

CHAPTER 256D

GENERAL ASSISTANCE ACT

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256D.01 DECLARATION OF POLICY; CITATION.

Subdivision 1. **Policy.** The objectives of sections 256D.01 to 256D.21 are to provide a sound administrative structure for public assistance programs; to maximize the use of federal money for public assistance purposes; and to provide an integrated public assistance program for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health.

It is declared to be the policy of this state that persons unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health. Providing this assistance is a matter of public concern and a necessity in promoting the public health and welfare.

Subd. 1a. **Standards.** (1) A principal objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

(2) The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard shall also be increased by the same percentage.

(3) For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance shall be equal to the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, provided that the standard shall not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, shall not be counted in the determination of eligibility or

benefit level for the assistance unit. The assistance unit is ineligible for general assistance if the available resources or the countable income of the assistance unit and the parent or parents with whom the assistance unit lives are such that a family consisting of the assistance unit's parent or parents, the parent or parents' other family members and the assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, use the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple.

(4) For an assistance unit consisting of a childless couple, the standards of assistance shall be equal to the first and second adult standards of the aid to families with dependent children program. If one member of the couple is not included in the general assistance grant, then the standard of assistance for the other shall be equal to the second adult standard of the aid to families with dependent children program, except that, when one member of the couple is not included in the general assistance grant because that member is not categorically eligible for general assistance under section 256D.05, subdivision 1, and has exhausted work readiness eligibility under section 256D.051, subdivision 4 or 5, for the period of time covered by the general assistance grant, then the standard of assistance for the remaining member of the couple shall be equal to the first adult standard of the aid to families with dependent children program.

(5) For an assistance unit consisting of all members of a family, the standards of assistance shall be the same as the standards of assistance applicable to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members shall be equal to the standards of assistance applicable to an assistance unit composed of the entire family, less the standards of assistance applicable to a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. Notwithstanding the foregoing, if an assistance unit consists solely of the minor children because their parent or parents have been sanctioned from receiving benefits from the aid to families with dependent children program, the standard for the assistance unit shall be equal to the special child standard of the aid to families with dependent children program. A child shall not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program or supplemental security income. The income of a child who is excluded from the assistance unit shall not be counted in the determination of eligibility or benefit level for the assistance unit.

Subd. 1b. Rules. The commissioner may adopt emergency rules and shall adopt permanent rules to set standards of assistance and methods of calculating payment to conform with subdivision 1a. The minimum standards of assistance shall authorize the payment of rates negotiated by local agencies for recipients living in a room and board arrangement. Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement must not exceed the limits established under the Minnesota supplemental aid program. In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available. The commissioner shall provide by rule for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient.

Subd. 1c. **Payments to facilities.** The commissioner shall make no payments under subdivision 1b to facilities licensed after August 1, 1987, which have more than four residents with a diagnosis of mental illness except for facilities specifically licensed to serve persons with mental illness. The commissioner of health shall monitor newly-licensed facilities and shall report to the commissioner of human services facilities that are not in compliance with this section.

Subd. 1d. [Repealed, 1988 c 411 s 9]

Subd. 2. Sections 256D.01 to 256D.21 may be cited as the general assistance act.

History: 1973 c 650 art 21 s 1; 1974 c 297 s 1; 1980 c 536 s 1; 1981 c 360 art 2 s 31,54; 1Sp1981 c 4 art 4 s 22; 1983 c 312 art 1 s 27; 1983 c 312 art 8 s 3; 1984 c 640 s 32; 1984 c 654 art 5 s 26; 1Sp1985 c 9 art 2 s 55,56; 1986 c 444; 1987 c 197 s 5; 1987 c 333 s 18; 1987 c 403 art 3 s 27; 1988 c 689 art 2 s 185

256D.02 DEFINITIONS.

Subdivision 1. The terms defined in this section shall have the meanings given them unless otherwise provided or indicated by the context.

Subd. 2. "Commissioner" means the commissioner of human services or a designee.

Subd. 3. "Department" means the department of human services.

Subd. 4. **General assistance.** "General assistance" means cash payments to persons unable to provide themselves with a reasonable subsistence compatible with decency and health and who are not otherwise provided for under the laws of this state or the United States. General assistance shall not include payments for foster care, child welfare services, or other social services. Vendor payments and vouchers may be issued only as provided for in section 256D.09.

Subd. 4a. "General assistance medical care" means payment of all or part of the cost of medical care and services approved by the commissioner pursuant to section 256D.03, subdivision 3, for individuals whose income and resources are insufficient to meet the cost of care.

Subd. 5. "Family" means the following persons who live together: a minor child or a group of minor children related to each other as siblings, half siblings, or stepsiblings, together with their natural or adoptive parents, their stepparents, or their legal custodians, and any other minor children of whom an adult member of the family is a legal custodian.

Subd. 6. "Child" means an adult or minor child of an individual.

Subd. 7. "Childless couple" means two individuals who are married to each other, live in a place of residence maintained by them as their own home, and are either childless or living apart from their children.

Subd. 8. "Income" means any form of income, including remuneration for services performed as an employee and net earnings from self-employment, reduced by the amount attributable to employment expenses as defined by the commissioner. The amount attributable to employment expenses shall include amounts paid or withheld for federal and state personal income taxes and federal social security taxes.

"Income" includes any payments received as an annuity, retirement, or disability benefit, including veteran's or workers' compensation; old age, survivors, and disability insurance; railroad retirement benefits; unemployment benefits; and benefits under any federally aided categorical assistance program, supplementary security income, or other assistance program; rents, dividends, interest and royalties; and support and maintenance payments. Such payments may not be considered as available to meet the needs of any person other than the person for whose benefit they are received, unless that person is a family member or a spouse and the income is not excluded under section 256D.01, subdivision 1a. Goods and services provided in lieu of cash payment shall be excluded from the definition of income, except that payments made for room, board, tuition or fees by a parent, on behalf of a child enrolled as a full-time student in a post-secondary institution, must be included as income.

Subd. 8a. [Repealed, 1983 c 312 art 8 s 18; 1Sp1985 c 14 art 9 s 78 subd 1]

Subd. 9. [Repealed, 1981 c 360 art 2 s 52]

Subd. 10. [Repealed, 1981 c 360 art 2 s 52]

Subd. 11. "State aid" means state aid to local agencies for general assistance and general assistance medical care expenditures as provided for in section 256D.03, subdivisions 2 and 3.

Subd. 12. "Local agency" means the agency designated by the county board of commissioners, human services boards, county welfare boards in the several counties of the state or multicounty welfare boards or departments where those have been established in accordance with law.

Subd. 13. "Suitable employment" means an appropriate income producing job including, but not limited to, all publicly subsidized jobs procured through the services administered by or coordinated with the commissioner of jobs and training.

Subd. 14. [Repealed, 1983 c 312 art 8 s 17]

Subd. 15. "Full-time student" means a student at a post-secondary institution who attends training for a minimum of 25 hours per week if the training does not involve shop practice and for a minimum of 30 hours per week if the training involves shop practice, or who registers for and attends a minimum of 12 semester hours per semester or 12 quarter hours per quarter.

Subd. 16. "Single adult" means an individual 18 years or older who is childless and unmarried or living apart from the individual's children and spouse.

History: 1973 c 650 art 21 s 2; 1975 c 359 s 23; 1976 c 2 s 81; 1977 c 301 s 1,2; 1978 c 772 s 62; 1980 c 536 s 2-7; 1981 c 360 art 2 s 32,33; 1983 c 312 art 8 s 4,5; 1984 c 654 art 5 s 27-29,58; 1Sp1985 c 14 art 9 s 28; 1986 c 444; 1987 c 403 art 3 s 28,29; 1988 c 689 art 2 s 186,187

256D.03 RESPONSIBILITY TO PROVIDE GENERAL ASSISTANCE.

Subdivision 1. Every local agency shall provide general assistance to persons residing within its jurisdiction who meet the need requirements of sections 256D.01 to 256D.21. General assistance shall be administered by the local agencies according to law and rules promulgated by the commissioner pursuant to sections 14.01 to 14.69.

Subd. 2. For the period from January 1 to June 30, state aid shall be paid to local agencies for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under 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, state aid shall be paid to local agencies for 100 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 and except that, after December 31, 1988, state aid is reduced to 65 percent of all general assistance grants if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section 256D.05, subdivision 1, paragraph (a), clause (15).

After December 31, 1988, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or, (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, but for whom the aid would further the purposes established in the general assistance program

in accordance with rules promulgated by the commissioner pursuant to the administrative procedure act.

Subd. 3. General assistance medical care; eligibility. (a) General assistance medical care may be paid for any person:

(1) who is eligible for assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B; or

(2) who is a resident of Minnesota; whose income as calculated under chapter 256B is not in excess of the medical assistance standards or whose excess income is spent down pursuant to chapter 256B; and whose equity in resources is not in excess of \$1,000 per assistance unit. Exempt real and liquid assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B.

(b) Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care may be paid for a person, regardless of age, who is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, if the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the local agency to meet the requirements of medical assistance.

Subd. 3a. Claims; assignment of benefits. Claims must be filed pursuant to section 256D.16. General assistance medical care applicants and recipients must apply or agree to apply third party health and accident benefits to the costs of medical care. They must cooperate with the state in establishing paternity and obtaining third party payments. By signing an application for general assistance, a person assigns to the department of human services all rights to medical support or payments for medical expenses from another person or entity on their own or their dependent's behalf and agrees to cooperate with the state in establishing paternity and obtaining third party payments. The application shall contain a statement explaining the assignment. Any rights or amounts assigned shall be applied against the cost of medical care paid for under this chapter. An assignment is effective on the date general assistance medical care eligibility takes effect. The assignment shall not affect benefits paid or provided under automobile accident coverage and private health care coverage until the person or organization providing the benefits has received notice of the assignment.

Subd. 4. General assistance medical care; services. (a) Reimbursement under the general assistance medical care program shall be limited to the following categories of service: inpatient hospital care, outpatient hospital care, services provided by medicare certified rehabilitation agencies, prescription drugs, equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level, eyeglasses and eye examinations provided by a physician or optometrist, hearing aids, prosthetic devices, laboratory and X-ray services, physician's services, medical transportation, chiropractic services as covered under the medical assistance program, podiatric services, and dental care. In addition, payments of state aid shall be made for:

(1) outpatient services provided by a mental health center or clinic that is under contract with the county board and is certified under Minnesota Rules, parts 9520.0750 to 9520.0870;

(2) day treatment services provided under contract with the county board; and

(3) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization.

(b) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. The rates payable under this section must be calculated according to section 256B.031, subdivision 4.

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions.

For the period July 1, 1985, to December 31, 1985, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of

chemical dependency or mental illness may be reduced no more than 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(d) Any county may, from its own resources, provide medical 5 payments for which state payments are not made.

(e) Chemical dependency services that are reimbursed under Laws 1986, chapter 394, sections 8 to 20, must not be reimbursed under general assistance medical care.

(f) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

Subd. 5. Certain local agencies to pay state for county share. The local agencies that contract with the commissioner of human services for state administration of general assistance medical care payments shall make payment to the state for the county share of those payments in the manner described for medical assistance advances in section 256B.041, subdivision 5.

Subd. 6. Division of costs. The state shall pay 100 percent of the cost of general assistance medical care paid pursuant to this section, in accordance with sections 256B.041, subdivision 5, and 256B.19, subdivision 1, except as provided for in section 256.017. In counties where prepaid health plans are under contract to the commissioner to provide services to general assistance medical care recipients, the cost of court ordered treatment that does not include diagnostic evaluation, recommendation, or referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Subd. 7. Duties of the commissioner. The commissioner shall promulgate emergency and permanent rules as necessary to establish:

(a) standards of eligibility, utilization of services, and payment levels;

(b) standards for quality assurance, surveillance, and utilization review procedures that conform to those established for the medical assistance program pursuant to chapter 256B, including general criteria and procedures for the identification and prompt investigation of suspected fraud, theft, abuse, presentment of false or duplicate claims, presentment of claims for services not medically necessary, or false statements or representations of material facts by a vendor of general assistance medical care, and for the imposition of sanctions against such vendor of medical care. The rules relating to sanctions shall be consistent with the provisions of section 256B.064, subdivisions 1a and 2; and

(c) administrative and fiscal procedures for payment of the state share of the medical costs incurred by the counties under section 256D.02, subdivision 4a. Rules promulgated pursuant to this clause may include: (1) procedures by which state liability for the costs of medical care incurred pursuant to section 256D.02, subdivision 4a may be deducted from county liability to the state under any other public assistance program authorized by law; (2) procedures for processing claims of counties for reimbursement by the state for expenditures for medical care made by the counties pursuant to section 256D.02, subdivision 4a; and (3) procedures by which the local agencies may contract with the commissioner of human services for state administration of general assistance medical care payments.

Subd. 8. Private insurance policies. (a) Private accident and health care coverage for medical services is primary coverage and must be exhausted before general assistance medical care is paid. When a person who is otherwise eligible for general assistance medical care has private accident or health care coverage, including a

prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent. Supplemental payment may be made by general assistance medical care, but the combined total amount paid must not exceed the amount payable under general assistance medical care in the absence of other coverage. General assistance medical care must not make supplemental payment for covered services rendered by a vendor who participates or contracts with any health coverage plan if the plan requires the vendor to accept the plan's payment as payment in full.

(b) When a parent or a person with an obligation of support has enrolled in a prepaid health care plan under section 518.171, subdivision 1, the commissioner of human services shall limit the recipient of general assistance medical care to the benefits payable under that prepaid health care plan to the extent that services available under general assistance medical care are also available under the prepaid health care plan.

(c) Upon furnishing general assistance medical care or general assistance to any person having private accident or health care coverage, or having a cause of action arising out of an occurrence that necessitated the payment of assistance, the state agency shall be subrogated, to the extent of the cost of medical care, subsistence, or other payments furnished, to any rights the person may have under the terms of the coverage or under the cause of action.

This right of subrogation includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

(d) To recover under this section, the attorney general or the appropriate county attorney, acting upon direction from the attorney general, may institute or join a civil action to enforce the subrogation rights established under this section.

(e) The state agency must be given notice of monetary claims against a person, firm, or corporation that may be liable in damages, or otherwise obligated to pay part or all of the costs related to an injury when the state agency has paid or become liable for the cost of care or payments related to the injury. Notice must be given as follows:

(i) Applicants for general assistance or general assistance medical care shall notify the state or local agency of any possible claims when they submit the application. Recipients of general assistance or general assistance medical care shall notify the state or local agency of any possible claims when those claims arise.

(ii) A person providing medical care services to a recipient of general assistance medical care 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.

(iii) A person who is party to a claim upon which the state agency may be entitled to subrogation under this section shall notify the state agency of its potential subrogation 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).

(f) Upon any judgment, award, or settlement of a cause of action, or any part of it, upon which the state agency has a subrogation right, including compensation for liquidated, unliquidated, or other damages, reasonable costs of collection, including attorney fees, must be deducted first. The full amount of general assistance or general assistance medical care 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 collection costs.

History: 1973 c 650 art 21 s 3; 1975 c 437 art 2 s 8; 1976 c 186 s 1; 1979 c 303 art 2 s 2; 1980 c 349 s 9; 1980 c 536 s 8-10; 1980 c 607 art 2 s 3; 1981 c 360 art 2 s 2 subd 4,34; 1Sp1981 c 2 s 16 subd 2; 1Sp1981 c 4 art 4 s 21; 1982 c 424 s 130; 1982 c 623 s 2; 1983 c 312 art 5 s 29-33; 1984 c 640 s 32; 1984 c 654 art 5 s 30,58; 1Sp1985 c 9 art 2 s 57,58; 1Sp1985 c 14 art 9 s 29; 1986 c 394 s 19; 1987 c 370 art 2 s 15; 1987 c 384 art 2 s 1; 1987 c 403 art 2 s 103-105; art 3 s 30; 1988 c 689 art 2 s 188,268; 1988 c 719 art 8 s 18,19

NOTE: Subdivisions 2 and 6, as amended by Laws 1988, chapter 719, article 8, sections 18 and 19, are effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256D.04 DUTIES OF THE COMMISSIONER.

In addition to any other duties imposed by law, the commissioner shall:

(1) Supervise according to section 256.01 the administration of general assistance and general assistance medical care by local agencies as provided in sections 256D.01 to 256D.21;

(2) Promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state; rules shall be furnished immediately to all local agencies and other interested persons; in promulgating rules, the provisions of sections 14.01 to 14.69, shall apply;

(3) Allocate money appropriated for general assistance and general assistance medical care to local agencies as provided in section 256D.03, subdivisions 2 and 3;

(4) Accept and supervise the disbursement of any funds that may be provided by the federal government or from other sources for use in this state for general assistance and general assistance medical care;

(5) Cooperate with other agencies including any agency of the United States or of another state in all matters concerning the powers and duties of the commissioner under sections 256D.01 to 256D.21;

(6) Cooperate to the fullest extent with other public agencies empowered by law to provide vocational training, rehabilitation, or similar services; and

(7) Gather and study current information and report at least annually to the governor and legislature on the nature and need for general assistance and general assistance medical care, the amounts expended under the supervision of each local agency, and the activities of each local agency and publish such reports for the information of the public.

History: 1973 c 650 art 21 s 4; 1977 c 301 s 3; 1980 c 536 s 11; 1981 c 360 art 2 s 35; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1988 c 719 art 8 s 20

NOTE: This section, as amended by Laws 1988, chapter 719, article 8, section 20, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256D.05 ELIGIBILITY FOR GENERAL ASSISTANCE.

Subdivision 1. Eligibility. (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a permanent or temporary illness, injury, or incapacity which is medically certified and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) a person who is or may be eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;

(6) a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program;

(7) a person not described in clause (1) or (3) who is diagnosed by a licensed

physician or licensed consulting psychologist as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

(8) a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, or who has been terminated from either program and has an appeal from that termination pending;

(9) a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

(10) a person completing a secondary education program;

(11) a family with one or more minor children; provided that, if all the children are six years of age or older, all the adult members of the family register for and cooperate in the work readiness program under section 256D.051; and provided further that, if one or more of the children are under the age of six and if the family contains more than one adult member, all the adult members except one adult member register for and cooperate in the work readiness program under section 256D.051. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination. The time limits of section 256D.051, subdivisions 4 and 5, do not apply to people eligible under this clause;

(12) a person who has substantial barriers to employment, including but not limited to factors relating to work or training history, as determined by the local agency in accordance with permanent or emergency rules adopted by the commissioner after consultation with the commissioner of jobs and training;

(13) a person who is certified by the commissioner of jobs and training before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment, as defined in a permanent or emergency rule adopted by the commissioner of jobs and training in consultation with the commissioner;

(14) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled;

(15) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate, provided that the person complies with literacy training requirements set by the local agency under section 256D.052. A person who is terminated for failure to comply with literacy training requirements may not reapply for assistance under this clause for 60 days. The local agency must provide an oral explanation to the person of the person's responsibilities under this clause, the penalties for failure to comply, the agency's duties under section 256D.0505, subdivision 2, and the person's right to appeal (1) at the time an application is approved based on this clause, and (2) at the time the person is referred to literacy training; or

(16) a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the local agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the local agency.

(b) The following persons or families with income and resources that are less than the standard of assistance established by the commissioner are eligible for and entitled to a maximum of six months of general assistance during any consecutive 12-month period, after registering with and completing six months in a work readiness program under section 256D.051:

(1) a person who has borderline mental retardation; and

(2) a person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under paragraph (a), because the mental illness interferes with the medical certification process; provided that the person cooperates with social services, treatment, or other plans developed by the local agency to address the illness.

In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency.

Subd. 1a. [Repealed, 1983 c 312 art 8 s 17]

Subd. 2. **Use of federal funds.** Notwithstanding any law to the contrary, if any person otherwise eligible for general assistance would, but for state statutory restriction or limitation, be eligible for a federally aided assistance program providing benefits equal to or greater than those of general assistance, the person shall be eligible for that federally aided program and ineligible for general assistance; provided, however, that (a) nothing in this section shall be construed to extend eligibility for federally aided programs to persons not otherwise eligible for general assistance; (b) this section shall not be effective to the extent that federal law or regulation require new eligibility for federal programs to persons not otherwise eligible for general assistance; and (c) nothing in this section shall deny general assistance to a person otherwise eligible who is determined ineligible for a substitute federally aided program.

Subd. 3. **Residents of shelter facilities.** Notwithstanding the provisions of subdivisions 1 and 2, general assistance payments shall be made for maintenance costs and security costs which are related to providing 24-hour staff coverage at the facility incurred as a result of residence in a secure crisis shelter, a housing network, or other shelter facilities which provide shelter services to women and their children who are being or have been assaulted by their spouses, other male relatives, or other males with whom they are residing or have resided in the past.

These payments shall be made directly to the shelter facility from general assistance funds on behalf of women and their children who are receiving, or who are eligible to receive, aid to families with dependent children or general assistance.

In determining eligibility of women and children for payment of general assistance under this subdivision, the asset limitations of the aid to families with dependent children program shall be applied. Payments to shelter facilities shall not affect the eligibility of individuals who reside in shelter facilities for aid to families with dependent children or general assistance or payments made to individuals who reside in shelter facilities through aid to families with dependent children or general assistance, except when required by federal law or regulation.

Subd. 3a. **Shelter facility's right to appeal.** A facility providing shelter for women and their children may appeal a decision of a local agency arising from a request for payment pursuant to subdivision 3. To appeal, the shelter facility shall submit a written appeal request within 30 days of receiving notice of the commissioner's refusal to issue payment pursuant to section 256.01, subdivision 2, paragraph (16). The appeal shall be heard by an administrative law judge according to sections 14.48 to 14.62, except that the report of the administrative law judge is binding on all parties. Within 15 days of receipt of a written appeal request from a shelter facility, the local agency shall file a request for assignment of a judge together with a notice of and order for hearing proposed to be issued. The record in the contested case proceeding shall not include any evidence, including records and documents, developed by the commissioner in the commissioner's review, pursuant to section 256.01, subdivision 2, paragraph (16).

Subd. 4. **Consent to review records.** No person shall be eligible for general assistance medical care unless the person has authorized the commissioner of human services in writing to examine all personal medical records developed while receiving general assistance for the purpose of investigating whether or not a vendor has submitted a claim for reimbursement, a cost report or a rate application which the vendor knows to be false in whole or in part, or in order to determine whether or not the

medical care provided was medically necessary. The vendor of medical care shall receive notification from the commissioner at least 24 hours before the commissioner gains access to such records. A vendor of medical care shall require presentation of this authorization before the state agency can obtain access to such records unless the vendor already has received written authorization. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner pursuant to this subdivision.

Subd. 5. Transfers of property. The equity value of real and personal property transferred without reasonable compensation within 12 months preceding the date of application for general assistance must be included in determining the resources of an assistance unit in the same manner as in the aid to families with dependent children program under chapter 256.

History: 1973 c 650 art 21 s 5; 1974 c 297 s 2; 1977 c 428 s 7; 1980 c 349 s 10; 1980 c 544 s 1; 1981 c 360 art 2 s 36,54; 1Sp1981 c 4 art 4 s 22,23; 1982 c 633 s 8,9; 1983 c 312 art 1 s 27; 1984 c 654 art 5 s 58; 1Sp1985 c 9 art 2 s 59; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 270 s 2; 1987 c 384 art 3 s 5; 1987 c 403 art 2 s 106; art 3 s 31

256D.051 WORK READINESS PROGRAM.

Subdivision 1. Work registration. A person, family, or married couple whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivision 3. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration.

Subd. 2. Local agency duties. (a) The local agency shall provide to registrants under subdivision 1 a work readiness program. The work readiness program must include:

- (1) an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment;
- (2) referral to available employment assistance programs including the Minnesota employment and economic development program;
- (3) a job search program; and
- (4) other activities designed by the local agency to prepare the registrant for permanent employment.

In order to allow time for job search, the local agency shall not require an individual to participate in the work readiness program for more than 32 hours a week. The local agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) The local agency may provide a work readiness program to recipients under section 256D.05, subdivision 1, paragraph (b) and shall provide a work readiness program to recipients referred under section 256D.052, subdivision 5, paragraph (b).

Subd. 3. Registrant duties. In order to receive work readiness assistance, a registrant shall cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options. The local agency may terminate assistance to a registrant who fails to cooperate in the work readiness program. A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible.

Subd. 4. [Repealed, 1987 c 403 art 2 s 164]

Subd. 5. [Repealed, 1987 c 403 art 2 s 164]

Subd. 6. **Local agency options.** The local agency may, at its option, provide up to \$200 for each registrant who has completed an employment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. After paying direct expenses as needed by individual registrants, the local agency may use any remaining money to provide additional services as needed by any registrant including education, orientation, placement, other work experience, on-the-job training, and other appropriate activities.

Subd. 6a. **County match and use of funds.** Each county shall provide a 25 percent match for direct participation expenses and administrative costs of providing work readiness services. Funds may be used for the following direct participation expenses: transportation, clothes, tools, and other necessary work-related expenses. Funds may be used for administrative costs incurred providing the following services: employability assessments and employability development plans, employment search assistance, education, orientation, placement, on-the-job training, and other appropriate activities.

Subd. 7. **Registrant status.** A registrant under this section is not an employee for the purposes of workers' compensation, unemployment insurance compensation, retirement, or civil service laws, and shall not perform work ordinarily performed by a regular public employee.

Subd. 8. **Voluntary quit.** A person is not eligible for work readiness payments or services if, without good cause, the person refuses a legitimate offer of suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving work readiness payments or services shall be disqualified for two months according to rules adopted by the commissioner.

Subd. 9. **Subcontractors.** A local agency may, at its option, subcontract any or all of the duties under subdivision 2.

Subd. 10. **State aid.** State aid shall be paid to local agencies according to the formula in section 256D.03, subdivision 2, for the costs of providing assistance under this section.

Subd. 11. [Repealed, 1987 c 403 art 2 s 164]

Subd. 12. [Repealed, 1987 c 403 art 2 s 164]

Subd. 13. **Right to notice and hearing.** The local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. A determination made under subdivision 1, that a person is not eligible for general assistance is a denial of general assistance for purposes of notice, appeal, and hearing requirements. The local agency must notify the person that this determination will result in a limit on the number of months of assistance for which the person will be eligible.

Subd. 14. **Rulemaking.** In consultation with local agencies, the commissioner may adopt permanent and emergency rules to implement this section. The rules must facilitate the employment and training of participants.

History: *1Sp1985 c 9 art 2 s 60; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 403 art 3 s 33-37*

256D.052 LITERACY TRAINING FOR RECIPIENTS.

Subdivision 1. **Occupational and vocational programs.** The local agency must work with local educational institutions and job training programs in the identification, development, and utilization of occupational and vocational literacy programs for general assistance recipients. Occupational and vocational literacy programs are programs which provide literacy training to adults who lack formal education or job skills. The programs emphasize particular language and reading skills needed for successful job performance.

Subd. 2. Assessment and assignment. The local agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of people eligible under section 256D.05, subdivision 1, paragraph (a), clause (15);

(2) assign suitable recipients to openings in occupational and vocational literacy programs;

(3) if no openings are available in accessible occupational or vocational literacy programs, assign suitable recipients to openings in other accessible literacy training programs; and

(4) reassign to another accessible literacy program any recipient who does not complete an assigned program and who wishes to try another program.

Subd. 3. Services provided. The local agency must provide child care and transportation to enable people to participate in literacy training under this section.

Subd. 4. Payment of general assistance. The local agency must provide assistance under section 256D.05, subdivision 1, paragraph (a), clause (15) to people who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals;

(2) despite participation for a period of six months or more, fail to progress in assigned literacy programs;

(3) are not assigned to literacy training because there is no program available or accessible to them; or

(4) have failed for good cause to complete an assigned literacy program.

Subd. 5. Reassessment and literacy referral. (a) When a person is no longer functionally illiterate under rules adopted by the commissioner or is terminated for failure to comply with literacy training requirements, the local agency must assess the person's eligibility for general assistance under the remaining provisions of section 256D.05, subdivision 1, paragraph (a). The local agency must refer to the work readiness program under section 256D.051 all people not eligible for general assistance.

(b) The local agency may also refer for voluntary work readiness services all recipients who reach a level of literacy that may allow successful participation in job training, provided that the job training does not interfere with a recipient's participation in literacy training. However, referral under this clause does not affect general assistance eligibility.

Subd. 6. Right to notice and hearing. The local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101.

Subd. 7. Costs. The state shall reimburse local agencies for the costs of providing transportation under this section. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training. A recipient who is unable to obtain affordable child care is not required to participate in literacy training.

Counties must identify literacy programs and services available through educational institutions and are required to provide additional services within the limits of available appropriations.

History: 1987 c 403 art 3 s 32

256D.06 AMOUNT OF ASSISTANCE.

Subdivision 1. General assistance shall be granted in an amount that when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance for general assistance. In determining eligibility for and the amount of assistance for an individual or married couple, the local agency shall disregard the first \$50 of earned income per month.

Subd. 1a. [Repealed, 1983 c 312 art 8 s 17]

Subd. 1b. **Earned income savings account.** In addition to the \$50 disregard required under subdivision 1, the local agency shall disregard an additional earned income up to a maximum of \$150 per month for persons residing in facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690 and 9530.2500 to 9530.4000, and for whom discharge and work are part of a treatment plan and for persons living in supervised apartments with services funded under Minnesota Rules, parts 9535.0100 to 9535.1600, and for whom discharge and work are part of a treatment plan. The additional amount disregarded must be placed in a separate savings account by the eligible individual, to be used upon discharge from the residential facility into the community. A maximum of \$1,000, including interest, of the money in the savings account must be excluded from the resource limits established by section 256D.08, subdivision 1, clause (1). Amounts in that account in excess of \$1,000 must be applied to the resident's cost of care. If excluded money is removed from the savings account by the eligible individual at any time before the individual is discharged from the facility into the community, the money is income to the individual in the month of receipt and a resource in subsequent months. If an eligible individual moves from a community facility to an inpatient hospital setting, the separate savings account is an excluded asset for up to 18 months. During that time, amounts that accumulate in excess of the \$1,000 savings limit must be applied to the patient's cost of care. If the patient continues to be hospitalized at the conclusion of the 18-month period, the entire account must be applied to the patient's cost of care.

Subd. 1c. **Eligibility of families.** Notwithstanding any other provisions of sections 256D.01 to 256D.22, general assistance for an assistance unit consisting of members of a family must be granted in an amount that is equal to the amount of assistance which would be paid to an aid to families with dependent children assistance unit which has the same size, composition, income, and other circumstances relevant to the computation of an AFDC grant. Income for an assistance unit consisting of members of a family applying for or receiving general assistance must be determined in the same manner as for persons applying for or receiving aid to families with dependent children, except that the first \$50 per month of total child support paid on behalf of family members is excluded and the balance is counted as unearned income, and nonrecurring lump sums received by the family shall be considered income in the month received and a resource thereafter.

Subd. 2. Notwithstanding the provisions of subdivision 1, a grant of general assistance shall be made to an eligible individual, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist and the individual is ineligible for the program of emergency assistance under aid to families with dependent children and is not a recipient of aid to families with dependent children at the time of application hereunder. If a recipient relates facts to the local agency which may be sufficient to constitute an emergency situation, the local agency shall advise the recipient of the procedure for applying for assistance pursuant to this subdivision.

Subd. 3. When a general assistance grant is used to pay a negotiated rate for a recipient living in a room and board arrangement or congregate living care, or when a recipient is living in a state hospital or nursing home, the recipient shall receive an allowance for clothing and personal needs and the allowance shall not be less than that authorized for a medical assistance recipient pursuant to section 256B.35.

Subd. 4. When a general assistance grant is used to pay a negotiated rate for a recipient living in a licensed or certified facility, the rate payable hereunder to that facility shall be no more than that paid by an individual not receiving general assistance.

Subd. 5. Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits within 30 days of the general assistance application; and (b) execute an interim assistance authorization agreement on a form as directed by the commissioner.

If found eligible for benefits from other sources, and a payment received from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the local agency for the interim assistance paid. Reimbursement shall not exceed the amount of general assistance paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period. The commissioner shall adopt rules, and may adopt emergency rules, authorizing local agencies to retain from the amount recovered under an interim assistance agreement 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation, of providing special assistance to the recipient in processing the recipient's claim for maintenance benefits from another source. The money retained under this section shall be from the state share of the recovery. The local agency may contract with qualified persons to provide the special assistance. The rules adopted by the commissioner shall include the methods by which local agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled. This subdivision does not require repayment of per diem payments made to shelters for battered women pursuant to section 256D.05, subdivision 3.

Subd. 6. General assistance funds may be paid to cover the room and board needs of persons who are eligible for general assistance and who are placed by the county in a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care.

History: 1973 c 650 art 21 s 6; 1977 c 301 s 4; 1980 c 536 s 12,13; 1980 c 614 s 131; 1981 c 360 art 2 s 37,38; 1983 c 312 art 8 s 7; 1984 c 640 s 32; 1984 c 641 s 25; 1984 c 654 art 5 s 31; 1985 c 252 s 25; 1987 c 403 art 3 s 38-40; 1988 c 689 art 2 s 189-191

256D.07 TIME OF PAYMENT OF ASSISTANCE.

An applicant for general assistance or general assistance medical care authorized by section 256D.03, subdivision 3, shall be deemed eligible if the application and the verification of the statement on that application demonstrate that the applicant is within the eligibility criteria established by sections 256D.01 to 256D.21 and any applicable rules of the commissioner. Any person requesting general assistance or general assistance medical care shall be permitted by the local agency to make an application for assistance as soon as administratively possible and in no event later than the fourth day following the date on which assistance is first requested, and no local agency shall require that a person requesting assistance appear at the offices of the local agency more than once prior to the date on which the person is permitted to make the application. The application shall be in writing in the manner and upon the form prescribed by the commissioner and attested to 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." On the date that general assistance is first requested, the local agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other emergency assistance pursuant to section 256D.06, subdivision 2. A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue until either the person is determined to be ineligible for general assistance or the first grant of general assistance is paid to the person. A determination of an applicant's eligibility for general assistance shall be made by the local agency as soon as the required verifications are received by the local agency and in no event later than 30 days following the date that the application is made. Any verifications required of the applicant shall be reasonable, and the commissioner shall by rule establish reasonable verifications. General assistance shall be granted to an eligible applicant without the necessity of first securing action by the board of the local agency. The first month's grant must be computed to cover the time period starting with the date a signed application form is received by the local agency or from the date that the applicant

meets all eligibility factors, whichever occurs later. The first grant may be reduced by the amount of emergency general assistance provided to the applicant.

If upon verification and due investigation it appears that the applicant provided false information and the false information materially affected the applicant's eligibility for general assistance or general assistance medical care provided pursuant to section 256D.03, subdivision 3, or the amount of the applicant's general assistance grant, the local agency may refer the matter to the county attorney. The county attorney may commence a criminal prosecution or a civil action for the recovery of any general assistance wrongfully received, or both.

History: 1973 c 650 art 21 s 7; 1979 c 237 s 1; 1980 c 536 s 14; 1981 c 40 s 1; 1986 c 444; 1988 c 689 art 2 s 192

256D.08 EXCLUSION FROM RESOURCES.

Subdivision 1. In determining eligibility of a family, married couple, or individual there shall be excluded the following resources:

(1) Real or personal property or liquid assets which do not exceed those permitted under the federally aided assistance program known as aid to families with dependent children; and

(2) Other property which has been determined, in accordance with and subject to limitations contained in rules promulgated by the commissioner, to be essential to the family or individual as a means of self-support or self-care or which is producing income that is being used for the support of the individual or family. The commissioner shall further provide by rule the conditions for those situations in which property not excluded under this subdivision may be retained by the family or individual where there is a reasonable probability that in the foreseeable future the property will be used for the self-support of the individual or family; and

(3) Payments, made pursuant to litigation and subsequent appropriation by the United States Congress, of funds to compensate members of Indian tribes for the taking of tribal land by the federal government.

Subd. 2. Notwithstanding any other provision of sections 256D.01 to 256D.21, the commissioner shall provide by rule for the exclusion of property from the determination of eligibility for general assistance when it appears likely that the need for general assistance will not exceed 30 days or an undue hardship would be imposed on an individual or family by the forced disposal of the property.

History: 1973 c 650 art 21 s 8; 1979 c 250 s 2; 1980 c 536 s 15,16; 1987 c 403 art 3 s 41

256D.09 FORM OF PAYMENT; VENDOR PAYMENTS.

Subdivision 1. **Presumptive eligibility; vendor payments.** Until the local agency has determined the initial eligibility of the applicant in accordance with section 256D.07 or 256D.051, grants for emergency general assistance and work readiness assistance must be in the form of vouchers or vendor payments unless the local agency determines that a cash grant will best resolve the applicant's need for emergency assistance. Thereafter, grants of general assistance must be paid in cash on the first day of the month, except as allowed in this section.

Subd. 2. Notwithstanding the provisions of subdivision 1, the commissioner shall provide by rule, and may adopt emergency rules, for situations in which vouchers or vendor payments may be issued by local agencies because of the inability of the recipient to manage a general assistance grant for personal or family benefit.

Subd. 2a. **Representative payee.** Notwithstanding subdivision 1, the commissioner shall adopt rules, and may adopt emergency rules, governing the assignment of a representative payee and management of the general assistance grant of a drug dependent person as defined in section 254A.02, subdivision 5. The representative payee is responsible for deciding how the drug dependent person's benefits can best be used to meet that person's needs. The determination of drug dependency must be made by an

assessor qualified under Minnesota Rules, part 9530.6615, subpart 2, to perform an assessment of chemical use. Upon receipt of the assessor's determination of drug dependency, the county shall determine whether a representative payee will be assigned to manage the person's benefits. The chemical use assessment and the county determination are subject to the administrative and judicial review provisions of section 256.045. If, at the time of application or at any other time, there is a reasonable basis for questioning whether a person can responsibly manage that person's money due to possible drug dependency, the person may be referred for a chemical health assessment, and only emergency assistance payments or general assistance vendor payments may be provided until the assessment is complete. The assignment to representative payee status must be reviewed at least every 12 months. The county shall designate the representative payee after consultation with the recipient. The designation of representative payee is subject to the administrative and judicial review provisions of section 256.045.

Subd. 3. Employment funded by grant diversion. Notwithstanding the provisions of subdivision 1, the commissioner of jobs and training shall establish by rule a grant diversion process for payment of all or a part of a recipient's grant or work readiness assistance payment to a private or nonprofit employer who agrees to employ the recipient in a permanent job or to a public employer who agrees to employ the recipient in a permanent job or an approved community investment program. The commissioner of jobs and training shall design the program to provide, to the extent possible, employment or employment-related training that will enable recipients to become self-supporting. A recipient shall be eligible for general assistance medical care during the term of the grant diversion contract to the extent that medical care coverage is not provided by the employer. Any rule adopted by the commissioner of jobs and training:

(a) shall require the local agencies to administer and deliver the grant diversions directly or to contract for the delivery of the program according to section 268.871;

(b) shall require that grants or work readiness assistance payments paid to employers be paid pursuant to a written grant diversion contract;

(c) shall determine the amount of the grant or work readiness assistance payment to be paid to the employer and the term of the grant diversion contract;

(d) shall establish standards to ensure that recipients hired pursuant to grant diversion contracts do not displace other workers;

(e) shall provide for the amount of the wage to be paid to the recipient, which shall not be less than the minimum wage and shall be the usual and customary wage for comparable jobs with the employers;

(f) shall require that the job provide sufficient hours of work each month to provide a net monthly wage equal to or exceeding the difference between the amount of the grant or work readiness assistance payment retained by the recipient and 150 percent of the recipient's monthly grant or work readiness assistance payment standard if the recipient were not employed; and

(g) may establish other terms and conditions for the operation of the grant diversion process.

Subd. 4. Temporary shelter and food. The local agency may provide general assistance, emergency general assistance, or work readiness assistance in the form of vouchers or vendor payments to an applicant or recipient who does not have a residence address. The local agency may provide separate vouchers or vendor payments for food, shelter, and other needs and may divide the monthly assistance standard into daily or weekly payments, whether in cash or by voucher or vendor payment, until the applicant or recipient has secured a permanent residence.

History: 1973 c 650 art 21 s 9; 1980 c 536 s 17; 1981 c 40 s 2; 1983 c 312 art 8 s 8,9; 1984 c 640 s 32; 1Sp1985 c 9 art 2 s 61,62; 1Sp1985 c 14 art 9 s 30; 1986 c 444; 1988 c 506 s 1

256D.10 HEARINGS PRIOR TO REDUCTION; TERMINATION; SUSPENSION OF GENERAL ASSISTANCE GRANTS.

No grant of general assistance except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the local agency.

Nothing herein shall deprive a recipient of the right to full administrative and judicial review of an order or determination of a local agency as provided for in section 256.045 subsequent to any action taken by a local agency after a prior hearing.

History: 1973 c 650 art 21 s 10; 1980 c 509 s 103; 1980 c 536 s 18; 1986 c 444

256D.101 FAILURE TO COMPLY WITH WORK REQUIREMENTS; NOTICE.

Subdivision 1. Disqualification. If the local agency determines that a registrant has failed to comply with the requirements of section 256D.051, the local agency shall notify the registrant of the determination. The notification shall be in writing and shall state the facts that support the local agency's determination. For the first two times in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall specify the particular actions that must be taken by the registrant to achieve compliance; shall state that the recipient must take the specified actions by a date certain, which must be at least ten days following the date the notification is mailed or delivered to the registrant; shall explain the ramifications of the registrant's failure to take the required actions by the specified date; and shall advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification. A registrant who fails without good cause to comply with requirements of the program more than two times in a six-month period must be notified of termination.

Subd. 2. Notice of grant reduction, suspension, or termination. The notice of grant reduction, suspension, or termination on the ground that a registrant has failed to comply with section 256D.051 shall be mailed or hand delivered by the local agency concurrently with the notification required by subdivision 1. Prior to giving the notification, the local agency must assess the registrant's eligibility for general assistance under section 256D.05 to the extent possible using information contained in the case file, and determine that the registrant is not eligible under that section. The determination that the registrant is not eligible shall be stated in the notice of grant reduction, suspension, or termination.

Subd. 3. Benefits after notification. Assistance payments otherwise due to the registrant under section 256D.051 shall not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant reduction, suspension, or termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal.

History: 1Sp1985 c 9 art 2 s 63; 1987 c 403 art 3 s 42

256D.11 [Repealed, 1981 c 360 art 2 s 52]**256D.111 REGISTRATION FOR WORK; DISQUALIFICATION.**

Subdivision 1. [Repealed, 1Sp1985 c 9 art 2 s 104]

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

Subd. 2. [Repealed, 1Sp1985 c 9 art 2 s 104]

Subd. 3. [Repealed, 1Sp1985 c 9 art 2 s 104]

Subd. 4. [Repealed, 1Sp1985 c 9 art 2 s 104]

Subd. 5. **Rulemaking.** The commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for the disqualification from the receipt of general assistance or work readiness assistance for a recipient who has been finally determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a recipient described in clause (a) or section 256D.09, subdivision 4; and

(c) providing that at the time of the approval of an application for assistance, the local agency gives to the recipient a written notice in plain and easily understood language describing the recipient's job registration, search, and acceptance obligations, and the disqualification that will be imposed for a failure to comply with those obligations.

History: 1983 c 312 art 8 s 10; 1984 c 640 s 32; 1984 c 654 art 5 s 32-35; 1Sp1985 c 9 art 2 s 64

256D.112 [Repealed, 1983 c 312 art 8 s 18; 1Sp1985 c 14 art 9 s 78 subd 1]

256D.113 EMPLOYMENT EXPERIENCE PROGRAM.

Subdivision 1. Creation and purpose. A county that does not have an approved community investment program may, in cooperation with the commissioner of jobs and training, establish a locally administered employment experience program for persons receiving work readiness assistance. The purpose of the program is to help recipients achieve self-sufficiency by enhancing their employability through training and work experience.

Subd. 2. Commissioner of jobs and training. The commissioner of jobs and training shall assist counties in the design, implementation, and evaluation of the employment experience program. The commissioner of jobs and training may make emergency and permanent rules to carry out this section.

Subd. 3. Responsibility; county boards of commissioners. A county may establish an employment experience program and may assign work to the recipient that the recipient is able to perform. Work performed through this program must not displace persons currently employed or fill an established vacant position. The county must provide workers' compensation or other comparable protection for an employment experience participant. A participant is not eligible for unemployment compensation, and is not an employee of the state of Minnesota within the meaning of section 43A.02, subdivision 21.

Subd. 4. Participation requirements. A county may require a registrant under section 256D.051 to participate in an employment experience program. If possible, the recipient must be placed in other employment and training services, including grant diversion or training, before placement in an employment experience program. The county may terminate assistance payments provided for by this chapter for a recipient who may be required to participate in an employment experience program but who refuses to participate in an employment experience program or other employment and training services.

Subd. 5. Participant reimbursement. A participant is required to participate in an employment experience program for no more than the number of hours equal to the work readiness assistance payment divided by the state minimum wage. A county shall provide transportation, child care, and work related expenses according to standards prescribed by the commissioner of jobs and training.

History: 1Sp1985 c 14 art 9 s 31; 1986 c 444

256D.12 [Repealed, 1976 c 131 s 2]

256D.13 MANDAMUS TO COMPEL PAYMENT OF GENERAL ASSISTANCE.

Subdivision 1. Notwithstanding the provisions of section 256.045 providing for administrative and judicial review of local agency determinations, a person denied general assistance by the local agency may apply to the district court of the county in which the person's application was filed and the district court shall order the payment of general assistance if the person establishes:

- (1) The substantial likelihood of eligibility for and entitlement to general assistance, and
- (2) The person or family will suffer irreparable injury if general assistance is not granted without delay.

Subd. 2. The denial by a district court of a writ of mandamus shall not affect the right or scope of administrative or judicial review as set forth in section 256.045.

History: 1973 c 650 art 21 s 13; 1980 c 509 s 104; 1980 c 536 s 27; 1986 c 444

256D.14 VIOLATIONS.

Whoever obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, or by the intentional withholding or concealment of a material fact, or by impersonation, or other fraudulent device:

- (1) Assistance to which the person is not entitled; or
 - (2) Assistance greater than that to which the person is reasonably entitled;
- shall be considered to have violated section 256.98, and shall be subject to both the criminal and civil penalties provided therein.

History: 1973 c 650 art 21 s 14; 1981 c 360 art 2 s 39; 1986 c 444

256D.15 RELATIVE'S RESPONSIBILITY.

The financial responsibility of a relative for an applicant for or recipient of general assistance or work readiness shall not extend beyond the relationship of a spouse or a parent of an adult child who resides with the parent, or the parent of a minor child regardless of where the minor child resides, or a family member who resides with the applicant or recipient.

History: 1973 c 650 art 21 s 15; 1984 c 654 art 5 s 37; 1987 c 403 art 3 s 43

256D.16 GENERAL ASSISTANCE TO BE ALLOWED AS CLAIM IN PROBATE COURT.

On the death of any person who received any general assistance under sections 256D.01 to 256D.21, or on the death of the survivor of a married couple, either or both of whom received general assistance, the total amount paid as general 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.

History: 1973 c 650 art 21 s 16; 1980 c 536 s 28

256D.17 DATA PROCESSING PROCEDURES.

The local agency shall, to the extent permitted by federal law or regulation, in addition to any other necessary records and procedures, provide for the inclusion of all general assistance records in any data processing system established for the medical assistance program, in accordance with procedures established by the commissioner.

History: 1973 c 650 art 21 s 17

256D.18 [Repealed, 1987 c 363 s 14]

256D.19 ABOLITION OF TOWNSHIP SYSTEM OF POOR RELIEF.

Subdivision 1. The town system for caring for the poor in each of the counties in which it is in effect is hereby abolished. The county welfare board of each county shall

administer general assistance under the provisions of Laws 1973, chapter 650, article 21.

Subd. 2. All county welfare boards affected by Laws 1973, chapter 650, article 21 are hereby authorized to take over for the county as of January 1, 1974, the ownership of all case records relating to the administration of poor relief.

History: 1973 c 650 art 21 s 19

256D.20 TRANSFER OF TOWN EMPLOYEES.

Subdivision 1. The term "merit system" as used herein shall mean the rules for a merit system of personnel administration for employees of county welfare boards adopted by the commissioner of human services in accordance with the provisions of section 393.07, including the merit system established for Hennepin county pursuant to Laws 1965, chapter 855, as amended, the federal social security article as amended, and merit system standards and regulations issued by the federal social security board and the United States children's bureau.

Subd. 2. All employees of any municipality or town who are engaged full time in poor relief work therein on January 1, 1974 shall be retained as employees of the county and placed under the jurisdiction of its welfare board.

All transferred employees shall be blanketed into the merit system with comparable status, classification, longevity, and seniority, and subject to the administrative requirements of the county welfare board. Employees with permanent status under any civil service provision on January 1, 1974 shall be granted permanent status under the merit system at comparable classifications and in accordance with work assignments made under the authority of the county welfare board as provided by the merit system rules.

The determination of proper job allocation shall be the responsibility of the personnel officer or director as provided under merit system rules applicable to the county involved with the right of appeal of allocation to the merit system council or personnel board by any employee affected by this transfer.

All transferred employees shall receive salaries for the classification to which they are allocated in accordance with the schedule in effect for county welfare board employees and at a salary step which they normally would have received had they been employed by the county welfare board for the same period of service they had previously served under the civil service provisions of any municipality or town; provided, however, that no salary shall be reduced as a result of the transfer.

All accumulated sick leave of transferred employees in the amount of 60 days or less shall be transferred to the records of the county welfare board and such accumulated sick leave shall be the legal liability of the county welfare board. All accumulated sick leave in excess of 60 days shall be paid in cash to transferred employees by the municipality or town by which they were employed prior to their transfer, at the time of transfer. In lieu of the cash payment, the municipality or town shall, at the option of the employee concerned, allow a leave of absence with pay, prior to transfer, for all or part of the accumulated sick leave.

Subd. 3. Employees of municipalities and towns engaged in the work of administering poor relief who are not covered by civil service provisions shall be blanketed into the merit system subject to a qualifying examination. Employees with one year or more service shall be subject to a qualifying examination and those with less than one year's service shall be subject to an open competitive examination.

Subd. 4. All vacation leave of employees referred to in subdivision 2, accumulated prior to their transfer to county employment shall be paid in cash to them by the municipality or town by which they were employed prior to their transfer, and at the time of their transfer. In lieu of the cash payment, the municipality or town shall, at the option of the employee concerned, allow a leave of absence with pay, prior to such transfer, for all or part of the accumulated vacation time.

History: 1973 c 650 art 21 s 20; 1984 c 654 art 5 s 58

256D.21 CONTINUATION OF RETIREMENT SYSTEM FOR FORMER MINNEAPOLIS EMPLOYEES.

Subdivision 1. Each employee of the city of Minneapolis who is transferred to and employed by the county under the provisions of section 256D.20 and who is a contributing member of a retirement system organized under the provisions of chapter 422A, shall continue to be a member of that system and entitled to all of the benefits conferred thereby and subject to all the restrictions of chapter 422A, unless the member applies to cancel membership within six months after January 1, 1974.

Subd. 2. The cost to the public of that portion of the retirement allowances or other benefits accrued while any such employee was in the service of the city of Minneapolis shall remain an obligation of the city and a tax shall be levied and collected by it to discharge its obligation as provided by chapter 422A.

Subd. 3. The cost to the public of the retirement allowances or other benefits accruing to employees so transferred to and employed by the county shall be the obligation of and paid by the county at such time as the retirement board shall fix and determine in accordance with chapter 422A. The county shall pay to the municipal retirement fund an amount certified to the county auditor of the county by the retirement board as the cost of the retirement allowances and other benefits accruing and owing to such county employees. The cost to the public of the retirement allowances as herein provided shall be paid from the county revenue fund by the county auditor upon receipt of certification from the retirement board as herein provided, and the county board is authorized to levy and collect such taxes as may be necessary to pay such costs.

History: 1973 c 650 art 21 s 21; 1976 c 239 s 82; 1986 c 444

256D.22 REIMBURSEMENT OF COUNTIES BY STATE RELATING TO PUBLIC ASSISTANCE.

Subdivision 1. **Distribution formula.** Beginning July 1, 1988, and to the extent of appropriations available, the commissioner of human services shall reimburse counties' administrative costs in the following manner:

(a) 50 percent of the available appropriation shall be distributed to counties as reimbursement for up to 50 percent of all salary expenses, approved by the commissioner, incurred and paid by the counties, for which no payment or reimbursement is made by the United States or any subdivision thereof, in administering, and salary administrative costs in providing services in connection with, all public assistance programs.

(b) 25 percent of the available appropriation shall be distributed to counties based on each county's proportionate share of the state's aid to families with dependent children and medical assistance caseloads; provided, however, that each county's share shall be reduced by a direct percentage equal to the sum of that county's percentage of overdue aid to families with dependent children eligibility reviews added to that county's percentage of overdue quarterly asset reviews for medical assistance eligibility, as calculated for the quarter immediately preceding each quarter in which this payment is made. Any money accruing as a result of these reductions shall be rolled over and distributed as provided for in this paragraph during the next quarterly payment.

(c) 25 percent of the available appropriation shall be distributed to counties based on each county's proportionate share of the state's total number of children served under the community social services act as calculated for the quarter immediately preceding each quarter in which this payment is made; provided, however, that a county's share shall be reduced by a direct percentage equal to the county's percentage increase in child out-of-home placement days above the number of child out-of-home placement days for the quarter immediately preceding the quarter in which this payment is calculated. Any money accruing as a result of reductions in county shares shall be rolled over and distributed as provided in this paragraph during the next quarterly payment.

Subd. 2. Exceptions. No aid under this section shall be paid for salary costs of (a) single-county welfare directors; or (b) fiscal support personnel to the extent involved in the processing of public assistance claims and payments, or their supporting clerical staff; or (c) persons who are not regularly assigned employees of local agencies.

Subd. 3. Claims. Claims for reimbursement for expenditures made by the county shall be presented to the department by the respective counties at least four times per year in such manner as the commissioner shall prescribe.

Subd. 4. Definitions. For the purposes of this section, (a) the term "salary" shall include regular compensation not in excess of that paid similarly situated state employees, the employer's cost of health benefits and contributions to the appropriate retirement system, but shall not include travel or other reimbursable expenses; (b) the term "child out-of-home placement days" includes those days when a child is a resident in a regular treatment center, residential treatment facility, juvenile group home, foster home, or temporary emergency shelter home; and (c) the term "child" means a person under 21 years of age.

History: 1973 c 650 art 21 s 30; 1984 c 654 art 5 s 58; 1987 c 403 art 2 s 107

NOTE: The provisions of section 256D.22 are suspended during the fiscal year ending June 30, 1983 by Laws 1981, Third Special Session Chapter 2, Article 1, Section 2, Subdivision 4.

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.

256D.35 DEFINITIONS.

Subdivision 1. For the purposes of Laws 1974, chapter 487, the terms defined in this section shall have the meanings given them.

Subd. 2. "Supplemental security income" means benefits paid under the federal program of supplemental security income for the aged, blind, and disabled, Title XVI of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972.

Subd. 3. "Applicant for supplemental security income" means an individual who has applied for supplemental security income and who, but for excess income or resources, would be a recipient of supplemental security income.

Subd. 4. "Supplemental aid" means state and county payments to eligible applicants for or recipients of supplemental security income, in accordance with the provisions of Laws 1974, chapter 487 and rules promulgated by the commissioner of human services.

Subd. 5. "Commissioner" means the commissioner of human services or a designee.

Subd. 6. "Department" means the department of human services.

Subd. 7. "Local agency" means the county welfare boards in the several counties of the state except that it may also include any multicounty welfare boards or departments where those have been established in accordance with law.

Subd. 8. "Income" means earned and unearned income from any source whatsoever, reduced by amounts paid for federal and state personal income taxes and federal social security taxes.

Subd. 9. Homestead. "Homestead" means a shelter in which the individual or the spouse with whom the individual lives has an ownership interest, and that is the principal residence of the individual, spouse, or the individual's minor or disabled child. The home may be either real or personal property, fixed or mobile, and located on land or water. The home includes all the land that appertains to it and buildings located on that land.

History: 1974 c 487 s 1; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1986 c 444; 1988 c 689 art 2 s 193

NOTE: Subdivision 9, as added by Laws 1988, chapter 689, article 2, section 193, is effective February 1, 1989. See Laws 1988, chapter 689, article 2, section 270, subdivision 4.

256D.36 1973 CATEGORICAL AID RECIPIENTS; PROVISIONS FOR SUPPLEMENTAL AID.

Subdivision 1. Commencing January 1, 1974, the commissioner shall certify to each local agency the names of all county residents who were eligible for and did receive aid during December, 1973, pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. For the period from January 1 to June 30, the state shall pay 85 percent and the county shall pay 15 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, 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, the state agency shall pay 100 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. The amount of supplemental aid for each individual eligible under this section shall be calculated pursuant to the formula prescribed in title II, section 212 (a) (3) of Public Law Number 93-66, as amended.

Subd. 2. An individual eligible for supplemental aid under this section may renounce the right to aid under this section and become eligible for supplemental aid under the provisions of section 256D.37; or, the individual may retain eligibility under this section and have the amount of supplemental aid recalculated pursuant to the provisions of section 256D.38.

History: 1974 c 487 s 2; 1979 c 303 art 2 s 3; 1980 c 607 art 2 s 4; 1986 c 444; 1988 c 719 art 8 s 21

NOTE: Subdivision 1, as amended by Laws 1988, chapter 719, article 8, section 21, is effective January 1, 1990. See Laws 1988, chapter 719, article 8, section 37.

256D.37 NEW APPLICANTS AND RECIPIENTS; PROVISIONS FOR SUPPLEMENTAL AID.

Subdivision 1. (a) For all individuals who apply to the appropriate local agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in subdivision 2, the local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.

(b) When a recipient is an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, a resident of a state hospital or a dwelling with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs standard, or for special needs payments. The state standard of assistance for those recipients is the clothing and personal needs allowance for medical assistance recipients under section 256B.35. Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board for a licensed facility must not exceed \$800. The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter. The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a facility that only provides services to persons with mental retardation; and

(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080. Beginning July 1, 1987, the facilities under clause (1) are subject to applicable supplemental aid limits, and must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less. From the first of the month in which an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.

Subd. 2. **Resource standards.** The resource standards and restrictions for supplemental aid under this section shall be those used to determine eligibility for disabled individuals in the supplemental security income program.

Subd. 3. [Repealed, 1987 c 363 s 14]

Subd. 4. The commissioner shall make no payments under subdivision 1 to facilities licensed after August 1, 1987, which have more than four residents with a diagnosis of mental illness except for facilities specifically licensed to serve persons with mental illness. The commissioner of health shall monitor newly-licensed facilities and shall report to the commissioner of human services facilities that are not in compliance with this section.

Subd. 5. [Repealed, 1988 c 411 s 9]

Subd. 6. **Transfers.** (a) In determining the resources of an individual and an eligible spouse, if any, a person shall include a resource or interest that exceeds the limits set out in subdivision 2 and that was given away or sold for less than fair market value within the 24 months preceding application for Minnesota supplemental aid or during the period of eligibility.

(b) A transaction described in this subdivision is presumed to have been made to establish eligibility for benefits or assistance under this chapter unless the individual or eligible spouse gives convincing evidence to establish that the transaction was made exclusively for another purpose.

(c) For purposes of this subdivision, the value of a resource or interest is the fair market value when it was sold or given away, less the amount of compensation received.

(d) For any uncompensated transfer, the period of ineligibility must be calculated by dividing the amount of the uncompensated transferred amount by the statewide average monthly skilled nursing facility payment for the previous calendar year to determine the number of months of ineligibility. The individual is ineligible until the fixed period of ineligibility has expired. The period of ineligibility may exceed 24 months, and a reapplication for benefits after 24 months from the date of the transfer does not result in eligibility unless and until the period of ineligibility has expired.

(e) The period of ineligibility must not be applied if the local agency determines that it would create an immediate threat to the health or safety of the assistance unit.

Subd. 7. **Exclusions.** The following must not be included as income in determining eligibility:

(1) the value of food stamps;

- (2) home-produced food used by the household;
- (3) Indian claim payments made by the United States Congress to compensate members of Indian tribes for the taking of tribal lands by the federal government;
- (4) cash payments to displaced persons who face relocation as a result of the Housing Act of 1965, the Housing and Urban Development Act of 1965, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (5) one-third of child support payments received by an eligible child from an absent parent;
- (6) displaced homemaker payments;
- (7) reimbursement received for maintenance costs of providing foster care to adults or children;
- (8) benefits received under Title IV and Title VII of the Older Americans Act of 1965;
- (9) Minnesota renter or homeowner property tax refunds;
- (10) infrequent, irregular income that does not total more than \$20 per person in a month;
- (11) reimbursement payments received from the VISTA program;
- (12) in-kind income;
- (13) payments received for providing volunteer services under Title I, Title II, and Title III of the Domestic Volunteer Service Act of 1973;
- (14) loans that have to be repaid;
- (15) federal low-income heating assistance program payments; and
- (16) any other type of funds excluded as income by state law.

The local agency shall exclude the first \$20 of earned or unearned income.

Subd. 8. Application for federally funded benefits. Persons for whom the applicant or recipient has financial responsibility and who have unmet needs must apply for, and if eligible, accept aid to families with dependent children and other federally funded benefits before allocation of earned and unearned income from the applicant or recipient to meet the needs of those persons. If the persons are determined potentially eligible for these benefits, the applicant or recipient may not allocate earned or unearned income to those persons.

Subd. 9. Allocation of income. The rate of allocation for the financially responsible relatives of applicants or recipients is one-half the individual supplemental security income standard of assistance, except as restricted in subdivision 8.

If the applicant or recipient shares a residence with another person who has financial responsibility for the applicant or recipient, the income of the responsible relative must be considered available to the applicant or recipient after allowing the deductions in subdivisions 11 and 12.

Subd. 10. Earned income disregards. From the assistance unit's gross earned income, the local agency shall disregard \$65 plus one-half of the remaining income.

Subd. 11. Earned income deductions. From the assistance unit's gross earned income, the local agency shall subtract work expenses allowed by the supplemental security income program.

Subd. 12. Self-employment earnings. A local agency must determine gross earned income from self-employment by subtracting business costs from gross receipts.

Subd. 13. Rental property. Income from rental property must be considered self-employment earnings for each month that an average of at least ten hours a week of labor is expended by the owner of the property. When no labor is expended, income from rental property must be considered as unearned income and an additional deduction must be allowed for actual, reasonable, and necessary labor costs for upkeep and repair.

Subd. 14. Gross income test. The local agency shall apply a gross income test prospectively for each month of program eligibility. An assistance unit is ineligible

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when nonexcluded income, before applying any disregards or deductions, exceeds 300 percent of the supplemental security income standard for the assistance unit.

History: 1974 c 487 s 3; 1977 c 448 s 9; 1979 c 303 art 2 s 4; 1980 c 527 s 2,3; 1983 c 151 s 3; 1984 c 654 art 5 s 58; 1Sp1985 c 9 art 2 s 65,66; 1Sp1986 c 3 art 1 s 29; 1987 c 197 s 6; 1987 c 333 s 19; 1987 c 384 art 3 s 6; 1987 c 403 art 2 s 108; 1988 c 689 art 2 s 194-204

NOTE: Subdivisions 1 and 2, as amended by Laws 1988, chapter 689, article 2, sections 194 and 195, and subdivisions 6, 7, 8, 9, 10, 11, 12, 13, and 14, as added by sections 196 to 204, are effective February 1, 1989. See Laws 1988, chapter 689, article 2, section 270, subdivision 4.

256D.38 RECALCULATION OF SUPPLEMENTAL AID IN CASES OF CHANGED CIRCUMSTANCES.

A recipient of supplemental aid may, if personal circumstances change substantially after becoming a recipient of supplemental aid, have the amount of aid recalculated in accordance with the standards set forth in section 256D.37.

History: 1974 c 487 s 4; 1986 c 444

256D.39 FISCAL AND ADMINISTRATIVE PROCEDURES.

The commissioner of human services shall supervise county administration of supplemental aid, and shall, by rule, establish necessary administrative and fiscal procedures. The procedures may include, but not be limited to:

(a) Procedures for processing claims of the counties for reimbursement by the state for expenditures made by the counties;

(b) Procedures by which county liability for supplemental aid may be deducted from state liability to the county under any other public assistance program authorized by law;

(c) Procedures by which the local agencies may contract with the commissioner of human services for state administration of supplemental aid.

History: 1974 c 487 s 5; 1984 c 654 art 5 s 58; 1985 c 248 s 70

256D.40 [Repealed, 1976 c 131 s 2]

256D.41 RULES.

The commissioner of human services shall promulgate all rules necessary to carry out the provisions of Laws 1974, chapter 487; and may enter into any contracts and agreements necessary for the administration of supplemental aid.

History: 1974 c 487 s 7; 1984 c 654 art 5 s 58; 1985 c 248 s 70

256D.42 SUPPLEMENTAL AID; ADJUSTMENTS.

Subdivision 1. Personal needs allowance. Recipients of Minnesota supplemental aid living in nonmedical congregate care or foster care shall receive the same personal needs allowance as recipients of medical assistance residing in intermediate care facilities.

Subd. 2. Cost of living. The commissioner of human services shall adjust the benefits payable to the aged, blind and disabled recipients pursuant to sections 256D.36 and 256D.37 who do not reside in congregate care or foster care facilities in an amount equivalent to the cost of living adjustments in the federal supplemental security income program.

History: 1981 c 360 art 1 s 23; 1984 c 654 art 5 s 58

256D.43 RECOVERIES OF SUPPLEMENTAL AID UNDER INTERIM ASSISTANCE AGREEMENTS.

Any applicant, otherwise eligible for supplemental aid and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits

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within 30 days of the supplemental aid application; and (b) execute an interim assistance authorization agreement on a form as directed by the commissioner. If found eligible for benefits from other sources, and a payment received from another source relates to the period during which supplemental aid is also being received, the recipient shall be required to reimburse the local agency for the interim assistance paid. Reimbursement shall not exceed the amount of supplemental aid paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period. Reimbursement may be sought directly from the other source of maintenance income but shall remain the primary obligation of the recipient in those instances where an interim assistance agreement has been executed. The commissioner shall adopt rules, and may adopt emergency rules, in accordance with chapter 14, authorizing local agencies to retain from the amount recovered under an interim assistance agreement 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation, of providing special assistance to the recipient in processing the recipient's claim for maintenance benefits from another source. The money retained under this section shall be from the state share of the recovery. The local agency may contract with qualified persons to provide the special assistance. The rules adopted by the commissioner shall include the methods by which local agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled. This subdivision does not require repayment of per diem payments made to shelters for battered women pursuant to section 256D.05, subdivision 3.

History: 1984 c 534 s 26; 1984 c 640 s 32