabilities, lack of a high school degree, lack of a marketable occupational skill, three or more children, or lack of regular work experience in the previous five years.

(b) "Case management" means case management as defined in subdivision 11.

Subd. 3. Application. Counties, employment and training service providers, cities, local and state agencies, federally recognized Indian reservations, educational institutions, job training agencies, community-based organizations, displaced homemaker programs, supported work programs, and other nonprofit agencies may apply for grants under this section.

Subd. 4. Selection. A committee consisting of the commissioner of human services, the commissioner of jobs and training, and the director of the state board of vocational technical education, or their designees, shall review the project proposals and select projects to receive grants under this section. The first set of projects must be selected by March 1, 1988. At least two projects must be selected that are operated by or in cooperation with tribes or organizations representing ethnic minorities, except that the committee may reject any project proposal that does not meet the design requirements established in subdivision 5.

Subd. 5. Project design. Projects selected under this section must:

- (1) use existing resources whenever possible;
- (2) serve one of the three groups listed in subdivision 1;
- (3) meet financial and administrative standards established by the commissioner;
- (4) participate in reporting and evaluation requirements as specified by the commissioner; and
- (5) provide matching funds, including in-kind matches, but not including income maintenance grants, medical assistance, food stamps, or state job training funds. Preference shall be given to projects which include multiagency participation or coordination.

Subd. 6. Allowable expenditures. (a) Projects may use money received under this section for education, employment, social services, child care, transportation, support services, rehabilitation services, relocation assistance, job development, work experience, on-the-job training, case management, medical services, and other appropriate services.

(b) Projects may use up to 15 percent of the money received under this section for administrative expenses. Administrative expenses do not include expenses for activities in paragraph (a).

(c) The commissioner may establish limits on the use of money for particular purposes or services.

Subd. 7. Demonstration and evaluation. For the biennium ending June 30, 1989, projects are demonstration projects to test the effectiveness of differing approaches to serving populations with acute needs. The commissioner of human services shall submit to the governor and the legislature a progress report by February 1, 1989, and shall submit subsequent program evaluation reports as part of the biennial plan.

Subd. 8. **Continued funding.** Projects that received grants for the biennium ending June 30, 1989, and achieve effective results must be given priority for grants in succeeding cycles.

Subd. 9. **Carryover authority.** Money appropriated in one fiscal year may be carried forward into the next year to ensure continuity of services and funding for follow-up services.

History: 1987 c 403 art 3 s 22

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.

As the commissioner phases in case management and other employment and training services under section 256.736, and no later than June 30, 1989, the commissioner may phase out projects under this section.

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; 1987 c 403 art 2 s 62

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;

(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 begin-

ning 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) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, 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 after the end of the month in which the collection of such periodic support payments occurred 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; 1987 c 403 art 3 s 23

256.745 SERVICE DELIVERY IMPROVEMENT PILOT PROJECT.

Subdivision 1. STEP. "STEP" means the strive toward excellence program administered by the department of administration.

Subd. 2. Pilot project established; goals. The service delivery improvement project, consisting of six pilot projects selected under subdivision 4, is established to use STEP productivity improvement technology to achieve the following goals: redesign of employment and training and income maintenance delivery systems as required under Laws 1985, First Special Session chapter 14, article 9; and improvement of the quality and cost effectiveness of employment and training and income maintenance services provided to clients.

Subd. 3. Committee. The commissioner shall establish and select a committee to administer the service delivery improvement project. The committee consists of the commissioner, the commissioner of jobs and training, the commissioner of human services, one member of the senate, one member of the house of representatives, one public member representing the private sector, and other public members considered necessary by the commissioner. The commissioner may reimburse the public members for actual expenses in the same manner and amount as authorized by the commissioner's plan under section 43A.18, subdivision 2.

Subd. 4. Duties. The committee shall solicit from local service units or consortia of local service units proposals to conduct innovative pilot projects to redesign the employment and training and income maintenance delivery system. By December 1, 1987, the committee shall evaluate the proposals and select six pilot projects to receive training and technical assistance as provided in subdivision 6.

Subd. 5. Evaluation. The committee shall evaluate each proposal based upon the extent to which the proposed pilot project uses STEP productivity improvement technology, addresses the goals set forth under subdivision 2, and involves members of the private sector in joint financing of delivery system innovations.

Subd. 6. Training and technical assistance. The commissioner shall contract with the department of administration to provide staff training, technical assistance, and detailed periodic reports of the day-to-day operation of a pilot project to affected local service units.

Subd. 7. Cooperation of agencies. The commissioner of human services and the commissioner of jobs and training shall cooperate fully with local service units undertaking pilot projects under this section. If requested by a local service unit which has had a pilot project selected under subdivision 4, the commissioner shall reduce, to the extent possible, reporting and other requirements which may be applicable under state law to that pilot project.

History: 1987 c 403 art 3 s 24

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 the investigation the county agency shall decide whether the child is eligible for assistance under the provisions of sections 256.72 to 256.87 and determine the amount of the assistance and the date on which the assistance begins. A decision on an application for assistance must be made as promptly as possible and no more than 30 days from the date of application. 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 the grant is modified or vacated. The county agency shall notify the applicant of its decision in writing. The 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. After the order is filed, 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. [Repealed, 1987 c 363 s 14]

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; 1988 c 689 art 2 s 135

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 sections 256B.02, subdivision 8, and 256B.0625.

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; 1988 c 689 art 2 s 268

256.79 [Repealed, 1987 c 363 s 14]

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 except as provided for in section 256.017.

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; 1988 c 719 art 8 s 5

NOTE: This section, as amended by Laws 1988, chapter 719, article 8, section 5, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256.82 PAYMENTS BY STATE.

Subdivision 1. Monthly payments. For the period from January 1 to June 30, 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 85 percent of the difference between the total estimated cost and the federal funds so available for payments made except as provided for in section 256.017. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. Subsequent to July 1 of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period except

as provided for in section 256.017. For the period from July 1 to December 31 based upon the 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 state and federal funds available for that purpose for the succeeding month except as provided for in section 256.017. Payment shall be made on the basis of federal and state participation rates described in this subdivision. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. Effective January 1, 1989, the state rate of participation shall be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation.

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 ratably 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 rates for foster care maintenance and difficulty of care payments for all children in foster care.

Subd. 4. Rules. The commissioner shall adopt emergency and permanent rules to implement subdivision 3. In developing rules, the commissioner shall take into consideration any existing difficulty of care payment rates so that, to the extent possible, no child for whom a difficulty of care rate is currently established will be adversely affected.

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; 1987 c 235 s 1,2; 1988 c 719 art 8 s 6

NOTE: Subdivision 1, as amended by Laws 1988, chapter 719, article 8, section 6, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

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, except as provided in sections 256.019 and 256.98, subdivision 7, 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.

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; 1988 c 719 art 8 s 7

NOTE: This section, as amended by Laws 1988, chapter 719, article 8, section 7, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

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. Ability to pay must be determined according to chapter 518. 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. **Entry of judgment.** Any order for support issued under this section shall provide for a conspicuous notice that, if the obligor fails to make a support payment, the payment owed becomes a judgment by operation of law on and after the date the payment is due, and the obligee or public agency responsible for support enforcement may obtain entry and docketing of the judgment for the unpaid amounts under the provisions of section 548.091.

Subd. 7. **Notice of docketing of maintenance judgment.** Every order for maintenance issued under this section shall provide for a conspicuous notice that, if the obligor fails to make the maintenance payments, the obligee or public agency responsible for maintenance enforcement may obtain docketing of a judgment for the unpaid amount 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; 1988 c 593 s 1-4

NOTE: Subdivisions 1, 1a, and 6, as amended by Laws 1988, chapter 593, sections 1 to 3, and subdivision 7, as added by section 4, are repealed on the date a waiver is received by the commissioner of human services under United States Code, title 42, section 666(d). See Laws 1988, chapter 593, section 17.

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, payments 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. For the period from January 1 to June 30, 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, except as provided for in section 256.017. Subsequent to July 1 of each year the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, payment shall be made monthly in advance by the state agency to the counties, of all state and federal funds available for that purpose for the succeeding month, except as provided for in section 256.017. Payment shall be made on the basis of federal and state participation rates described in this subdivision. Effective January 1, 1989, the state rate of participation shall be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation. 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; 1988 c 719 art 8 s 8

NOTE: Subdivision 6, as amended by Laws 1988, chapter 719, article 8, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

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

256.925 OPTIONAL VOTER REGISTRATION FOR PUBLIC ASSISTANCE APPLICANTS AND RECIPIENTS.

A county agency shall provide voter registration cards to every individual eligible to vote who applies for a public assistance program at the time application is made. The agency shall also make voter registration cards available to a public assistance recipient upon the recipient's request or at the time of the recipient's eligibility redetermination. The county agency shall assist applicants and recipients in completing the voter registration cards, as needed. Applicants must be informed that completion of the cards is optional. Completed forms shall be collected by agency employees and submitted to proper election officials.

History: 1988 c 689 art 2 s 136

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. For the period from January 1 to June 30, the state shall reimburse the county for 50 percent of any payments made for funeral expenses except as provided for in section 256.017. Subsequent to July 1 of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period. For the period from July 1 to December 31, the state shall reimburse the county for 100 percent of any payments made for funeral expenses except as provided for in section 256.017.

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; 1988 c 719 art 8 s 9*

NOTE: Subdivision 1, as amended by Laws 1988, chapter 719, article 8, section 9, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256.936 CHILDREN'S HEALTH PLAN.

Subdivision 1. Definitions. For purposes of this section the following terms shall have the meanings given them:

(a) "Eligible persons" means children who are one year of age or older but less than nine years of age who have gross family incomes that are equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under chapter 256B or general assistance medical care under chapter 256D and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes nine years old.

(b) "Covered services" means children's health services.

(c) "Children's health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, private duty nursing services, orthodontic services, medical transportation services, personal care assistant and case management services, hospice care services, nursing home or intermediate care facilities services, and mental health and chemical dependency services.

(d) "Eligible providers" means those health care providers who provide children's health services to medical assistance clients under rules established by the commissioner for that program. Reimbursement under this section shall be at the same rates and conditions established for medical assistance.

(e) "Commissioner" means the commissioner of human services.

Subd. 2. Plan administration. The children's health plan is established to promote access to appropriate primary health care to assure healthy children. The commissioner shall establish an office for the state administration of this plan. The plan shall be used to provide children's health services for eligible persons. Payment for these services shall be made to all eligible providers. The commissioner shall establish marketing efforts to encourage potentially eligible persons to receive information about the program and about other medical care programs administered or supervised by the department of human services. A toll-free telephone number must be used to provide information about medical programs and to promote access to the covered services. The commissioner must make a quarterly assessment of the expected expenditures for the covered services and the appropriation. Based on this assessment the commissioner may limit enrollments and target former aid to families with dependent children recipients. If sufficient money is not available to cover all costs incurred in one quarter, the commissioner may seek an additional authorization for funding from the legislative advisory committee.

Subd. 3. Application procedures. Applications and other information must be made available to provider offices, local human services agencies, school districts, public and private elementary schools in which 25 percent or more of the students receive free or reduced price lunches, community health offices, and Women, Infants and Children (WIC) program sites. These sites may accept applications, collect the enrollment fee, and forward the forms and fees to the commissioner. Otherwise, applicants may apply directly to the commissioner. The commissioner may use individuals' social security numbers as identifiers for purposes of administering the plan and conduct data matches to verify income. Applicants shall submit evidence of family income, earned and unearned, that will be used to verify income eligibility. Notwithstanding any other law to the contrary, benefits under this section are secondary to a plan of insurance or benefit program under which an eligible person may have coverage. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Subd. 4. **Enrollment fee.** An annual enrollment fee of \$25, not to exceed \$150 per family, is required from eligible persons for children's health services. Enrollment fees must be deposited in the public health fund and are appropriated to the commissioner for the children's health plan program. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

History: 1987 c 403 art 2 s 63; 1988 c 689 art 2 s 137

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

NOTE: This section is repealed by Laws 1988, chapter 719, article 8, section 33, effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256.9655 PAYMENTS TO MEDICAL PROVIDERS.

The commissioner shall establish procedures to analyze and correct problems associated with medical care claims preparation and processing under the medical assistance, general assistance medical care, and children's health plan programs. At a minimum, the commissioner shall:

- (1) designate a full-time position as a liaison between the department of human services and providers;
- (2) analyze impediments to timely processing of claims, provide information and consultation to providers, and develop methods to resolve or reduce problems;
- (3) provide to each acute care hospital a quarterly listing of claims received and identify claims that have been suspended and the reason the claims were suspended;
- (4) provide education and information on reasons for rejecting and suspending claims and identify methods that would avoid multiple submissions of claims; and
- (5) for each acute care hospital, identify and prioritize claims that are in jeopardy of exceeding time factors that eliminate payment.

History: 1988 c 689 art 2 s 138

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 ratably 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. [Repealed, 1987 c 403 art 2 s 164]

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 [Repealed, 1987 c 299 s 25]

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.** 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. 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, unless disapproved by the federal Health Care Financing Administration. The state shall pay the state share of the adjustment for care provided on or after August 1, 1985, up to and including June 30, 1987, whether or not the adjustment is approved by the federal Health Care Financing Administration. 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. Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index described in subdivision 1. When computing budgeted pass-through cost payments, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc. consistent with the quarter of the hospital's fiscal year end. In final settlement of pass-through cost payments, the commissioner shall use the hospital cost index for the month in which the hospital's fiscal year ends compared to the same month one year earlier.

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. (a) In determining the rate the commissioner of human services will take into consideration whether the following circumstances exist:

- (1) minimal medical assistance and general assistance medical care utilization;
- (2) unusual length of stay experience; and
- (3) disproportionate numbers of low-income patients served.

(b) To the extent of available appropriations, the commissioner shall provide supplemental grants directly to a hospital described in section 256B.031, subdivision 10, paragraph (a), that receives medical assistance payments through a county-managed

health plan that serves only residents of the county. The payments must be designed to compensate for actuarially demonstrated higher health care costs within the county, for the population served by the plan, that are not reflected in the plan's rates under section 256B.031, subdivision 4.

(c) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

(d) Indian health service facilities are exempt from the rate establishment methods required by this section and section 256D.03, subdivision 4, and shall be reimbursed at the facility's usual and customary charges to the general public.

(e) Out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule and hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.

(f) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have rates established as provided in paragraph (e) or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not be affected by negotiated rates.

(g) For inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989, hospitals with 100 or fewer medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 30 percent. Hospitals with more than 100 but fewer than 250 medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 20 percent for inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989. This provision applies only to hospitals that have 100 or fewer licensed beds on March 1, 1988.

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; 1987 c 403 art 2 s 64,65; 1988 c 435 s 1; 1988 c 689 art 2 s 139,140

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

256.974 OFFICE OF OMBUDSMAN FOR OLDER MINNESOTANS; LOCAL PROGRAMS.

The ombudsman for older Minnesotans serves in the classified service under section 256.01, subdivision 7, in an office within the Minnesota board on aging that incorporates the long-term care ombudsman program required by the Older Americans Act, Public Law Number 98-456, United States Code, title 42, section 3027(a)(12), and established within the Minnesota board on aging. The Minnesota board on aging may make grants to local programs or area agencies on aging for the provision of ombudsman services to clients in county or multicounty areas. Individuals providing local ombudsman services must be qualified to perform the duties required by section 256.9742.

History: 1987 c 403 art 2 s 66

256.9741 DEFINITIONS.

Subdivision 1. "Long-term care facility" means a nursing home licensed under sections 144A.02 to 144A.10 or boarding care home licensed under sections 144.50 to 144.56.

Subd. 2. "Acute care facility" means a facility licensed as a hospital under sections 144.50 to 144.56.

Subd. 3. "Client" means an individual who requests, or on whose behalf a request is made for, ombudsman services and is (a) a resident of a long-term care facility or (b) a patient in an acute care facility who is eligible for Medicare and requests assistance relating to admission or discharge from an acute care facility.

Subd. 4. "Area agency on aging" means an agency responsible for coordinating a comprehensive aging services system within a planning and service area that has been designated an area agency on aging by the Minnesota board on aging.

Subd. 5. "Office" means the office of ombudsman established within the Minnesota board on aging or local ombudsman programs.

History: 1987 c 403 art 2 s 67

256.9742 DUTIES AND POWERS OF THE OFFICE.

Subdivision 1. **Duties.** The ombudsman shall:

(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, or government agency that may adversely affect the health, safety, welfare, or rights of any client;

(2) mediate or advocate on behalf of clients;

(3) monitor the development and implementation of federal, state, or local laws, regulations, and policies affecting the rights and benefits of clients;

(4) comment on and recommend to the legislature and public and private agencies regarding laws, regulations, and policies affecting clients;

(5) inform public agencies about the problems of clients;

(6) provide for training of volunteers and promote the development of citizen participation in the work of the office;

(7) conduct public forums to obtain information about and publicize issues affecting clients;

(8) provide public education regarding the health, safety, welfare, and rights of clients; and

(9) collect and analyze data relating to complaints and conditions in long-term care facilities.

Subd. 2. Immunity from liability. A person designated as an ombudsman under this section is immune from civil liability that otherwise might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities as an ombudsman, and do not constitute willful or reckless misconduct.

Subd. 3. Posting. Every long-term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. The posting is subject to approval by the ombudsman.

Subd. 4. Access to long-term care and acute care facilities and clients. The ombudsman may:

(1) enter any long-term care facility without notice at any time;

(2) enter any acute care facility without notice during normal business hours;

(3) communicate privately and without restriction with any client in accordance with section 144.651; and

(4) inspect records of a long-term care facility or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651.

Subd. 5. Access to state records. The ombudsman has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman shall first obtain the individual's consent.

Each state agency responsible for licensing, regulating, and enforcing state and federal laws and regulations concerning long-term care and acute care facilities shall forward to the ombudsman on a quarterly basis, copies of all correction orders, penalty assessments, and complaint investigation reports, for all long-term care facilities and acute care facilities.

History: 1987 c 403 art 2 s 68

256.9743 REPORTING.

By February 1, 1989, the board on aging shall recommend methods for expanding and funding local ombudsman programs to serve clients receiving in-home services or care in acute care facilities.

History: 1987 c 403 art 2 s 69

256.9744 OFFICE DATA.

Subdivision 1. Classification. Except as provided in this section, data maintained by the office under sections 256.974 to 256.9744 are private data on individuals or nonpublic data as defined in section 13.02, subdivision 9 or 12, and must be maintained in accordance with the requirements of Public Law Number 98-459, United States Code, title 42, section 3027(a)(12)(D).

Subd. 2. Release. Data maintained by the office that does not relate to the identity of a complainant or a resident of a long-term facility may be released at the discretion of the ombudsman responsible for maintaining the data. Data relating to the identity of a complainant or a resident of a long-term facility may be released only with the consent of the complainant or resident or by court order.

History: 1987 c 403 art 2 s 70

256.9745 IN-HOME SERVICES ADVISORY TASK FORCE.

The Minnesota board on aging shall appoint an advisory task force to make recommendations for expanding ombudsman services to recipients of in-home services. The task force shall include clients or representatives of clients, providers of in-home services, representatives of the Minnesota department of health, department of human services, counties, area agencies on aging, and members of the public at large. Compensation, terms, and removal of members shall be as provided in section 15.059. The Minnesota board on aging shall issue a report of the recommendations of the task force by February 1, 1989.

History: 1987 c 403 art 2 s 71

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, 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers and utility companies doing business in this state shall provide information upon written request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support. A request for this information may be made to an employer when there is reasonable cause to believe that the subject of the inquiry is or was employed by the employer where the request is made. The request must include a statement that reasonable cause exists. Information to be released by utility companies is restricted to place of residence. Information to be released by employers is restricted to place of residence, employment status, and wage information. 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; 1988 c 668 s 3

256.979 CHILD SUPPORT INCENTIVES.

Subdivision 1. Incentive award account. The state share of AFDC child support collections received by the commissioner of human services during fiscal year 1988 in excess of a threshold of \$14,273,000 and during fiscal year 1989 in excess of a threshold of \$15,628,000 must be deposited in an incentive award account for nonpublic assistance collections. Money in the incentive award account is appropriated to the commissioner of human services for distribution to counties under this section. This subdivision does not apply to an increase in child support collections that may result from changes in federal law pertaining to the treatment of the first \$50 of periodic support payments collected by the child support enforcement office.

Subd. 2. Ratio determination. Using information reported to the commissioner of human services under Title IV-D of the Social Security Act by county agencies responsible for child support enforcement, the commissioner shall determine the cost-benefit ratio for each county on a quarterly basis. The commissioner shall determine the ratio by dividing each county's nonpublic assistance collections by the county child support agency costs. For purposes of this section, collections made on behalf of another county agency in Minnesota shall be identified and counted only by the county agency making the collection.

Subd. 3. Percentage determination. The commissioner shall use the following table to determine the percentage for each county that corresponds to the ratio determined in subdivision 2. The commissioner shall multiply each county agency's quarterly nonpublic assistance collections by the applicable percentage to determine

the county agency's nonpublic assistance dollar amount for purposes of this subdivision.

Ratio*	Percent
.1 or less	3.0
.2	3.5
.4	4.0
.6	4.5
.8	5.0
1.0	5.5
1.2	6.0
1.4	6.5
1.6	7.0
1.8	7.5
2.0	8.0
2.2	8.5
2.4	9.0
2.6	9.5
2.8 or more	10.0

*A county ratio that falls between two listed ratios must be rounded up to the next listed ratio.

Subd. 4. Distribution formula. (a) The commissioner shall determine each county child support enforcement agency's share of the state's quarterly incentive award for nonpublic assistance collections according to the formula in paragraph (b). County agencies that do not submit the required report to the commissioner within 30 days after the end of the quarter shall not receive an incentive award under this section and are excluded for purposes of the formula in this subdivision. Within 45 days after the end of the quarter, the commissioner shall inform each county agency of the determinations and pay the determined amount to the county agency. Incentive payments under this section must begin with the quarter ending September 30, 1988.

(b) To determine the county agency's quarterly incentive award, the commissioner shall:

(1) add all county agency quarterly nonpublic assistance dollar amounts as determined in subdivision 3;

(2) divide the state's quarterly nonpublic assistance incentive award by the total obtained in clause (1); and

(3) multiply the quotient obtained in clause (2) by each county agency's quarterly nonpublic assistance dollar amount as determined under subdivision 3.

History: 1987 c 403 art 3 s 25

256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.

Subdivision 1. Wrongfully obtaining assistance. 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 256.871, and chapter 256B, or all of these sections is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), (3), (6), and (7).

Subd. 2. Joint trials. When two or more defendants are jointly charged with the same offense under subdivision 1, or are jointly charged with different offenses under subdivision 1 arising from the same course of conduct, they shall be tried jointly; however, if it appears to the court that a defendant or the state is substantially prejudiced by the joinder for trial, the court may order an election or separate trial of counts, grant a severance of defendants, or provide other relief.

Subd. 3. Amount of assistance incorrectly paid. The amount of the assistance incorrectly paid under this section is the difference between the amount of assistance actually received on the basis of misrepresented or concealed facts and the amount to which the recipient would have been entitled had the specific concealment or misrepresentation not occurred. Unless required by law, rule, or regulation, earned income disregards shall not be applied to earnings not reported by the recipient.

Subd. 4. Recovery of assistance. The amount of assistance determined to have been incorrectly paid is 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.

Subd. 5. Criminal or civil action. 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 or both.

Subd. 6. Rule superseded. Rule 17.03, subdivision 2, of the Minnesota Rules of Criminal Procedures that relates to joint trials is superseded by this section to the extent that it conflicts with this section.

Subd. 7. Division of recovered amounts. If the state is responsible for the recovery, the amounts recovered shall be paid to the appropriate units of government as provided under section 256.863. If the recovery is directly attributable to a county, the county may retain one-half of the nonfederal share of any recovery from a recipient or the recipient's estate. This subdivision does not apply to recoveries from medical providers or to recoveries involving the department of human services, surveillance and utilization review division, state hospital collections unit, and the benefit recoveries division.

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; 1987 c 254 s 6; 1987 c 403 art 2 s 72; 1988 c 712 s 2

256.981 TRAINING OF WELFARE FRAUD PROSECUTORS.

The commissioner of human services shall, to the extent an appropriation is provided for this purpose, contract with the county attorney's council or other public or private entity experienced in providing training for prosecutors to conduct quarterly workshops and seminars focusing on current aid to families with dependent children program issues, other income maintenance program changes, recovery issues, alternative sentencing methods, use of technical aids for interviews and interrogations, and other matters affecting prosecution of welfare fraud cases.

History: 1987 c 403 art 2 s 154

256.982 TRAINING OF WELFARE FRAUD INVESTIGATORS.

The commissioner of human services shall, to the extent an appropriation is provided for this purpose, establish a pilot project for further education and training of welfare fraud investigators. The commissioner may enter into contractual agreements with other state, federal, or county agencies as part of cooperative projects employing experienced investigators to provide on-the-job training to county investigators.

History: 1987 c 403 art 2 s 155

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 sections 256B.055,

256B.056, and 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; 1988 c 689 art 2 s 268

256.991 RULES.

The commissioner of human services may promulgate emergency and permanent rules as necessary to implement sections 256.01, subdivision 2; 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 14.131 to 14.20.

History: 1983 c 312 art 5 s 38; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1988 c 384 art 2 s 1; 1988 c 719 art 8 s 10

NOTE: This section, as amended by Laws 1988, chapter 719, article 8, section 10, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.