

## CHAPTER 119B

### CHILD CARE PROGRAMS

|          |                                          |         |                                                                                          |
|----------|------------------------------------------|---------|------------------------------------------------------------------------------------------|
| 119B.01  | Definitions.                             | 119B.13 | Child care rates.                                                                        |
| 119B.02  | Duties of commissioner.                  | 119B.15 | Administrative expenses.                                                                 |
| 119B.03  | Basic sliding fee program.               | 119B.16 | Fair hearing process.                                                                    |
| 119B.04  | Federal child care and development fund. | 119B.17 | Minnesota early childhood care and education council.                                    |
| 119B.05  | AFDC child care program.                 | 119B.18 | Regional child care resource and referral programs.                                      |
| 119B.06  | At-home infant child care program.       | 119B.19 | Grants for school age child care programs and child care resource and referral programs. |
| 119B.07  | Use of money.                            | 119B.20 | Child care services grant definitions.                                                   |
| 119B.075 | Reserve account.                         | 119B.21 | Child care services grants.                                                              |
| 119B.08  | Reporting and payments.                  | 119B.25 | Child care improvement grants.                                                           |
| 119B.09  | Financial eligibility.                   |         |                                                                                          |
| 119B.10  | Employment or training eligibility.      |         |                                                                                          |
| 119B.11  | County contribution.                     |         |                                                                                          |
| 119B.12  | Sliding fee scale.                       |         |                                                                                          |

#### 119B.01 DEFINITIONS.

*[For text of subds 1 to 7, see M.S.1996]*

Subd. 7a. **Department.** "Department" means the department of children, families, and learning.

Subd. 8. **Education program.** "Education program" means remedial or basic education or English as a second language instruction, a program leading to a general equivalency or high school diploma, post-secondary programs excluding postbaccalaureate programs, and other education and training needs as documented in an employment plan, as defined in subdivision 9. The employment plan must outline education and training needs of a recipient, meet state requirements for employment plans, meet the requirements of this chapter, and Minnesota Rules, parts 3400.0010 to 3400.0230, and meet the requirements of programs that provide federal reimbursement for child care services.

Subd. 9. **Employment plan.** "Employment plan" means employment of recipients financially eligible for child care assistance, or other work activities approved in an employability development, job search support plan, or employment plan that is developed by the county agency, if it is acting as an employment and training service provider, or by an employment and training service provider certified by the commissioner of economic security or an individual designated by the county to provide employment and training services. The plans and designation of a service provider must meet the requirements of this chapter and chapter 256J or chapter 256K, Minnesota Rules, parts 3400.0010 to 3400.0230, and other programs that provide federal reimbursement for child care services.

*[For text of subds 10 and 11, see M.S.1996]*

Subd. 12. **Income.** "Income" means earned or unearned income received by all family members, including public assistance cash benefits, unless specifically excluded. The following are excluded from income: funds used to pay for health insurance premiums for family members, Supplemental Security Income, scholarships, work-study income, and grants that cover costs for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; earned income tax credits; in-kind income such as food stamps, energy assistance, medical assistance, and housing subsidies; earned income of full or part-time secondary school students up to the age of 19, including summer employment; grant awards under the family subsidy program; nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid; and any income assigned to the public authority according to section 256.74 or 256.741, if enacted.

Subd. 12a. **MFIP-S.** "MFIP-S" means the Minnesota family investment program—statewide, the state's TANF program under Public Law Number 104-193, Title I.

*[For text of subds 13 and 14, see M.S.1996]*

Subd. 15. **AFDC.** "AFDC" means the aid to families with dependent children program under sections 256.72 to 256.87; the MFIP program under sections 256.031 to 256.0361 and

256.0475 to 256.049; the MFIP-S program under chapter 256J; and the work first program under chapter 256K, whichever program is in effect.

**Subd. 16. Transition year families.** "Transition year families" means families who have received AFDC for at least three of the last six months before losing eligibility for AFDC due to increased hours of employment, increased income from employment or child or spousal support, or the loss of income disregards due to time limitations.

**Subd. 17. Child care fund.** "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment or the short-term provision of at-home infant care for their own child or education and training leading to employment; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

**History:** 1997 c 162 art 4 s 1-8

## 119B.02 DUTIES OF COMMISSIONER.

The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules shall provide that funds received as a lump sum payment of child support arrearages shall not be counted as income to a family in the month received but shall be prorated over the 12 months following receipt and added to the family income during those months. In the rules adopted under this section, county and human services boards shall be authorized to establish policies for payment of child care spaces for absent children, when the payment is required by the child's regular provider. The rules shall not set a maximum number of days for which absence payments can be made, but instead shall direct the county agency to set limits and pay for absences according to the prevailing market practice in the county. County policies for payment of absences shall be subject to the approval of the commissioner. The commissioner shall maximize the use of federal money in section 256.736 and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

**History:** 1997 c 162 art 4 s 9

## 119B.03 BASIC SLIDING FEE PROGRAM.

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. Eligible recipients.** Families that meet the eligibility requirements under sections 119B.09, except AFDC recipients, MFIP recipients, and transition year families, and 119B.10 are eligible for child care assistance under the basic sliding fee program. Families enrolled in the basic sliding fee program shall be continued until they are no longer eligible. Child care assistance provided through the child care fund is considered assistance to the parent.

**Subd. 4. Funding priority.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-AFDC families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order

to pursue employment or to pursue education leading to employment. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their AFDC transition year.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

**Subd. 5. Review of use of funds; reallocation.** (a) After each quarter, the commissioner shall review the use of basic sliding fee program allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full allocation or may allow a county to expend up to ten percent of its allocation in the subsequent allocation period.

(b) Any unexpended state and federal appropriations from the first year of the biennium may be carried forward to the second year of the biennium.

**Subd. 6. Allocation formula.** Beginning January 1, 1996, except as provided in subdivision 7, the basic sliding fee state and federal funds shall be allocated on a calendar year basis. Funds shall be allocated first in amounts equal to each county's guaranteed floor according to subdivision 8, with any remaining available funds allocated according to the following formula:

(a) One-third of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent calendar year completed at the time of the notice of allocation.

(b) One-third of the funds shall be allocated based on the number of children under age 13 in each county who are enrolled in general assistance medical care, medical assistance, and MinnesotaCare on December 31 of the most recent calendar year completed at the time of the notice of allocation.

(c) One-third of the funds shall be allocated based on the number of children under age 13 who reside in each county, from the most recent estimates of the state demographer.

**Subd. 7. [Repealed, 1997 c 162 art 1 s 19]**

**Subd. 8. Guaranteed floor.** (a) Beginning January 1, 1996, each county's guaranteed floor shall equal 90 percent of the allocation received in the preceding calendar year. For the period January 1, 1999, to December 31, 1999, each county's guaranteed floor must be equal to its original calendar year 1998 allocation or its actual earnings for calendar year 1998, whichever is less.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

**Subd. 9. Portability pool.** (a) The commissioner shall establish a pool of up to five percent of the annual appropriation for the basic sliding fee program to provide continuous child care assistance for eligible families who move between Minnesota counties. At the end of each allocation period, any unspent funds in the portability pool must be added to the funds available for reallocation. If expenditures from the portability pool exceed the amount of money available, the reallocation pool must be reduced to cover these shortages.

(b) To be eligible for portable basic sliding fee assistance, a family that has moved from a county in which it was receiving basic sliding fee assistance to a county with a waiting list for the basic sliding fee program must:

- (1) meet the income and eligibility guidelines for the basic sliding fee program; and
- (2) notify the new county of residence within 30 days of moving and apply for basic sliding fee assistance in the new county of residence.

(c) The receiving county must:

- (1) accept administrative responsibility for applicants for portable basic sliding fee assistance at the end of the two months of assistance under the Unitary Residency act;

(2) continue basic sliding fee assistance for the lesser of six months or until the family is able to receive assistance under the county's regular basic sliding program; and

(3) notify the commissioner through the quarterly reporting process of any family that meets the criteria of the portable basic sliding fee assistance pool.

Subd. 10. **Application; entry points.** Two or more methods of applying for the basic sliding fee program must be available to applicants in each county. To meet the requirements of this subdivision, a county may provide alternative methods of applying for assistance, including, but not limited to, a mail application, or application sites that are located outside of government offices.

**History:** 1997 c 162 art 4 s 10–13, 15–17

**NOTE:** Subdivision 7 was also amended by Laws 1997, chapter 162, article 4, section 14, to read as follows:

"Subd. 7. **Allocation exception.** For the period from July 1, 1997, to December 31, 1998, each county must receive an amount equal to its original calendar year 1997 allocation. The remaining funds must be allocated according to the following formula:

(a) Two-thirds of the funds must be allocated in proportion to each county's original calendar year 1997 allocation for the basic sliding fee program.

(b) One-third of the funds must be allocated in proportion to each county's most recently reported waiting list as defined in subdivision 2.

When funding increases are implemented within a calendar year, every county must receive an allocation at least equal and proportionate to its original allocation for the same time period. The remainder of the allocation must be recalculated to reflect the funding increase and according to the formulas identified in subdivision 6 and this subdivision."

#### 119B.04 FEDERAL CHILD CARE AND DEVELOPMENT FUND.

Subdivision 1. **Commissioner to administer program.** The commissioner of children, families, and learning is authorized and directed to receive, administer, and expend funds available under the child care and development fund under Public Law Number 104–193, Title I.

Subd. 2. **Rulemaking authority.** The commissioner may adopt rules under chapter 14 to administer the child care and development fund.

**History:** 1997 c 162 art 4 s 18

#### 119B.05 AFDC CHILD CARE PROGRAM.

Subdivision 1. **Eligible recipients.** Families eligible for child care assistance under the AFDC child care program are:

(1) persons receiving services under sections 256.031 to 256.0361 and 256.047 to 256.048;

(2) AFDC recipients who are employed or in job search and meet the requirements of section 119B.10;

(3) persons who are members of transition year families under section 119B.01, subdivision 16;

(4) members of the control group for the STRIDE evaluation conducted by the Manpower Demonstration Research Corporation;

(5) AFDC caretakers who are participating in the STRIDE and non-STRIDE AFDC child care program;

(6) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under chapter 256K; and

(7) MFIP–S families who are participating in work activities as required in their job search support or employment plan, or in appeals, hearings, assessments, or orientations according to chapter 256J. Child care assistance to support work activities as described in section 256J.49 must be available according to sections 119B.01, subdivision 8, 121.882, 256E.08, 268.916, and 611A.32 and titles IVA, IVB, IVE, and XX of the Social Security Act.

Subd. 2. [Repealed, 1997 c 162 art 1 s 19]

Subd. 3. [Repealed, 1997 c 162 art 1 s 19]

[For text of subd 4, see M.S. 1996]

**Subd. 5. Federal reimbursement.** Counties shall maximize their federal reimbursement under federal reimbursement programs for money spent for persons eligible under this chapter. The commissioner shall allocate any federal earnings to the county to be used to expand child care services under this chapter.

**Subd. 6. Access child care program.** (a) Starting one month after April 30, 1992, the commissioner shall reimburse eligible expenditures for 2,000 family slots for AFDC caretakers not eligible for services under section 256.736, who are engaged in an authorized educational or job search program. Each county will receive a number of family slots based on the county's proportion of the AFDC caseload. A county must receive at least two family slots. Eligibility and reimbursement are limited to the number of family slots allocated to each county. County agencies shall authorize an educational plan for each student and may prioritize families eligible for this program in their child care fund plan upon approval of the commissioner.

(b) Effective July 1, 1997, no new applicants may be accepted in the ACCESS program. Current ACCESS participants shall continue to receive assistance until July 1, 1998, if all other conditions of eligibility are met.

**Subd. 7. Child care assistance diversion.** A one-year program is established to provide assistance to participants under the working family assistance program established in chapter 256J who are participating in an authorized activity under section 256J.03, subdivision 4, and who are eligible for child care assistance according to chapter 119B as a reimbursement for expenses related to the costs of education, training, or transportation when all of the following conditions exist:

- (1) child care needs during participation in the authorized activity are being met by a legal child care provider as defined in section 119B.01, subdivision 13;
- (2) the participant cannot reasonably arrange for the education, training, or transportation costs to be met through alternate arrangements;
- (3) the child care arrangement provides a transition to a stable child care and employment arrangement and does not disrupt the continuity of care for children; and
- (4) the arrangement does not exceed two months.

The commissioner shall select one county in the seven-county metropolitan area to participate in the program. Assistance must be available only to residents of the selected county. Assistance granted under this subdivision must not exceed 1/12 of the average annual cost of care as established for the administering county in the previous state fiscal year for each authorized month. Assistance under this subdivision is available to a recipient on a one-time basis.

**History:** 1997 c 162 art 4 s 19–21,23; 1Sp1997 c 5 s 49

#### **119B.061 AT-HOME INFANT CHILD CARE PROGRAM.**

**Subdivision 1. Establishment.** Beginning July 1, 1998, a family receiving or eligible to receive assistance under the basic sliding fee program is eligible for assistance for a parent to provide short-term child care for the family's infant child. An eligible family must meet the eligibility factors under section 119B.09, the income criteria under section 119B.12, and the requirements of this section. The commissioner shall establish a pool of up to seven percent of the annual appropriation for the basic sliding fee program to provide assistance under the at-home infant child care program. At the end of the fiscal year, any unspent funds must be used for assistance under the basic sliding fee program.

**Subd. 2. Eligible families.** A family with an infant under the age of one year is eligible for assistance if:

- (1) the family is not receiving MFIP–S, other cash assistance, or other child care assistance;
- (2) the family has not previously received the one-year exemption from the work requirement for infant care under the MFIP–S program;
- (3) the family has not previously received a life-long total of 12 months of assistance under this section; and

(4) the family is participating in the basic sliding fee program or, for the first child in a family, provides verification of employment at the time of application and meets the program requirements.

**Subd. 3. Eligible parent.** Only one parent, in a two-parent family, is eligible for assistance. The eligible parent must:

- (1) be over the age of 18;
- (2) provide full-time care for the child in the child's home; and
- (3) provide child care for any other children in the family that are eligible for child care.

**Subd. 4. Assistance.** (a) A family is limited to a lifetime total of 12 months of assistance under this section. The maximum rate of assistance must be at 75 percent of the rate established under section 119B.13 for care of infants in licensed family day care in the applicant's county of residence. Assistance must be calculated to reflect the copay requirement and the family's income level.

(b) A participating family must continue to report income and other family changes as specified in the county's plan under section 119B.08, subdivision 3. The family must treat any assistance received under this section as unearned income.

(c) Participation in the at-home infant child care program must be considered participation in the basic sliding fee program for purposes of continuing eligibility under section 119B.03, subdivision 3.

(d) A family that receives assistance under this section is ineligible for the one-year exemption from work requirements under the MFIP-S program.

**Subd. 5. Implementation.** By July 1, 1998, the commissioner shall implement the at-home infant child care program under this section. The commissioner shall evaluate this program and report the impact to the legislature by January 1, 2000. The evaluation must include data on the number of families participating in the program; the number of families continuing to pursue employment or education while participating in the program; the average income of families prior to, during, and after participation in the program; family size; and single parent and two-parent status.

**History:** 1997 c 162 art 4 s 22

## 119B.07 USE OF MONEY.

Money for persons listed in sections 119B.03, subdivision 3, and 119B.05, subdivision 1, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care fund eligibility standards. Any limitation must be based on a person's employability plan in the case of an AFDC recipient, and county policies included in the child care allocation plan. The maximum length of time a student is eligible for child care assistance under the child care fund for education and training is no more than the time necessary to complete the credit requirements for an associate or baccalaureate degree as determined by the educational institution, excluding basic or remedial education programs needed to prepare for post-secondary education or employment. To be eligible, the student must be in good standing and be making satisfactory progress toward the degree. Time limitations for child care assistance do not apply to basic or remedial educational programs needed to prepare for post-secondary education or employment. These programs include: high school, general equivalency diploma, and English as a second language. Programs exempt from this time limit must not run concurrently with a post-secondary program. High school students who are participating in a post-secondary options program and who receive a high school diploma issued by the school district are exempt from the time limitations while pursuing a high school diploma. Financially eligible students who have received child care assistance for one academic year shall be provided child care assistance in the following academic year if funds allocated under sections 119B.03 and 119B.05 are available. If an AFDC recipient who is receiving AFDC child care assistance under this chapter moves to another county, continues to participate in educational

or training programs authorized in their employability development plans, and continues to be eligible for AFDC child care assistance under this chapter, the AFDC caretaker must receive continued child care assistance from the county responsible for their current employability development plan, without interruption.

**History:** 1997 c 162 art 4 s 24

### 119B.075 RESERVE ACCOUNT.

A reserve account must be created within the general fund for all unexpended basic sliding fee child care, TANF child care, or other child care funds under the jurisdiction of the commissioner. Any funds for those purposes that are unexpended at the end of a biennium must be deposited in this reserve account, and may be appropriated on an ongoing basis by the commissioner for basic sliding fee child care or TANF child care.

**History:** 1997 c 162 art 4 s 25

### 119B.08 REPORTING AND PAYMENTS.

Subdivision 1. **Reports.** The commissioner shall specify requirements for reports under the same authority as provided to the commissioner of human services in section 256.01, subdivision 2, paragraph (17).

*[For text of subd 2, see M.S.1996]*

Subd. 3. **Child care fund plan.** Effective January 1, 1992, the county will include the plan required under this subdivision in its biennial community social services plan required in this section, for the group described in section 256E.03, subdivision 2, paragraph (h). The commissioner shall establish the dates by which the county must submit these plans. The county and designated administering agency shall submit to the commissioner an annual child care fund allocation plan. The plan shall include:

- (1) a narrative of the total program for child care services, including all policies and procedures that affect eligible families and are used to administer the child care funds;
- (2) the methods used by the county to inform eligible groups of the availability of child care assistance and related services;
- (3) the provider rates paid for all children by provider type;
- (4) the county prioritization policy for all eligible groups under the basic sliding fee program and AFDC child care program; and
- (5) other information as requested by the department to ensure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within 60 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

*[For text of subd 4, see M.S.1996]*

**History:** 1997 c 162 art 4 s 26,27

### 119B.09 FINANCIAL ELIGIBILITY.

Subdivision 1. **General eligibility requirements for all applicants for child care assistance.** (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

- (1) meet the requirements of section 119B.05; receive aid to families with dependent children, MFIP-S, or work first, whichever is in effect; and are receiving employment and training services under section 256.736 or chapter 256J or 256K;

(2) have household income below the eligibility levels for aid to families with dependent children; or

(3) have household income within a range established by the commissioner.

(b) Child care services for the families receiving aid to families with dependent children must be made available as in-kind services, to cover any difference between the actual cost and the amount disregarded under the aid to families with dependent children program. Child care services to families whose incomes are below the threshold of eligibility for aid to families with dependent children, but are not AFDC caretakers, must be made available with the same copayment required of AFDC caretakers or MFIP-S caregivers.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 256.741, if enacted.

**Subd. 2. Sliding fee.** Child care services to families with incomes in the commissioner's established range must be made available on a sliding fee basis. The upper limit of the range must be neither less than 70 percent nor more than 90 percent of the state median income for a family of four, adjusted for family size.

*[For text of subs 3 to 5, see M.S.1996]*

**Subd. 6. Maximum child care assistance.** The maximum amount of child care assistance a local agency may authorize in a two-week period is 120 hours per child.

**Subd. 7. Eligibility for assistance.** The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, subpart 2a, section 256.736, or chapter 256J or 256K. The date of eligibility for the basic sliding fee at-home infant child care program is the later of the date the infant is born or, in a county with a basic sliding fee wait list, the date the family applies for at-home infant child care. Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.061. Payment of child care assistance for employed persons on AFDC is effective the date of employment or the date of AFDC eligibility, whichever is later. Payment of child care assistance for MFIP-S or work first participants in employment and training services is effective the date of commencement of the services or the date of MFIP-S or work first eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

**Subd. 8. No employee-employer relationships.** Receipt of federal, state, or local funds by a child care provider either directly or through a parent who is a child care assistance recipient does not establish an employee-employer relationship between the child care provider and the county or state.

**History:** 1997 c 162 art 4 s 28-32

## 119B.10 EMPLOYMENT OR TRAINING ELIGIBILITY.

**Subdivision 1. Assistance for persons seeking and retaining employment.** (a) Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive up to 240 hours of child care assistance per calendar year.

(b) Employed persons who work at least an average of 20 hours a week and receive at least a minimum wage for all hours worked are eligible for continued child care assistance. Child care assistance during employment must be authorized as provided in paragraphs (c) and (d).

(c) When the caregiver works for an hourly wage and the hourly wage is equal to or greater than the applicable minimum wage, child care assistance shall be provided for the actual hours of employment, break, and mealtime during the employment and travel time up to two hours per day.

(d) When the caregiver does not work for an hourly wage, child care assistance must be provided for the lesser of:

(1) the amount of child care determined by dividing gross earned income by the applicable minimum wage, up to one hour every eight hours for meals and break time, plus up to two hours per day for travel time; or

(2) the amount of child care equal to the actual amount of child care used during employment, including break and mealtime during employment, and travel time up to two hours per day.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 162 art 4 s 33

### 119B.11 COUNTY CONTRIBUTION.

**Subdivision 1. County contributions required.** Beginning July 1, 1997, in addition to payments from basic sliding fee child care program participants, each county shall contribute from county tax or other sources a fixed local match equal to its calendar year 1996 required county contribution reduced by the administrative funding loss that would have occurred in state fiscal year 1996 under section 119B.15. The commissioner shall recover funds from the county as necessary to bring county expenditures into compliance with this subdivision.

**Subd. 2. [Repealed, 1997 c 162 art 1 s 19]**

**Subd. 2a. Recovery of overpayments.** An amount of child care assistance paid to a recipient in excess of the payment due is recoverable by the county agency. The overpayment must be recovered through recoupment as identified in Minnesota Rules, part 9565.5110, subpart 11, items A and B, if the family remains eligible for assistance. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayment less than \$50. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this subdivision is not eligible for child care assistance until the debt is paid in full or satisfactory arrangements are made with the county to retire the debt.

**Subd. 3. Federal money; state recovery.** The commissioner shall recover from counties any state or federal money that was spent for persons found to be ineligible, except if the recovery is made by a county agency using any method other than recoupment, the county may keep 25 percent of the recovery. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

*[For text of subd 4, see M.S.1996]*

**History:** 1997 c 162 art 4 s 34–36

### 119B.12 SLIDING FEE SCALE.

**Subdivision 1. Fee schedule.** In setting the sliding fee schedule, the commissioner shall exclude from the amount of income used to determine eligibility an amount for federal and state income and social security taxes attributable to that income level according to federal and state standardized tax tables. The commissioner shall base the parent fee on the ability of the family to pay for child care. The fee schedule must be designed to use any available tax credits.

**Subd. 2. Parent fee.** A family's monthly parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. Income must be as defined in section 119B.01, subdivision 12. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of state median income. Beginning January 1, 1998, parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and

100 percent of poverty level must be \$5 per month. Parent fees for families with incomes at or above the poverty level must not decrease due to the addition of family members after the family's initial eligibility determination. Parent fees must be established in rule and must provide for graduated movement to full payment.

**History:** 1997 c 162 art 4 s 37

### 119B.13 CHILD CARE RATES.

Subdivision 1. **Subsidy restrictions.** Effective July 1, 1991, the maximum rate paid for child care assistance under the child care fund is the maximum rate eligible for federal reimbursement. The rate may not exceed the 75th percentile rate for like-care arrangements in the county as surveyed by the commissioner. A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision. The department of children, families, and learning shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care. Not less than once every two years, the county shall evaluate rates for payment of absent spaces and shall establish policies for payment of absent days that reflect current market practice.

When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.

*[For text of subs 2 to 4, see M.S.1996]*

Subd. 5. **Provider notice.** The county shall inform both the family receiving assistance under this chapter and the child care provider of the payment amount and how and when payment will be received. If the county sends a family a notice that child care assistance will be terminated, the county shall inform the provider that unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made. The notice to the vendor must not contain any private data on the family or information on why payment will no longer be made.

Subd. 6. **Provider payments.** Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses. If payments for child care assistance are made to providers, the provider shall bill the county for services provided within ten days of the end of the month of service. If bills are submitted in accordance with the provisions of this subdivision, a county shall issue payment to the provider of child care under the child care fund within 30 days of receiving an invoice from the provider. Counties may establish policies that make payments on a more frequent basis. A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3.

**History:** 1997 c 162 art 4 s 38-40; 1Sp1997 c 5 s 48

### 119B.15 ADMINISTRATIVE EXPENSES.

The commissioner shall use up to 1/21 of the state and federal funds available for the basic sliding fee program and 1/21 of the state and federal funds available for the AFDC child care program for payments to counties for administrative expenses.

**History:** 1997 c 162 art 4 s 41

### 119B.16 FAIR HEARING PROCESS.

Subdivision 1. **Fair hearing allowed.** An applicant or recipient adversely affected by a county agency action may request a fair hearing in accordance with section 256.045.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 162 art 4 s 42

**119B.17 MINNESOTA EARLY CHILDHOOD CARE AND EDUCATION COUNCIL.***[For text of subds 1 and 2, see M.S.1996]*

Subd. 3. **Duties and powers.** The council has the following duties and powers:

- (1) develop a biennial plan for early childhood care and education in the state;
- (2) take a leadership role in developing its recommendations in conjunction with the recommendations of other state agencies on the state budget for early childhood care and education;
- (3) apply for and receive state money and public and private grant money;
- (4) participate in and facilitate the development of interagency agreements on early childhood care and education issues;
- (5) review state agency policies on early childhood care and education issues so that they do not conflict;
- (6) advocate for an effective and coordinated early childhood care and education system with state agencies and programs;
- (7) study the need for child care funding for special populations whose needs are not being met by current programs;
- (8) ensure that the early childhood care and education system reflects community diversity; and
- (9) be responsible for advocating policies and funding for early childhood care and education.

**History:** 1997 c 7 art 2 s 11

**119B.18 REGIONAL CHILD CARE RESOURCE AND REFERRAL PROGRAMS.***[For text of subds 1 and 2, see M.S.1996]*

Subd. 3. **Child development education and training loans.** The commissioner shall establish a child development education and training loan program to be administered by the regional child care resource and referral programs. The commissioner shall establish application procedures, eligibility criteria, terms, and other conditions necessary to make educational loans under this section. A single applicant may not receive more than \$1,500 per year under this program. All or part of the loan may be forgiven if the applicant continues to provide child care services for a period of 12 months following the completion of all courses paid for by the educational loan.

**History:** 1997 c 162 art 4 s 43

**119B.19 GRANTS FOR SCHOOL AGE CHILD CARE PROGRAMS AND CHILD CARE RESOURCE AND REFERRAL PROGRAMS.***[For text of subd 1, see M.S.1996]*

Subd. 2. [Repealed, 1997 c 162 art 1 s 19]

*[For text of subds 3 to 5, see M.S.1996]***119B.20 CHILD CARE SERVICES GRANT DEFINITIONS.***[For text of subds 1 to 6, see M.S.1996]*

Subd. 7. **Facility improvement expenses.** "Facility improvement expenses" means funds for building improvements, equipment, appropriate technology and software, toys, and supplies needed to establish, expand, or improve a licensed child care facility or a child care program under the jurisdiction of a local board of education.

*[For text of subd 8, see M.S.1996]*

**Subd. 9. Technical assistance awards.** "Technical assistance awards" means child care grants to family child care providers for facility improvements that are up to \$1,000. Awards include, but are not limited to, improvements to meet licensing requirements, improvements to expand a child care facility or program, appropriate technology and software, toys and equipment, start-up costs, staff training, and development costs.

**Subd. 10. Resource and referral program.** "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. It also means the agency with the duties specified in sections 119B.18 and 119B.19. Services may include recruitment of new providers, parent education, training, technical assistance for providers, and referrals to social services.

*[For text of subds 11 and 12, see M.S.1996]*

**History:** 1997 c 162 art 4 s 44-46

### **119B.21 CHILD CARE SERVICES GRANTS.**

**Subdivision 1. Grants established.** The commissioner shall award grants to develop child care services, including child care service development grants for start-up and facility improvement expenses, interim financing, staff training expenses, and grants for child care resource and referral programs. Child care service development grants may include family child care technical assistance awards up to \$1,000. The commissioner shall develop a grant application form, inform county social service agencies about the availability of child care services grants, and set a date by which applications must be received by the commissioner.

**Subd. 2. Distribution of funds.** (a) The commissioner shall allocate grant money appropriated for child care service development among the development regions designated by the governor under section 462.385, considering the following factors for each economic development region:

- (1) the number of children under 13 years of age needing child care in the service area;
- (2) the geographic area served by the agency;
- (3) the ratio of children under 13 years of age needing child care to the number of licensed spaces in the service area;
- (4) the number of licensed child care providers and extended day school age child care programs in the service area; and
- (5) other related factors determined by the commissioner.

(b) Out of the amount allocated for each economic development region, the commissioner shall award grants based on the recommendation of the child care regional advisory committees. In addition, the commissioner shall award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses.

(c) Any funds unobligated may be used by the commissioner to award grants to proposals that received funding recommendations by the regional advisory committees but were not awarded due to insufficient funds.

(d) The commissioner may allocate grants under this section for a two-year period and may carry forward funds from the first year as necessary.

**Subd. 3. Child care regional advisory committees.** Child care regional advisory committees shall review and make recommendations to the commissioner on applications for family child care technical assistance awards and service development grants under this section. The commissioner shall appoint the child care regional advisory committees in each governor's economic development region. People appointed under this subdivision must represent the following constituent groups: family child care providers, group center providers, parent users, health services, social services, public schools, Head Start, employers, and other citizens with demonstrated interest in child care issues. Members of the advisory task force with a direct financial interest in a pending grant proposal may not provide a recommendation or participate in the ranking of that grant proposal. Committee members may be reimbursed for their actual travel, child care, and child care provider substitute expenses for

up to six committee meetings per year. The child care regional advisory committees shall complete their reviews and forward their recommendations to the commissioner by the date specified by the commissioner.

**Subd. 4. Distribution of funds for child care resource and referral programs.** (a) The commissioner shall allocate funds appropriated for child care resource and referral services considering the following factors for each economic development region served by the child care resource and referral agency:

- (1) the number of children under 13 years of age needing child care in the service area;
- (2) the geographic area served by the agency;
- (3) the ratio of children under 13 years of age needing care to the number of licensed spaces in the service area;
- (4) the number of licensed child care providers and extended day school age child care programs in the service area; and
- (5) other related factors determined by the commissioner.

(b) The commissioner may renew grants to existing resource and referral agencies that have met state standards and have been designated as the child care resource and referral service for a particular geographical area. The recipients of renewal grants are exempt from the proposal review process.

**Subd. 5. Purposes for which a child care services grant may be awarded.** The commissioner may award grants for:

- (1) child care service development grants for the following purposes:
  - (i) for creating new licensed day care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;
  - (ii) for improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling;
  - (iii) for supportive child development services including, but not limited to, in-service training, curriculum development, consulting specialist, resource centers, and program and resource materials;
  - (iv) for carrying out programs including, but not limited to, staff, supplies, equipment, facility renovation, and training;
  - (v) for interim financing;
  - (vi) family child care technical assistance awards; and
  - (vii) for capacity building through the purchase of appropriate technology and software, and staff training to create, enhance, and maintain financial systems for facilities;
- (2) child care resource and referral program services identified in section 119B.19, subdivision 3; or
- (3) targeted recruitment initiatives to expand and build capacity of the child care system.

**Subd. 6. Funding priorities; facility improvement, interim financing, and training grants.** In evaluating applications for funding and making recommendations to the commissioner, the child care regional advisory committees shall rank and give priority to:

- (1) new programs or projects, or the expansion or improvement of existing programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;
- (2) new programs and projects, or the expansions or enrichment of existing programs or projects that serve sick children, infants or toddlers, children with special needs, children from low-income families, or parents needing child care during nonstandard hours;
- (3) unlicensed providers who wish to become licensed;
- (4) improvement of existing programs;
- (5) child care programs seeking accreditation and child care providers seeking certification; and
- (6) entities that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the entity.

Subd. 7. [Repealed, 1997 c 162 art 1 s 19]

Subd. 8. **Eligible grant recipients.** Eligible recipients of child care grants are licensed providers of child care, or those in the process of being licensed, resource and referral programs, or corporations or public agencies, or any combination thereof.

Subd. 9. **Grant match requirements.** Child care grants for facility improvements, interim financing, resource and referral, and staff training and development require a 25 percent local match by the grant applicant. A local match is not required for a family child care technical assistance award.

Subd. 10. **Family child care technical assistance awards.** Technical assistance awards for child care service development must be used by the family child care provider grantee for facility improvements, including, but not limited to, improvements to meet licensing requirements, improvements to expand the facility, toys and equipment, start-up costs, interim financing, or staff training and development.

Subd. 11. **Advisory task force.** The commissioner may convene a statewide advisory task force which shall advise the commissioner on grants or other child care issues. The following constituent groups must be represented: family child care providers, center providers, parent users, health services, social services, Head Start, public schools, employers, and other citizens with demonstrated interest in child care issues. Each regional grant review committee formed under subdivision 3, shall appoint a representative to the advisory task force. Additional members may be appointed by the commissioner. The commissioner may convene meetings of the task force as needed. Terms of office and removal from office are governed by the appointing body. The commissioner may compensate members for their travel, child care, and child care provider substitute expenses for meetings of the task force.

*[For text of subd 12, see M.S.1996]*

**History:** 1997 c 162 art 4 s 47–56

## 119B.25 CHILD CARE IMPROVEMENT GRANTS.

Subdivision 1. **Purpose.** The purpose of this section is to enhance and expand child care sites, to encourage private investment in child care and early childhood education sites, to promote availability of quality, affordable child care throughout Minnesota, and to provide for cooperation between private nonprofit child care organizations, family child care and center providers and the department.

Subd. 2. **Grants.** The commissioner shall distribute money provided by this section through a grant to a nonprofit corporation organized to plan, develop, and finance early childhood education and child care sites. The nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship with the resource and referral programs under section 119B.18. The board of directors of the nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing. The commissioners of the departments of children, families, and learning and trade and economic development, and the commissioner of the housing finance agency shall advise the board on the loan program. The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the nonprofit corporation must comply with section 363.03, subdivision 8.

Subd. 3. **Financing program.** A nonprofit corporation that receives a grant under this section shall use the money to:

- (1) establish a revolving loan fund to make loans to existing, expanding, and new licensed and legal unlicensed child care and early childhood education sites;
- (2) establish a fund to guarantee private loans to improve or construct a child care or early childhood education site;
- (3) establish a fund to provide forgivable loans or grants to match all or part of a loan made under this section; and

(4) establish a fund as a reserve against bad debt.

The nonprofit corporation shall establish the terms and conditions for loans and loan guarantees including, but not limited to, interest rates, repayment agreements, private match requirements, and conditions for loan forgiveness. The nonprofit corporation shall establish a minimum interest rate for loans to ensure that necessary loan administration costs are covered. The nonprofit corporation may use interest earnings for administrative expenses.

**Subd. 4. Reporting.** A nonprofit corporation that receives a grant under this section shall:

(1) annually report by September 30 to the commissioner the purposes for which the money was used in the past fiscal year, including a description of projects supported by the financing, an account of loans made during the calendar year, the financing program's assets and liabilities, and an explanation of administrative expenses; and

(2) annually submit to the commissioner a copy of the report of an independent audit performed in accordance with generally accepted accounting practices and auditing standards.

**History:** 1997 c 162 art 4 s 57