CHAPTER 256

HUMAN SERVICES

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256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.

[For text of subd 1, see M.S.1996]

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

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

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws,

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regulations, and policies governing welfare services and promote excellence of administration and program operation;

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

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

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

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

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

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child–caring and child–placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child–placing agency to provide adoption services. A contract with a licensed child–placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care

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provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(b) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, Minnesota family investment program–statewide, medical assistance, or food stamp program in the following manner:

(a) One–half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance, MFIP–S, and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC, MFIP–S, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches $1,000,000. When the balance in the account exceeds $1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30

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days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV–E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV–E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost–beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the senior citizen drug program established under section 256.955 after the benefi-

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ciary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r–8(c)(1). This basic rebate shall be applied to single–source and multiple–source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

[For text of subds 3 and 4, see M.S.1996]

Subd. 4a. **Technical assistance for immunization reminders.** The state agency shall provide appropriate technical assistance to county agencies to develop methods to have county financial workers remind and encourage recipients of aid to families with dependent children, Minnesota family investment program–statewide, the Minnesota family investment plan, medical assistance, family general assistance, or food stamps whose assistance unit includes at least one child under the age of five to have each young child immunized against childhood diseases. The state agency must examine the feasibility of utilizing the capacity of a statewide computer system to assist county agency financial workers in performing this function at appropriate intervals.

[For text of subds 5 to 13, see M.S.1996]

Subd. 14. **Child welfare reform pilots.** The commissioner of human services shall encourage local reforms in the delivery of child welfare services and is authorized to approve local pilot programs which focus on reforming the child protection and child welfare systems in Minnesota. Authority to approve pilots includes authority to waive existing state rules as needed to accomplish reform efforts. Notwithstanding section 626.556, subdivision 10, 10b, or 10d, the commissioner may authorize programs to use alternative methods of investigating and assessing reports of child maltreatment, provided that the programs comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. Pilot programs must be required to address responsibility for safety and protection of children, be time limited, and include evaluation of the pilot program.

History: *1997 c 7 art 2 s 40; 1997 c 85 art 4 s 8; art 5 s 2; 1997 c 203 art 5 s 4,5; 1997 c 225 art 4 s 1*

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

Subdivision 1. **State agency has lien.** When the state agency provides, pays for, or becomes liable for medical care or furnishes subsistence or other payments to a person, the agency shall have a lien for the cost of the care and payments on any and all causes of action or recovery rights under any policy, plan, or contract providing benefits for health care or injury which accrue to the person to whom the care or payments were furnished, or to the person's legal representatives, as a result of the occurrence that necessitated the medical care, subsistence, or other payments. For purposes of this section, "state agency" includes authorized agents of the state agency.

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

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(b) This section does not affect the priority of any attorney's lien. The state agency is not subject to any limitations period referred to in section 514.69 or 514.71 and has one year from the date notice is first received by it under subdivision 4, paragraph (c), even if the notice is untimely, or one year from the date medical bills are first paid by the state agency, whichever is later, to file its verified lien statement. The state agency may commence an action to enforce the lien within one year of (1) the date the notice required by subdivision 4, paragraph (c), is received, or (2) the date the person's cause of action is concluded by judgment, award, settlement, or otherwise, whichever is later.

(c) If the notice required in subdivision 4 is not provided by any of the parties to the claim at any stage of the claim, the state agency will have one year from the date the state agency learns of the lack of notice to commence an action. If amounts on the claim or cause of action are paid and the amount required to be paid to the state agency under subdivision 5 is not paid to the state agency, the state agency may commence an action to recover on the lien against any or all of the parties or entities which have either paid or received the payments.

[For text of subd 3, see M.S.1996]

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

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

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

(c) A party to a claim upon which the state agency may be entitled to a lien under this section shall notify the state agency of its potential lien claim at each of the following stages of a claim:

(1) when a claim is filed;

(2) when an action is commenced; and

(3) when a claim is concluded by payment, award, judgment, settlement, or otherwise.

Every party involved in any stage of a claim under this subdivision is required to provide notice to the state agency at that stage of the claim. However, when one of the parties to the claim provides notice at that stage, every other party to the claim is deemed to have provided the required notice at that stage of the claim. If the required notice under this paragraph is not provided to the state agency, every party will be deemed to have failed to provide the required notice. A party to a claim includes the injured person or the person's legal representative, the plaintiff, the defendants, or persons alleged to be responsible for compensating the injured person or plaintiff, and any other party to the cause of action or claim, regardless of whether the party knows the state agency has a potential or actual lien claim.

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

[For text of subds 5 to 7, see M.S.1996]

History: *1997 c 217 art 2 s 2–4*

256.016 PLAIN LANGUAGE IN WRITTEN MATERIALS.

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

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

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

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

History: *1997 c 7 art 2 s 41*

256.017 COMPLIANCE SYSTEM.

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

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

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

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

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

(c) "Quality control/quality assurance" means a review system of a statewide random sample of cases, designed to provide data on program outcomes and the accuracy with which state and federal policies are being applied in issuing benefits and as a fiscal audit to ensure the accuracy of expenditures. The quality control/quality assurance system is administered by the department. For the aid to families with dependent children, Minnesota family invest-

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ment program–statewide, food stamp, and medical assistance programs, the quality control system is that required by federal regulation, or those developed by the commissioner.

[For text of subd 3, see M.S.1996]

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

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

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

[For text of subds 5 to 10, see M.S.1996]

History: *1997 c 85 art 4 s 9,10; art 5 s 3*

256.019 RECOVERY OF MONEY; APPORTIONMENT.

When an amount is recovered from any source for assistance given under the provisions governing public assistance programs including aid to families with dependent children, MFIP–S, general assistance medical care, emergency assistance, general assistance, and Minnesota supplemental aid, the county may keep one–half of recovery made by the county agency using any method other than recoupment. For medical assistance, if the recovery is made by a county agency using any method other than recoupment, the county may keep one–half of the nonfederal share of the recovery. This does not apply to recoveries from medical providers or to recoveries begun by the department of human services' surveillance and utilization review division, state hospital collections unit, and the benefit recoveries division or, by the attorney general's office, or child support collections. In the food stamp program, the nonfederal share of recoveries in the federal tax refund offset program (FTROP) only will be divided equally between the state agency and the involved county agency.

History: *1997 c 85 art 5 s 4*

256.025 PAYMENT PROCEDURES.

[For text of subd 1, see M.S.1996]

Subd. 2. **Covered programs and services.** The procedures in this section govern payment of county agency expenditures for benefits and services distributed under the following programs:

(1) aid to families with dependent children under sections 256.82, subdivision 1, and 256.935, subdivision 1, for assistance costs incurred prior to July 1, 1997;

(2) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(3) general assistance medical care under section 256D.03, subdivision 6, for assistance costs incurred prior to July 1, 1997;

(4) general assistance under section 256D.03, subdivision 2, for assistance costs incurred prior to July 1, 1997;

(5) work readiness under section 256D.03, subdivision 2, for assistance costs incurred prior to July 1, 1995;

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(6) emergency assistance under section 256.871, subdivision 6, for assistance costs incurred prior to July 1, 1997;

(7) Minnesota supplemental aid under section 256D.36, subdivision 1, for assistance costs incurred prior to July 1, 1997;

(8) preadmission screening and alternative care grants for assistance costs incurred prior to July 1, 1997;

(9) work readiness services under section 256D.051 for employment and training services costs incurred prior to July 1, 1995;

(10) case management services under section 256.736, subdivision 13, for case management service costs incurred prior to July 1, 1995;

(11) general assistance claims processing, medical transportation and related costs for costs incurred prior to July 1, 1997;

(12) medical transportation and related costs for transportation and related costs incurred prior to July 1, 1997; and

(13) group residential housing under section 256I.05, subdivision 8, transferred from programs in clauses (4) and (7), for assistance costs incurred prior to July 1, 1997.

[For text of subd 3, see M.S.1996]

Subd. 4. **Payment schedule.** Except as provided for in subdivision 3, beginning July 1, 1991, the state will reimburse counties, according to the following payment schedule, for the county share of county agency expenditures for the programs specified in subdivision 2.

(a) Beginning July 1, 1991, the state will reimburse or pay the county share of county agency expenditures according to the reporting cycle as established by the commissioner, for the programs identified in subdivision 2. Payments for the period of January 1 through July 31, for calendar years 1991, 1992, 1993, 1994, and 1995 shall be made on or before July 10 in each of those years. Payments for the period August through December for calendar years 1991, 1992, 1993, 1994, and 1995 shall be made on or before the third of each month thereafter through December 31 in each of those years.

(b) Payment for 1/24 of the base amount and the January 1996 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before January 3, 1996. For the period of February 1, 1996 through July 31, 1996, payment of the base amount shall be made on or before July 10, 1996, and payment of the growth amount over the base amount shall be made on or before July 10, 1996. Payments for the period August 1996 through December 1996 shall be made on or before the third of each month thereafter through December 31, 1996.

(c) Payment for the county share of county agency expenditures during January 1997 shall be made on or before January 3, 1997. Payment for 1/24 of the base amount and the February 1997 county share of county agency expenditures growth amount for the programs identified in subdivision 2 shall be made on or before February 3, 1997. For the period of March 1, 1997 through July 31, 1997, payment of the base amount shall be made on or before July 10, 1997, and payment of the growth amount over the base amount shall be made on or before July 10, 1997. Payments for the period August 1997 through December 1997 shall be made on or before the third of each month thereafter through December 31, 1997.

(d) Monthly payments for the county share of county agency expenditures from January 1998 through March 1998 shall be made on or before the third of each month through March 1998. For the period of April 1, 1998 through July 31, 1998, payment of the base amount shall be made on or before July 10, 1998, and payment of the growth amount over the base amount shall be made on or before July 10, 1998. Payments for the period August 1998 through December 1998 shall be made on or before the third of each month thereafter through December 31, 1998.

(e) Monthly payments for the county share of county agency expenditures from January 1999 through April 1999 shall be made on or before the third of each month through April 1999. For the period of May 1, 1999 through July 31, 1999, payment of the base amount shall be made on or before July 10, 1999, and payment of the growth amount over the base amount shall be made on or before July 10, 1999. Payments for the period August 1999 through De-

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cember 1999 shall be made on or before the third of each month thereafter through December 31, 1999.

(f) Monthly payments for the county share of county agency expenditures from January 2000 through May 2000 shall be made on or before the third of each month through May 2000. For the period of June 1, 2000 through July 31, 2000, payment of the base amount shall be made on or before July 10, 2000, and payment of the growth amount over the base amount shall be made on or before July 10, 2000. Payments for the period August 2000 through December 2000 shall be made on or before the third of each month thereafter through December 31, 2000.

(g) Effective January 1, 2001, monthly payments for the county share of county agency expenditures shall be made subsequent to the first of each month.

Payments under this subdivision are subject to the provisions of section 256.017.

[For text of subd 5, see M.S.1996]

History: *1997 c 203 art 11 s 1,2*

256.026 [Repealed, 1997 c 203 art 11 s 13]

256.027 USE OF VANS PERMITTED.

The commissioner, after consultation with the commissioner of public safety, shall prescribe procedures to permit the occasional use of lift–equipped vans that have been financed, in whole or in part, by public money to transport an individual whose own lift–equipped vehicle is unavailable because of equipment failure and who is thus unable to complete a trip home or to a medical facility. The commissioner shall encourage publicly financed lift–equipped vans to be made available to a county sheriff's department, and to other persons who are qualified to drive the vans and who are also qualified to assist the individual in need of transportation, for this purpose.

History: *1997 c 187 art 1 s 17*

256.031 MINNESOTA FAMILY INVESTMENT PLAN.

[For text of subds 1 to 4, see M.S.1996]

Subd. 5. **Federal waivers.** According to sections 256.031 to 256.0361 and federal laws authorizing the program, the commissioner shall seek waivers of federal requirements of: United States Code, title 42, section 601 et seq., and United States Code, title 7, section 2011 et seq., needed to implement the Minnesota family investment plan in a manner consistent with the goals and objectives of the program. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon 180 days' notice or immediately upon mutual agreement. If the agreement is canceled, families which cease receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, Minnesota family investment program–statewide, general assistance, medical assistance, general assistance medical care, or the food stamp program must be placed with their consent on the programs for which they are eligible.

Subd. 6. **End of field trials.** Upon agreement with the federal government, the field trials of the Minnesota family investment plan will end June 30, 1998. Families in the comparison group under subdivision 3, paragraph (d), clause (i), receiving aid to families with dependent children under sections 256.72 to 256.87, and STRIDE services under section 256.736 will continue in those programs until June 30, 1998. After June 30, 1998, families who cease receiving assistance under the Minnesota family investment plan and comparison group families who cease receiving assistance under AFDC and STRIDE who are eligible

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for the Minnesota family investment program–statewide (MFIP–S), medical assistance, general assistance medical care, or the food stamp program shall be placed with their consent on the programs for which they are eligible.

History: *1997 c 85 art 3 s 1; art 4 s 11*

256.033 ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.

Subdivision 1. **Eligibility conditions.** (a) A family is entitled to assistance under the Minnesota family investment plan if the family is assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d), and:

(1) the family meets the definition of assistance unit under section 256.032, subdivision 1a;

(2) the family's resources not excluded under subdivision 3 do not exceed $2,000;

(3) the family can verify citizenship or lawful resident alien status; and

(4) the family provides or applies for a social security number for each member of the family receiving assistance under the family investment plan.

(b) A family is eligible for the family investment plan if the net income is less than the transitional standard as defined in section 256.032, subdivision 13, for that size and composition of family. In determining available net income, the provisions in subdivision 2 shall apply.

(c) Upon application, a family is initially eligible for the family investment plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes; and

(2) actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii).

(d) A family can remain eligible for the program if:

(1) it meets the conditions in subdivision 1a; and

(2) its income is below the transitional standard in section 256.032, subdivision 13, allowing for income exclusions in subdivision 2 and after applying the family investment plan treatment of earnings under subdivision 1a.

Subd. 1a. **Treatment of income for the purposes of continued eligibility.** To help families during their transition from the Minnesota family investment plan to self–sufficiency, the following income supports are available:

(a) The $30 and one–third and $90 disregards allowed under section 256.74, subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work–related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money appropriated for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

[For text of subds 2 to 6, see M.S.1996]

History: *1997 c 85 art 3 s 2,3*

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256.045 ADMINISTRATIVE AND JUDICIAL REVIEW OF HUMAN SERVICE MATTERS.

[For text of subd 1, see M.S.1996]

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; or (8) an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) or (8) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (8) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (8) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

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(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Subd. 3a. **Prepaid health plan appeals.** (a) All prepaid health plans under contract to the commissioner under chapter 256B or 256D must provide for a complaint system according to section 62D.11. When a prepaid health plan denies, reduces, or terminates a health service or denies a request to authorize a previously authorized health service, the prepaid health plan must notify the recipient of the right to file a complaint or an appeal. The notice must include the name and telephone number of the ombudsman and notice of the recipient's right to request a hearing under paragraph (b). When a complaint is filed, the prepaid health plan must notify the ombudsman within three working days. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan must issue a written resolution of the complaint to the recipient within 30 days after the complaint is filed with the prepaid health plan. A recipient is not required to exhaust the complaint system procedures in order to request a hearing under paragraph (b).

(b) Recipients enrolled in a prepaid health plan under chapter 256B or 256D may contest a prepaid health plan's denial, reduction, or termination of health services, a prepaid health plan's denial of a request to authorize a previously authorized health service, or the prepaid health plan's written resolution of a complaint by submitting a written request for a hearing according to subdivision 3. A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by a recipient is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner. The state human services referee may order a second medical opinion from the prepaid health plan or may order a second medical opinion from a nonprepaid health plan provider at the expense of the prepaid health plan. Recipients may request the assistance of the ombudsman in the appeal process.

(c) In the written request for a hearing to appeal from a prepaid health plan's denial, reduction, or termination of a health service, a prepaid health plan's denial of a request to authorize a previously authorized service, or the prepaid health plan's written resolution to a complaint, a recipient may request an expedited hearing. If an expedited appeal is warranted, the state human services referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case.

Subd. 3b. **Standard of evidence for maltreatment hearings.** The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive.

Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at

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least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses (4) and (8), either party may subpoena the private data relating to the investigation prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible under section 13.04, provided the identity of the reporter may not be disclosed.

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4) or (8), must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than $700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), and (8), upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the petitioner has the opportunity to respond.

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

Subd. 5. **Orders of the commissioner of human services.** A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the petitioner, the agency, or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the petitioner, the agency, or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency, a county agency, or a prepaid health plan according to subdivision 3a, until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section, unless assisting a recipient as provided in subdivision 4. A prepaid health

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plan is a party to an appeal under subdivision 3a, but cannot seek judicial review of an order issued under this section.

[For text of subd 6, see M.S.1996]

Subd. 7. **Judicial review.** Except for a prepaid health plan, any party who is aggrieved by an order of the commissioner of human services, or the commissioner of health in appeals within the commissioner's jurisdiction under subdivision 3b, may appeal the order to the district court of the county responsible for furnishing assistance, or, in appeals under subdivision 3b, the county where the maltreatment occurred, by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision, with the exception of appeals taken under subdivision 3b. The commissioner may elect to become a party to the proceedings in the district court. Except for appeals under subdivision 3b, any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

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

[For text of subd 9, see M.S.1996]

Subd. 10. **Payments pending appeal.** If the commissioner of human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. The human services referee may order the local human services agency to reduce or terminate medical assistance or general assistance medical care to a recipient before a final order is issued under this section if: (1) the human services referee determines at the hearing that the sole issue on appeal is one of a change in state or federal law; and (2) the commissioner or the local agency notifies the recipient before the action. The state or county agency has a claim for food stamps, cash payments, medical assistance, general assistance medical care, and MinnesotaCare program payments made to or on behalf of a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps, cash payments, medical assistance, general assistance medical care, or MinnesotaCare as a result of the appeal, except for medical assistance and general assistance medical care made on behalf of a recipient pursuant to a court order. In enforcing a claim on MinnesotaCare program payments, the state or county agency shall reduce the claim amount by the value of any premium payments made by a recipient or former recipient during the period for which the recipient or former recipient has been determined to be ineligible. Provision of a health care service by the state agency under medical assistance, general assistance medical care, or MinnesotaCare pending appeal shall not render moot the state agency's position in a court of law.

History: *1997 c 85 art 5 s 5; 1997 c 203 art 4 s 11; art 5 s 6–10; art 9 s 5; 1997 c 225 art 2 s 55*

256.046 ADMINISTRATIVE FRAUD DISQUALIFICATION HEARINGS.

Subdivision 1. **Hearing authority.** A local agency shall initiate an administrative fraud disqualification hearing for individuals accused of wrongfully obtaining assistance or inten-

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tional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children, MFIP-S, child care, general assistance, family general assistance, Minnesota supplemental aid, medical care, or food stamp programs. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant and medical care programs.

Subd. 2. **Combined hearing.** The referee may combine a fair hearing and administrative fraud disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the individual receives prior notice that the hearings will be combined. If the administrative fraud disqualification hearing and fair hearing are combined, the time frames for administrative fraud disqualification hearings specified in Code of Federal Regulations, title 7, section 273.16, and title 45, section 235.112, as of September 30, 1995, apply. If the individual accused of wrongfully obtaining assistance is charged under section 256.98 for the same act or acts which are the subject of the hearing, the individual may request that the hearing be delayed until the criminal charge is decided by the court or withdrawn.

History: *1997 c 85 art 4 s 12; art 5 s 6; 1Sp1997 c 5 s 13*

256.0471 OVERPAYMENTS BECOME JUDGMENTS BY OPERATION OF LAW.

Subdivision 1. **Qualifying overpayment.** Any overpayment for assistance granted under sections 119B.05, 256.031 to 256.0361, and 256.72 to 256.871; chapters 256B, 256D, 256I, 256J, and 256K; and the food stamp program, except agency error claims, become a judgment by operation of law 90 days after the notice of overpayment is personally served upon the recipient in a manner that is sufficient under rule 4.03(a) of the Rules of Civil Procedure for district courts, or by certified mail, return receipt requested. This judgment shall be entitled to full faith and credit in this and any other state.

Subd. 2. **Overpayments included.** This section is limited to overpayments for which notification is issued within the time period specified under section 541.05.

Subd. 3. **Notification requirements.** A judgment is only obtained after:

(1) a notice of overpayment has been personally served on the recipient or former recipient in a manner sufficient under rule 4.03(a) of the Rules of Civil Procedure for district courts, or mailed to the recipient or former recipient certified mail return receipt requested; and

(2) the time period under section 256.045, subdivision 3, has elapsed without a request for a hearing, or a hearing decision has been rendered under section 256.045 or 256.046 which concludes the existence of an overpayment that meets the requirements of this section.

Subd. 4. **Notice of overpayment.** The notice of overpayment shall include the amount and cause of the overpayment, appeal rights, and an explanation of the consequences of the judgment that will be established if an appeal is not filed timely or if the administrative hearing decision establishes that there is an overpayment which qualifies for judgment.

Subd. 5. **Judgments entered and docketed.** A judgment shall be entered and docketed under section 548.09 only after at least three months have elapsed since:

(1) the notice of overpayment was served on the recipient pursuant to subdivision 3; and

(2) the last time a monthly recoupment was applied to the overpayment.

Subd. 6. **Docketing of overpayments.** On or after the date an unpaid overpayment becomes a judgment by operation of law under subdivision 1, the agency or public authority may file with the court administrator:

(1) a statement identifying, or a copy of, the overpayment notice which provides for an appeal process and requires payment of the overpayment;

(2) proof of service of the notice of overpayment;

(3) an affidavit of default, stating the full name, occupation, place of residence, and last known post office address of the debtor; the name and post office address of the agency or public authority; the date or dates the overpayment was incurred; the program that was overpaid; and the total amount of the judgment; and

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(4) an affidavit of service of a notice of entry of judgment shall be made by first class mail at the address where the debtor was served with the notice of overpayment. Service is completed upon mailing in the manner designated.

Subd. 7. **Does not impede other methods.** Nothing in this section shall be construed to impede or restrict alternative recovery methods for these overpayments or overpayments which do not meet the requirements of this section.

History: *1997 c 85 art 5 s 7*

256.476 CONSUMER SUPPORT PROGRAM.

[For text of subd 1, see M.S.1996]

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

(a) "County board" means the county board of commissioners for the county of financial responsibility as defined in section 256G.02, subdivision 4, or its designated representative. When a human services board has been established under sections 402.01 to 402.10, it shall be considered the county board for the purposes of this section.

(b) "Family" means the person's birth parents, adoptive parents or stepparents, siblings or stepsiblings, children or stepchildren, grandparents, grandchildren, niece, nephew, aunt, uncle, or spouse. For the purposes of this section, a family member is at least 18 years of age.

(c) "Functional limitations" means the long–term inability to perform an activity or task in one or more areas of major life activity, including self–care, understanding and use of language, learning, mobility, self–direction, and capacity for independent living. For the purpose of this section, the inability to perform an activity or task results from a mental, emotional, psychological, sensory, or physical disability, condition, or illness.

(d) "Informed choice" means a voluntary decision made by the person or the person's legal representative, after becoming familiarized with the alternatives to:

(1) select a preferred alternative from a number of feasible alternatives;

(2) select an alternative which may be developed in the future; and

(3) refuse any or all alternatives.

(e) "Local agency" means the local agency authorized by the county board to carry out the provisions of this section.

(f) "Person" or "persons" means a person or persons meeting the eligibility criteria in subdivision 3.

(g) "Authorized representative" means an individual designated by the person or their legal representative to act on their behalf. This individual may be a family member, guardian, representative payee, or other individual designated by the person or their legal representative, if any, to assist in purchasing and arranging for supports. For the purposes of this section, an authorized representative is at least 18 years of age.

(h) "Screening" means the screening of a person's service needs under sections 256B.0911 and 256B.092.

(i) "Supports" means services, care, aids, home modifications, or assistance purchased by the person or the person's family. Examples of supports include respite care, assistance with daily living, and adaptive aids. For the purpose of this section, notwithstanding the provisions of section 144A.43, supports purchased under the consumer support program are not considered home care services.

(j) "Program of origination" means the program the individual transferred from when approved for the consumer support grant program.

Subd. 3. **Eligibility to apply for grants.** (a) A person is eligible to apply for a consumer support grant if the person meets all of the following criteria:

(1) the person is eligible for and has been approved to receive services under medical assistance as determined under sections 256B.055 and 256B.056 or the person is eligible for and has been approved to receive services under alternative care services as determined under section 256B.0913 or the person has been approved to receive a grant under the developmental disability family support program under section 252.32;

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(2) the person is able to direct and purchase the person's own care and supports, or the person has a family member, legal representative, or other authorized representative who can purchase and arrange supports on the person's behalf;

(3) the person has functional limitations, requires ongoing supports to live in the community, and is at risk of or would continue institutionalization without such supports; and

(4) the person will live in a home. For the purpose of this section, "home" means the person's own home or home of a person's family member. These homes are natural home settings and are not licensed by the department of health or human services.

(b) Persons may not concurrently receive a consumer support grant if they are:

(1) receiving home and community-based services under United States Code, title 42, section 1396h(c); personal care attendant and home health aide services under section 256B.0625; a developmental disability family support grant; or alternative care services under section 256B.0913; or

(2) residing in an institutional or congregate care setting.

(c) A person or person's family receiving a consumer support grant shall not be charged a fee or premium by a local agency for participating in the program. A person or person's family is not eligible for a consumer support grant if their income is at a level where they are required to pay a parental fee under sections 252.27, 256B.055, subdivision 12, and 256B.14 and rules adopted under those sections for medical assistance services to a disabled child living with at least one parent.

(d) The commissioner may limit the participation of nursing facility residents, residents of intermediate care facilities for persons with mental retardation, and the recipients of services from federal waiver programs in the consumer support grant program if the participation of these individuals will result in an increase in the cost to the state.

(e) The commissioner shall establish a budgeted appropriation each fiscal year for the consumer support grant program. The number of individuals participating in the program will be adjusted so the total amount allocated to counties does not exceed the amount of the budgeted appropriation. The budgeted appropriation will be adjusted annually to accommodate changes in demand for the consumer support grants.

Subd. 4. **Support grants; criteria and limitations.** (a) A county board may choose to participate in the consumer support grant program. If a county board chooses to participate in the program, the local agency shall establish written procedures and criteria to determine the amount and use of support grants. These procedures must include, at least, the availability of respite care, assistance with daily living, and adaptive aids. The local agency may establish monthly or annual maximum amounts for grants and procedures where exceptional resources may be required to meet the health and safety needs of the person on a time-limited basis, however, the total amount awarded to each individual may not exceed the limits established in subdivision 5, paragraph (f).

(b) Support grants to a person or a person's family will be provided through a monthly subsidy payment and be in the form of cash, voucher, or direct county payment to vendor. Support grant amounts must be determined by the local agency. Each service and item purchased with a support grant must meet all of the following criteria:

(1) it must be over and above the normal cost of caring for the person if the person did not have functional limitations;

(2) it must be directly attributable to the person's functional limitations;

(3) it must enable the person or the person's family to delay or prevent out-of-home placement of the person; and

(4) it must be consistent with the needs identified in the service plan, when applicable.

(c) Items and services purchased with support grants must be those for which there are no other public or private funds available to the person or the person's family. Fees assessed to the person or the person's family for health and human services are not reimbursable through the grant.

(d) In approving or denying applications, the local agency shall consider the following factors:

(1) the extent and areas of the person's functional limitations;

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(2) the degree of need in the home environment for additional support; and

(3) the potential effectiveness of the grant to maintain and support the person in the family environment or the person's own home.

(e) At the time of application to the program or screening for other services, the person or the person's family shall be provided sufficient information to ensure an informed choice of alternatives by the person, the person's legal representative, if any, or the person's family. The application shall be made to the local agency and shall specify the needs of the person and family, the form and amount of grant requested, the items and services to be reimbursed, and evidence of eligibility for medical assistance or alternative care program.

(f) Upon approval of an application by the local agency and agreement on a support plan for the person or person's family, the local agency shall make grants to the person or the person's family. The grant shall be in an amount for the direct costs of the services or supports outlined in the service agreement.

(g) Reimbursable costs shall not include costs for resources already available, such as special education classes, day training and habilitation, case management, other services to which the person is entitled, medical costs covered by insurance or other health programs, or other resources usually available at no cost to the person or the person's family.

(h) The state of Minnesota, the county boards participating in the consumer support grant program, or the agencies acting on behalf of the county boards in the implementation and administration of the consumer support grant program shall not be liable for damages, injuries, or liabilities sustained through the purchase of support by the individual, the individual's family, or the authorized representative under this section with funds received through the consumer support grant program. Liabilities include but are not limited to: workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA). For purposes of this section, participating county boards and agencies acting on behalf of county boards are exempt from the provisions of section 268.04.

Subd. 5. **Reimbursement, allocations, and reporting.** (a) For the purpose of transferring persons to the consumer support grant program from specific programs or services, such as the developmental disability family support program and alternative care program, personal care attendant, home health aide, or nursing facility services, the amount of funds transferred by the commissioner between the developmental disability family support program account, the alternative care account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer supports grants;

(2) their eligibility for current program and services;

(3) the amount of nonfederal dollars expended on those individuals for those programs and services or, in situations where an individual is unable to obtain the support needed from the program of origination due to the unavailability of service providers at the time or the location where the supports are needed, the allocation will be based on the county's best estimate of the nonfederal dollars that would have been expended if the services had been available; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service openings, and the nonfederal dollars associated with those persons or service openings, to the consumer support grant program.

(c) The amount of funds transferred by the commissioner from the alternative care account and the medical assistance account for an individual may be changed if it is determined by the county or its agent that the individual's need for support has changed.

(d) The authority to utilize funds transferred to the consumer support grant account for the purposes of implementing and administering the consumer support grant program will

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not be limited or constrained by the spending authority provided to the program of origination.

(e) The commissioner shall use up to five percent of each county's allocation, as adjusted, for payments to that county for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(f) Except as provided in this paragraph, the county allocation for each individual or individual's family cannot exceed 80 percent of the total nonfederal dollars expended on the individual by the program of origination except for the developmental disabilities family support grant program which can be approved up to 100 percent of the nonfederal dollars and in situations as described in paragraph (b), clause (3). In situations where exceptional need exists or the individual's need for support increases, up to 100 percent of the nonfederal dollars expended may be allocated to the county. Allocations that exceed 80 percent of the nonfederal dollars expended on the individual by the program of origination must be approved by the commissioner. The remainder of the amount expended on the individual by the program of origination will be used in the following proportions: half will be made available to the consumer support grant program and participating counties for consumer training, resource development, and other costs, and half will be returned to the state general fund.

(g) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

[For text of subds 6 to 10, see M.S.1996]

History: *1997 c 203 art 4 s 12–15*

256.73 ASSISTANCE, RECIPIENTS.

Subdivision 1. [Repealed, 1997 c 85 art 1 s 74; 1Sp1997 c 5 s 12]

[For text of subd 1a, see M.S.1996]

Subd. 1b. [Repealed, 1997 c 85 art 1 s 74; 1Sp1997 c 5 s 12]

[For text of subds 2 to 11, see M.S.1996]

NOTE: Subdivisions 1a, 2, 3a, 3b, 5, 5a, 6, 8, 8a, 9, 10, and 11, are repealed by Laws 1997, chapter 85, article 1, section 74, effective July 1, 1998. From January 1, 1998, to March 31, 1998, the statutory sections listed in Laws 1997, chapter 85, article 1, section 74, paragraph (a), apply only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the MFIP comparison group, and in those counties that have not completed conversion to MFIP–S employment and training services. From April 1, 1998, through June 30, 1998, the sections listed in paragraph (a) are effective only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the comparison group.

256.7351 [Repealed, 1997 c 85 art 2 s 11]

256.7352 [Repealed, 1997 c 85 art 2 s 11]

256.7353 [Repealed, 1997 c 85 art 2 s 11]

256.7354 [Repealed, 1997 c 85 art 2 s 11]

256.7355 [Repealed, 1997 c 85 art 2 s 11]

256.7356 [Repealed, 1997 c 85 art 2 s 11]

256.7357 [Repealed, 1997 c 85 art 2 s 11]

256.7358 [Repealed, 1997 c 85 art 2 s 11]

256.7359 [Repealed, 1997 c 85 art 2 s 11]

256.736 EMPLOYMENT AND TRAINING PROGRAMS.

[For text of subds 1a and 3, see M.S.1996]

Subd. 3a. **Participation.** (a) Participation in employment and training services under this section is limited to the following recipients:

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(1) caretakers who are required to participate in a job search under subdivision 14;

(2) custodial parents who are subject to the school attendance or case management participation requirements under subdivision 3b; and

(3) after the county agency assures the availability of employment and training services for recipients identified under clauses (1) and (2), and to the extent of available resources, any other AFDC recipient.

(b) Participants who are eligible and enroll in the STRIDE program under one of the categories of this subdivision are required to cooperate with the assessment and employability plan development and to meet the terms of their employability plan. Failure to comply, without good cause, shall result in the imposition of sanctions as specified in subdivision 4, clause (6).

[For text of subds 3b to 6, see M.S.1996]

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

[For text of subds 9 to 15, see M.S.1996]

Subd. 16. [Repealed, 1997 c 85 art 1 s 74]

Subd. 18. [Repealed, 1997 c 85 art 1 s 74]

[For text of subds 19 and 20, see M.S.1996]

History: *1997 c 7 art 2 s 42; art 5 s 28; 1997 c 85 art 3 s 4*

256.74 ASSISTANCE.

Subdivision 1. **Amount.** The amount of assistance which shall be granted to or on behalf of any dependent child and parent or other needy eligible relative caring for the dependent child shall be determined by the county agency according to rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. To the extent permissible under federal law, an eligible relative caretaker or parent shall have the option to include in the assistance unit the needs, income, and resources of the following essential persons who are not otherwise eligible for AFDC because they do not qualify as a caretaker or as a dependent child:

(1) a parent or relative caretaker's spouse and stepchildren; or

(2) blood or legally adopted relatives who are under the age of 18 or under the age of 19 years who are regularly attending as a full–time student, and are expected to complete before or during the month of their 19th birthday, a high school or secondary level course of vocational or technical training designed to prepare students for gainful employment. The amount shall be based on the method of budgeting required in Public Law Number 97–35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an AFDC family must be budgeted in the normal retrospective cycle. When the family's income, after application of the applicable disregards, exceeds the need standard for the family because of receipt of earned or unearned lump sum income, the family will be ineligible for the full number of months derived by dividing the sum of the lump sum income and other income by the monthly need standard for a family of that size. Any income remaining from this calculation is income in the first month following the period of ineligibility. The first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. For purposes of applying the lump sum provision, family includes those persons defined in the Code of Federal Regulations, title 45, section 233.20(a)(3)(ii)(F). A period of ineligibility must be shortened when the standard of need increases and the amount the family would have received also changes, an amount is documented as stolen, an amount is unavailable because a member of the family left the household with that amount and has not returned, an amount is paid by the family during the period

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of ineligibility to cover a cost that would otherwise qualify for emergency assistance, or the family incurs and pays for medical expenses which would have been covered by medical assistance if eligibility existed. In making its determination the county agency shall disregard the following from family income:

(1) all the earned income of each dependent child applying for AFDC if the child is a full–time student and all of the earned income of each dependent child receiving AFDC who is a full–time student or is a part–time student who is not a full–time employee. A student is one who is attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment and includes a participant in the Job Corps program under the Job Training Partnership Act (JTPA). The county agency shall also disregard all income of each dependent child applying for or receiving AFDC when the income is derived from a program carried out under JTPA, except that disregard of earned income may not exceed six months per calendar year;

(2) all educational assistance, except the county agency shall count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(3) the first $90 of each individual's earned income. For self–employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded according to rules promulgated by the commissioner;

(4) thirty dollars plus one–third of each individual's earned income for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; (b) refused without good cause to accept an offer of suitable employment; or (c) failed without good cause to make a timely report of earned income according to rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment;

(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed $175 for each individual age two and older, and $200 for each individual under the age of two. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;

(6) *that portion of an insurance settlement earmarked and used to pay medical expenses,* funeral and burial costs, or to repair or replace insured property; and

(7) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.

All payments made according to a court order for the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order.

[For text of subds 1a and b, see M.S.1996]

Subd. 1c. **MFIP and MFIP–R comparison group families.** Notwithstanding subdivision 1, the limitations of this subdivision apply to MFIP and MFIP–R comparison group fam-

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ilies under sections 256.031 to 256.0361. The disregard of $30 plus one–third of earned income in this subdivision shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of subdivision 1, paragraph (4), clauses (a) to (c), shall be considered as one of the four months. An additional $30 work incentive must be available for an eight–month period beginning in the month following the last month of the combined $30 and one–third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under this subdivision, the individual must not be a recipient of and for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12–month period beginning with the first month of AFDC ineligibility.

[For text of subds 2 to 7, see M.S.1996]

History: *1997 c 85 art 3 s 5,6*

NOTE: Subdivisions 1, 1a, 1b, 2, and 6, are repealed by Laws 1997, chapter 85, article 1, section 74, effective July 1, 1998. From January 1, 1998, to March 31, 1998, the statutory sections listed in Laws 1997, chapter 85, article 1, section 74, paragraph (a), apply only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the MFIP comparison group, and in those counties that have not completed conversion to MFIP–S employment and training services. From April 1, 1998, through June 30, 1998, the sections listed in paragraph (a) are effective only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the comparison group.

NOTE: Subdivisions 5 and 7 are repealed effective March 31, 1998. Laws 1997, chapter 203, article 6, section 93, paragraph (b).

256.741 CHILD SUPPORT AND MAINTENANCE.

Subdivision 1. **Public assistance.** (a) The term "public assistance" as used in this chapter and chapters 257, 518, and 518C, includes any form of assistance provided under AFDC, MFIP, and MFIP–R under chapter 256, MFIP–S under chapter 256J, and work first under chapter 256K; child care assistance provided through the child care fund according to chapter 119B; any form of medical assistance under chapter 256B; MinnesotaCare under chapter 256; and foster care as provided under title IV–E of the Social Security Act.

(b) The term "child support agency" as used in this section refers to the public authority responsible for child support enforcement.

(c) The term "public assistance agency" as used in this section refers to a public authority providing public assistance to an individual.

Subd. 2. **Assignment of support and maintenance rights.** (a) An individual receiving public assistance in the form of assistance under AFDC, MFIP–S, MFIP–R, MFIP, and work first is considered to have assigned to the state at the time of application all rights to child support and maintenance from any other person the applicant or recipient may have in the individual's own behalf or in the behalf of any other family member for whom application for public assistance is made. An assistance unit is ineligible for aid to families with dependent children or its successor program unless the caregiver assigns all rights to child support and spousal maintenance benefits according to this section.

(1) An assignment made according to this section is effective as to:

(i) any current child support and current spousal maintenance; and

(ii) any accrued child support and spousal maintenance arrears.

(2) An assignment made after September 30, 1997, is effective as to:

(i) any current child support and current spousal maintenance;

(ii) any accrued child support and spousal maintenance arrears collected before October 1, 2000, or the date the individual terminates assistance, whichever is later; and

(iii) any accrued child support and spousal maintenance arrears collected under federal tax intercept.

(b) An individual receiving public assistance in the form of medical assistance, including MinnesotaCare, is considered to have assigned to the state at the time of application all rights to medical support from any other person the individual may have in the individual's own behalf or in the behalf of any other family member for whom medical assistance is provided.

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An assignment made after September 30, 1997, is effective as to any medical support accruing after the date of medical assistance or MinnesotaCare eligibility.

(c) An individual receiving public assistance in the form of child care assistance under the child care fund pursuant to chapter 119B is considered to have assigned to the state at the time of application all rights to child care support from any other person the individual may have in the individual's own behalf or in the behalf of any other family member for whom child care assistance is provided.

An assignment made according to this paragraph is effective as to:

(1) any current child care support and any child care support arrears assigned and accruing after July 1, 1997, that are collected before October 1, 2000; and

(2) any accrued child care support arrears collected under federal tax intercept.

Subd. 3. **Existing assignments.** Assignments based on the receipt of public assistance in existence prior to July 1, 1997, are permanently assigned to the state.

Subd. 4. **Effect of assignment.** Assignments in this section take effect upon a determination that the applicant is eligible for public assistance. The amount of support assigned under this subdivision may not exceed the total amount of public assistance issued or the total support obligation, whichever is less. Child care support collections made according to an assignment under subdivision 2, paragraph (c), must be transferred, subject to any limitations of federal law, from the commissioner of human services to the commissioner of children, families, and learning and dedicated to the child care fund under chapter 119B. These collections are in addition to state and federal funds appropriated to the child care fund.

Subd. 5. **Cooperation with child support enforcement.** After notification from a public assistance agency that an individual has applied for or is receiving any form of public assistance, the child support agency shall determine whether the party is cooperating with the agency in establishing paternity, child support, modification of an existing child support order, or enforcement of an existing child support order. The public assistance agency shall notify each applicant or recipient in writing of the right to claim a good cause exemption from cooperating with the requirements in this section. A copy of the notice must be furnished to the applicant or recipient, and the applicant or recipient and a representative from the public authority shall acknowledge receipt of the notice by signing and dating a copy of the notice. The individual shall cooperate with the child support agency by:

(1) providing all known information regarding the alleged father or obligor, including name, address, social security number, telephone number, place of employment or school, and the names and addresses of any relatives;

(2) appearing at interviews, hearings and legal proceedings;

(3) submitting to genetic tests including genetic testing of the child, under a judicial or administrative order; and

(4) providing additional information known by the individual as necessary for cooperating in good faith with the child support agency.

The caregiver of a minor child must cooperate with the efforts of the public authority to collect support according to this subdivision. A caregiver must forward to the public authority all support the caregiver receives during the period the assignment of support required under subdivision 2 is in effect. Support received by a caregiver and not forwarded to the public authority must be repaid to the child support enforcement unit for any month following the date on which initial eligibility is determined, except as provided under subdivision 8, paragraph (b), clause (4).

Subd. 6. **Determination.** If the individual cannot provide the information required in subdivision 5, before making a determination that the individual is cooperating, the child support agency shall make a finding that the individual could not reasonably be expected to provide the information. In making this finding, the child support agency shall consider:

(1) the age of the child for whom support is being sought;

(2) the circumstances surrounding the conception of the child;

(3) the age and mental capacity of the parent or caregiver of the child for whom support is being sought;

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(4) the time period that has expired since the parent or caregiver of the child for whom support is sought last had contact with the alleged father or obligor, or the person's relatives; and

(5) statements from the applicant or recipient or other individuals that show evidence of an inability to provide correct information about the alleged father or obligor because of deception by the alleged father or obligor.

Subd. 7. **Noncooperation.** Unless good cause is found to exist under subdivision 10, upon a determination of noncooperation by the child support agency, the agency shall promptly notify the individual and each public assistance agency providing public assistance to the individual that the individual is not cooperating with the child support agency. Upon notice of noncooperation, the individual shall be sanctioned in the amount determined according to the public assistance agency responsible for enforcing the sanction.

Subd. 8. **Refusal to cooperate with support requirements.** (a) Failure by a caregiver to satisfy any of the requirements of subdivision 5 constitutes refusal to cooperate, and the sanctions under paragraph (b) apply. The IV–D agency must determine whether a caregiver has refused to cooperate according to subdivision 5.

(b) Determination by the IV–D agency that a caregiver has refused to cooperate has the following effects:

(1) a caregiver is subject to the applicable sanctions under section 256J.46;

(2) a caregiver who is not a parent of a minor child in an assistance unit may choose to remove the child from the assistance unit unless the child is required to be in the assistance unit;

(3) a parental caregiver who refuses to cooperate is ineligible for medical assistance; and

(4) direct support retained by a caregiver must be counted as unearned income when determining the amount of the assistance payment.

Subd. 9. **Good cause exemption from cooperating with support requirements.** The IV–A or IV–D agency must notify the caregiver that the caregiver may claim a good cause exemption from cooperating with the requirements in subdivision 5. Good cause may be claimed and exemptions determined according to subdivisions 10 to 13.

Subd. 10. **Good cause exemption.** (a) Cooperation with the child support agency under subdivision 5 is not necessary if the individual asserts, and both the child support agency and the public assistance agency find, good cause exists under this subdivision for failing to cooperate. An individual may request a good cause exemption by filing a written claim with the public assistance agency on a form provided by the commissioner of human services. Upon notification of a claim for good cause exemption, the child support agency shall cease all child support enforcement efforts until the claim for good cause exemption is reviewed and the validity of the claim is determined. Designated representatives from public assistance agencies and at least one representative from the child support enforcement agency shall review each claim for a good cause exemption and determine its validity.

(b) Good cause exists when an individual documents that pursuit of child support enforcement services could reasonably result in:

(1) physical or emotional harm to the child for whom support is sought;

(2) physical harm to the parent or caregiver with whom the child is living that would reduce the ability to adequately care for the child; or

(3) emotional harm to the parent or caregiver with whom the child is living, of such nature or degree that it would reduce the person's ability to adequately care for the child.

Physical and emotional harm under this paragraph must be of a serious nature in order to justify a finding of good cause exemption. A finding of good cause exemption based on emotional harm may only be based upon a demonstration of emotional impairment that substantially affects the individual's ability to function.

(c) Good cause also exists when the designated representatives in this subdivision believe that pursuing child support enforcement would be detrimental to the child for whom support is sought and the individual applicant or recipient documents any of the following:

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(1) the child for whom child support enforcement is sought was conceived as a result of incest or rape;

(2) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) the parent or caregiver of the child is currently being assisted by a public or licensed private social service agency to resolve the issues of whether to keep the child or place the child for adoption.

The parent or caregiver's right to claim a good cause exemption based solely on this paragraph expires if the assistance lasts more than 90 days.

(d) The public authority shall consider the best interests of the child in determining good cause.

Subd. 11. **Proof of good cause.** (a) An individual seeking a good cause exemption has 20 days from the date the good cause claim was provided to the public assistance agency to supply evidence supporting the claim. The public assistance agency may extend the time period in this section if it believes the individual is cooperating and needs additional time to submit the evidence required by this section. Failure to provide this evidence shall result in the child support agency resuming child support enforcement efforts.

(b) Evidence supporting a good cause claim includes, but is not limited to:

(1) a birth certificate or medical or law enforcement records indicating that the child was conceived as the result of incest or rape;

(2) court documents or other records indicating that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) court, medical, criminal, child protective services, social services, domestic violence advocate services, psychological, or law enforcement records indicating that the alleged father or obligor might inflict physical or emotional harm on the child, parent, or caregiver;

(4) medical records or written statements from a licensed medical professional indicating the emotional health history or status of the custodial parent, child, or caregiver, or indicating a diagnosis or prognosis concerning their emotional health;

(5) a written statement from a public or licensed private social services agency that the individual is deciding whether to keep the child or place the child for adoption; or

(6) sworn statements from individuals other than the applicant or recipient that provide evidence supporting the good cause claim.

(c) The child support agency and the public assistance agency shall assist an individual in obtaining the evidence in this section upon request of the individual.

Subd. 12. **Decision.** A good cause exemption must be granted if the individual's claim and the investigation of the supporting evidence satisfy the investigating agencies that the individual has good cause for refusing to cooperate.

Subd. 13. **Duration.** (a) A good cause exemption may not continue for more than one year without redetermination of cooperation and good cause pursuant to this section. The child support agency may redetermine cooperation and the designated representatives in subdivision 10 may redetermine the granting of a good cause exemption before the one year expiration in this subdivision.

(b) A good cause exemption must be allowed under subsequent applications and redeterminations without additional evidence when the factors that led to the exemption continue to exist. A good cause exemption must end when the factors that led to the exemption have changed.

Subd. 14. **Training.** The commissioner shall establish domestic violence and sexual abuse training programs for child support agency employees. The training programs must be developed in consultation with experts on domestic violence and sexual assault. To the extent possible, representatives of the child support agency involved in making a determination of cooperation under subdivision 6 or reviewing a claim for good cause exemption under subdivision 9 shall receive training in accordance with this subdivision.

History: *1997 c 203 art 6 s 5; 1997 c 245 art 3 s 5*

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256.81 COUNTY AGENCY, DUTIES.

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

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency unless paid by the state agency. Payment must be in the form of a warrant immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution, except in those instances in which the county agency, subject to the rules of the state agency, determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child. There is a presumption of mismanagement of funds whenever a recipient is more than 30 days in arrears on payment of rent, except when the recipient has withheld rent to enforce the recipient's right to withhold the rent in accordance with federal, state, or local housing laws. In cases of mismanagement based solely on failure to pay rent, the county may vendor the rent payments to the landlord. At the request of a recipient, the state or county may make payments directly to vendors of goods and services, but only for goods and services appropriate to maintain the health and safety of the child, as determined by the county.

(3) The state or county may ask the recipient to give written consent authorizing the state or county to provide advance notice to a vendor before vendor payments of rent are reduced or terminated. Whenever possible under state and federal laws and regulations and if the recipient consents, the state or county shall provide at least 30 days notice to vendors before vendor payments of rent are reduced or terminated. If 30 days notice cannot be given, the state or county shall notify the vendor within three working days after the date the state or county becomes aware that vendor payments of rent will be reduced or terminated. When the county notifies a vendor that vendor payments of rent will be reduced or terminated, the county shall include in the notice that it is illegal to discriminate on the grounds that a person is receiving public assistance and the penalties for violation. The county shall also notify the recipient that it is illegal to discriminate on the grounds that a person is receiving public assistance and the procedures for filing a complaint. The county agency may develop procedures, including using the MAXIS system, to implement vendor notice and may charge vendors a fee not exceeding $5 to cover notification costs.

(4) A vendor payment arrangement is not a guarantee that a vendor will be paid by the state or county for rent, goods, or services furnished to a recipient, and the state and county are not liable for any damages claimed by a vendor due to failure of the state or county to pay or to notify the vendor on behalf of a recipient, except under a specific written agreement between the state or county and the vendor or when the state or county has provided a voucher guaranteeing payment under certain conditions.

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

(6) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

(7) The affected county may require that assistance paid under the emergency assistance program in the form of a utility deposit or rental unit damage deposit, less any amount retained by the landlord to remedy a tenant's default in payment of rent or other funds due to the landlord pursuant to a rental agreement, or to restore the premises to the condition at the commencement of the tenancy, ordinary wear and tear excepted, be returned to the county when the individual vacates the premises or paid to the recipient's new landlord as a vendor payment. The vendor payment of returned funds shall not be considered a new use of emergency assistance.

History: *1997 c 85 art 3 s 7*

NOTE: This section is repealed by Laws 1997, chapter 85, article 1, section 74, effective July 1, 1998. From January 1, 1998, to March 31, 1998, the statutory sections listed in Laws 1997, chapter 85, article 1, section 74, paragraph (a), apply only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the MFIP comparison group, and in those counties that have not completed conversion to MFIP–S employment and training services. From April 1, 1998, through

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June 30, 1998, the sections listed in paragraph (a) are effective only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the comparison group.

256.82 PAYMENTS BY STATE.

Subdivision 1. [Repealed, 1997 c 203 art 11 s 13]

Subd. 2. **Foster care maintenance payments.** Notwithstanding subdivision 1, for the purposes of foster care maintenance payments under title IV–E of the federal Social Security Act, United States Code, title 42, sections 670 to 676, during the period beginning July 1, 1985, and ending December 31, 1985, the county paying the maintenance costs shall be reimbursed for the costs from those federal funds available for that purpose together with an amount of state funds equal to a percentage of the difference between the total cost and the federal funds made available for payment. This percentage shall not exceed the percentage specified in subdivision 1 for the aid to families with dependent children program. In the event that the state appropriation for this purpose is less than the state percentage set in subdivision 1, the reimbursement shall be ratably reduced to the county. Beginning January 1, 1986, for the purpose of foster care maintenance payments under title IV–E of the Social Security Act, United States Code, title 42, sections 670 to 676, the county paying the maintenance costs must be reimbursed for the costs from the federal money available for the purpose. Beginning July 1, 1997, for the purposes of determining a child's eligibility under title IV–E of the Social Security Act, the placing agency shall use AFDC requirements in effect on June 1, 1995.

[For text of subd 3, see M.S.1996]

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

Subd. 5. **Difficulty of care assessment pilot project.** Notwithstanding any law to the contrary, the commissioner of human services shall conduct a two–year statewide pilot project beginning July 1, 1997, to conduct a difficulty of care assessment process which both assesses an individual child's current functioning and identifies needs in a variety of life situations. The pilot project must take into consideration existing difficulty of care payments so that, to the extent possible, no child for whom a difficulty of care rate is currently established will be adversely affected. The pilot project must include an evaluation and an interim report to the legislature by January 15, 1999.

History: *1997 c 7 art 5 s 29; 1997 c 85 art 3 s 8; 1997 c 203 art 5 s 11*

NOTE: Subdivision 1 was also amended by Laws 1997, chapter 203, article 11, section 3, to read as follows:

"Subdivision 1. **Division of costs and payments.** Based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency, payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month. The state share of the nonfederal portion of county agency expenditures shall be 100 percent. Payment to counties under this subdivision is subject to the provisions of section 256.017. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month."

256.84 [Repealed, 1997 c 85 art 1 s 74]

256.85 [Repealed, 1997 c 85 art 1 s 74]

256.86 [Repealed, 1997 c 85 art 1 s 74]

256.863 [Repealed, 1997 c 85 art 1 s 74]

256.87 CONTRIBUTION BY PARENTS.

Subdivision 1. **Actions against parents for assistance furnished.** A parent of a child is liable for the amount of public assistance, as defined in section 256.741, furnished to and for the benefit of the child, including any assistance furnished for the benefit of the caretaker of the child, which the parent has had the ability to pay. Ability to pay must be determined according to chapter 518. The parent's liability is limited to the two years immediately preceding the commencement of the action, except that where child support has been previously

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ordered, the state or county agency providing the assistance, as assignee of the obligee, shall be entitled to judgments for child support payments accruing within ten years preceding the date of the commencement of the action up to the full amount of assistance furnished. The action may be ordered by the state agency or county agency and shall be brought in the name of the county or in the name of the state agency against the parent for the recovery of the amount of assistance granted, together with the costs and disbursements of the action.

Subd. 1a. **Continuing support contributions.** In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that public assistance, as defined in section 256.741, is again being provided for the child of the parent. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Subd. 3. **Continuing contributions to former recipient.** The order for continuing support contributions shall remain in effect following the period after public assistance, as defined in section 256.741, granted is terminated unless the former recipient files an affidavit with the court requesting termination of the order.

Subd. 5. **Child not receiving assistance.** A person or entity having physical custody of a dependent child not receiving public assistance as defined in section 256.741 has a cause of action for child support against the child's noncustodial parents. Upon a motion served on the noncustodial parent, the court shall order child support payments, including medical support and child care support, from the noncustodial parent under chapter 518. A noncustodial parent's liability may include up to the two years immediately preceding the commencement of the action. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.

[For text of subds 6 and 7, see M.S.1996]

Subd. 8. **Disclosure prohibited.** Notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released to the other party by the public authority if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 9. **Arrears for parent who reunites with family.** (a) A parent liable for assistance under this section may seek a suspension of collection efforts under Title IV–D of the Social Security Act or a payment agreement based on ability to pay if the parent has reunited with that parent's family and lives in the same household as the child on whose behalf the assistance was furnished.

(b) The Title IV–D agency shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and shall propose a reasonable payment agreement tailored to those individual financial circumstances.

(c) The Title IV–D agency may suspend collection of arrears owed to the state under this section for as long as the obligor continues to live in the same household as the child on whose behalf the assistance was furnished if the total gross household income of the obligor is less than 185 percent of the federal poverty level.

(d) An obligor must annually reapply for suspension of collection of arrearages under paragraph (c).

(e) The obligor must notify the Title IV–D agency if the obligor no longer resides in the same household as the child.

History: *1997 c 203 art 6 s 6–10; 1997 c 245 art 1 s 3*

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

[For text of subds 1 to 5, see M.S.1996]

Subd. 6. **Reports of estimated expenditures; payments.** The county agency shall submit to the state agency reports required under section 256.01, subdivision 2, paragraph (17). Fiscal reports shall estimate expenditures for each succeeding month in such form as required by the state agency. The state share of the nonfederal portion of eligible expenditures shall be 100 percent. Adjustment of any overestimate or underestimate made by any county shall be paid upon the direction of the state agency in any succeeding month.

[For text of subd 7, see M.S.1996]

History: *1997 c 203 art 11 s 4*

NOTE: This section is repealed by Laws 1997, chapter 85, article 1, section 74, effective July 1, 1998. From January 1, 1998, to March 31, 1998, the statutory sections listed in Laws 1997, chapter 85, article 1, section 74, paragraph (a), apply only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the MFIP comparison group, and in those counties that have not completed conversion to MFIP–S employment and training services. From April 1, 1998, through June 30, 1998, the sections listed in paragraph (a) are effective only in counties that operate an MFIP field trial and that continue to provide project STRIDE services to members of the comparison group.

256.8711 [Repealed, 1997 c 85 art 3 s 56]

256.935 FUNERAL EXPENSES, PAYMENT BY COUNTY AGENCY.

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children or MFIP–S, the county agency shall pay an amount for funeral expenses not exceeding the amount paid for comparable services under section 261.035 plus actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse, who was legally responsible for the support of the deceased while living, is able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3–805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The state share shall pay the entire amount of county agency expenditures. Benefits shall be issued to recipients by the state or county subject to provisions of section 256.017.

History: *1997 c 85 art 4 s 13; 1997 c 203 art 11 s 5*

256.9351 [Renumbered 256L.01]

256.9352 Subdivision 1. [Renumbered 256L.02, subd. 1]

Subd. 2. [Renumbered 256L.02, subd. 2]

Subd. 3. [Renumbered 256L.02, subd. 3]

Subd. 4. [Deleted, 1995 c 233 art 2 s 56]

256.9353 Subdivision 1. [Renumbered 256L.03, subd. 1]

Subd. 2. [Renumbered 256L.03, subd. 2]

Subd. 3. [Renumbered 256L.03, subd. 3]

Subd. 4. [Repealed, 1995 c 234 art 6 s 46]

Subd. 5. [Repealed, 1995 c 234 art 6 s 46]

Subd. 6. [Renumbered 256L.03, subd. 4]

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Subd. 7. [Renumbered 256L.03, subd. 5]
Subd. 8. [Renumbered 256L.03, subd. 6]

256.9354 Subdivision 1. [Renumbered 256L.04, subd. 1]
Subd. 1a. [Renumbered 256L.04, subd. 2]
Subd. 2. [Renumbered 256L.04, subd. 3]
Subd. 3. [Renumbered 256L.04, subd. 4]
Subd. 4. [Renumbered 256L.04, subd. 5]
Subd. 4a. [Renumbered 256L.04, subd. 6]
Subd. 5. [Renumbered 256L.04, subd. 7]
Subd. 6. [Renumbered 256L.04, subd. 8]
Subd. 7. [Renumbered 256L.04, subd. 9]

256.9355 [Renumbered 256L.05]

256.9356 [Renumbered 256L.06]

256.9357 [Renumbered 256L.07]

256.9358 [Renumbered 256L.08]

256.9359 [Renumbered 256L.09]

256.9361 [Renumbered 256L.10]

256.9362 [Renumbered 256L.11]

256.9363 [Renumbered 256L.12]

256.9366 [Renumbered 256L.13]

256.9367 [Renumbered 256L.14]

256.9368 [Renumbered 256L.15]

256.9369 [Renumbered 256L.16]

256.955 SENIOR CITIZEN DRUG PROGRAM.

Subdivision 1. **Establishment.** The commissioner of human services shall establish and administer a senior citizen drug program. Qualified senior citizens shall be eligible for prescription drug coverage under the program beginning no later than January 1, 1999.

Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Health plan" has the meaning provided in section 62Q.01, subdivision 3.

(c) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(d) "Qualified senior citizen" means an individual age 65 or older who:

(1) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a, or is eligible under section 256B.057, subdivision 3 or 3a, and is also eligible for medical assistance or general assistance medical care with a spenddown as defined in section 256B.056, subdivision 5. Persons who are determined eligible for medical assistance according to section 256B.0575, who are eligible for medical assistance or general assistance medical care without a spenddown, or who are enrolled in MinnesotaCare, are not eligible for this program;

(2) is not enrolled in prescription drug coverage under a health plan;

(3) is not enrolled in prescription drug coverage under a Medicare supplement plan, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;

(4) has not had coverage described in clauses (2) and (3) for at least four months prior to application for the program; and

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(5) is a permanent resident of Minnesota as defined in section 256L.09.

Subd. 3. **Prescription drug coverage.** Coverage under the program is limited to prescription drugs covered under the medical assistance program as described in section 256B.0625, subdivision 13, subject to a maximum deductible of $300 annually, except drugs cleared by the FDA shall be available to qualified senior citizens enrolled in the program without restriction when prescribed for medically accepted indication as defined in the federal rebate program under section 1927 of title XIX of the federal Social Security Act.

Subd. 4. **Application procedures and coordination with medical assistance.** Applications and information on the program must be made available at county social service agencies, health care provider offices, and agencies and organizations serving senior citizens. Senior citizens shall submit applications and any information specified by the commissioner as being necessary to verify eligibility directly to the county social service agencies:

(1) beginning January 1, 1999, the county social service agency shall determine medical assistance spenddown eligibility of individuals who qualify for the senior citizen drug program of individuals; and

(2) program payments will be used to reduce the spenddown obligations of individuals who are determined to be eligible for medical assistance with a spenddown as defined in section 256B.056, subdivision 5.

Seniors who are eligible for medical assistance with a spenddown shall be financially responsible for the deductible amount up to the satisfaction of the spenddown. No deductible applies once the spenddown has been met. Payments to providers for prescription drugs for persons eligible under this subdivision shall be reduced by the deductible.

County social service agencies shall determine an applicant's eligibility for the program within 30 days from the date the application is received.

Subd. 5. **Drug utilization review program.** The commissioner shall utilize the drug utilization review program as described in section 256B.0625, subdivision 13a.

Subd. 6. **Pharmacy reimbursement.** The commissioner shall reimburse participating pharmacies for drug and dispensing costs at the medical assistance reimbursement level, minus the deductible required under subdivision 7.

Subd. 7. **Cost sharing.** (a) Enrollees shall pay an annual premium of $120.

(b) Program enrollees must satisfy a $300 annual deductible, based upon expenditures for prescription drugs, to be paid as follows:

(1) $25 monthly deductible for persons with a monthly spenddown; or

(2) $150 biannual deductible for persons with a six–month spenddown.

Subd. 8. **Report.** The commissioner shall annually report to the legislature on the senior citizen drug program. The report must include demographic information on enrollees, per–prescription expenditures, total program expenditures, hospital and nursing home costs avoided by enrollees, any savings to medical assistance and Medicare resulting from the provision of prescription drug coverage under Medicare by health maintenance organizations, other public and private options for drug assistance to the senior population, any hardships caused by the annual premium and deductible, and any recommendations for changes in the senior drug program.

Subd. 9. **Program limitation.** This section shall be repealed upon federal approval of the waiver to allow the commissioner to provide prescription drug coverage for qualified Medicare beneficiaries whose income is less than 150 percent of the federal poverty guidelines.

History: *1997 c 225 art 4 s 2; 1997 c 251 s 30*

256.9657 PROVIDER SURCHARGES.

[For text of subds 1 to 2, see M.S.1996]

Subd. 3. **Health maintenance organization; community integrated service network surcharge.** (a) Effective October 1, 1992, each health maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D and each

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community integrated service network licensed by the commissioner under chapter 62N shall pay to the commissioner of human services a surcharge equal to six-tenths of one percent of the total premium revenues of the health maintenance organization or community integrated service network as reported to the commissioner of health according to the schedule in subdivision 4.

(b) For purposes of this subdivision, total premium revenue means:

(1) premium revenue recognized on a prepaid basis from individuals and groups for provision of a specified range of health services over a defined period of time which is normally one month, excluding premiums paid to a health maintenance organization or community integrated service network from the Federal Employees Health Benefit Program;

(2) premiums from Medicare wrap-around subscribers for health benefits which supplement Medicare coverage;

(3) Medicare revenue, as a result of an arrangement between a health maintenance organization or a community integrated service network and the health care financing administration of the federal Department of Health and Human Services, for services to a Medicare beneficiary; and

(4) medical assistance revenue, as a result of an arrangement between a health maintenance organization or community integrated service network and a Medicaid state agency, for services to a medical assistance beneficiary.

If advance payments are made under clause (1) or (2) to the health maintenance organization or community integrated service network for more than one reporting period, the portion of the payment that has not yet been earned must be treated as a liability.

(c) When a health maintenance organization or community integrated service network merges or consolidates with or is acquired by another health maintenance organization or community integrated service network, the surviving corporation or the new corporation shall be responsible for the annual surcharge originally imposed on each of the entities or corporations subject to the merger, consolidation, or acquisition, regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N.

(d) Effective July 1 of each year, the surviving corporation's or the new corporation's surcharge shall be based on the revenues earned in the second previous calendar year by all of the entities or corporations subject to the merger, consolidation, or acquisition regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N until the total premium revenues of the surviving corporation include the total premium revenues of all the merged entities as reported to the commissioner of health.

(e) When a health maintenance organization or community integrated service network, which is subject to liability for the surcharge under this chapter, transfers, assigns, sells, leases, or disposes of all or substantially all of its property or assets, liability for the surcharge imposed by this chapter is imposed on the transferee, assignee, or buyer of the health maintenance organization or community integrated service network.

(f) In the event a health maintenance organization or community integrated service network converts its licensure to a different type of entity subject to liability for the surcharge under this chapter, but survives in the same or substantially similar form, the surviving entity remains liable for the surcharge regardless of whether one of the entities or corporations does not retain a certificate of authority under chapter 62D or a license under chapter 62N.

(g) The surcharge assessed to a health maintenance organization or community integrated service network ends when the entity ceases providing services for premiums and the cessation is not connected with a merger, consolidation, acquisition, or conversion.

[For text of subds 4 to 8, see M.S.1996]

History: *1997 c 225 art 2 s 57*

256.9685 ESTABLISHMENT OF INPATIENT HOSPITAL PAYMENT SYSTEM.

Subdivision 1. **Authority.** The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospec-

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tive payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The medical assistance payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.

[For text of subds 1a to 2, see M.S.1996]

History: *1997 c 187 art 1 s 19*

256.969 PAYMENT RATES.

Subdivision 1. **Hospital cost index.** (a) The hospital cost index shall be the change in the Consumer Price Index–All Items (United States city average) (CPI–U) forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the third quarter of the calendar year prior to the rate year. The hospital cost index may be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.

(b) For fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance, nor under general assistance medical care, except that the inflation adjustments under paragraph (a) for medical assistance, excluding general assistance medical care, shall apply through calendar year 1999. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in hospital payment rates under medical assistance and general assistance medical care, based upon the hospital cost index.

[For text of subds 2 to 2c, see M.S.1996]

Subd. 3a. **Payments.** Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 11 or 12, must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case

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mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

[For text of subds 4a to 25, see M.S.1996]

History: *1997 c 187 art 1 s 20; 1997 c 203 art 4 s 16*

256.9695 APPEALS OF RATES; PROHIBITED PRACTICES FOR HOSPITALS; TRANSITION RATES.

Subdivision 1. **Appeals.** A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or 256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be implemented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections 14.57 to 14.62, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.

(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60–day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.

(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 120 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed. For case mix appeals filed after January 1, 1997, the difference in case mix and the corresponding payment adjustment must exceed a threshold of five percent.

[For text of subds 2 to 5, see M.S.1996]

History: *1997 c 203 art 4 s 17*

256.9742 DUTIES AND POWERS OF THE OFFICE.

Subdivision 1. **Duties.** The ombudsman's program shall:

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

(2) mediate or advocate on behalf of clients;

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

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

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

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

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

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

(9) collect and analyze data relating to complaints, conditions, and services.

Subd. 1a. **Designation; local ombudsman staff and volunteers.** (a) In designating an individual to perform duties under this section, the ombudsman must determine that the individual is qualified to perform the duties required by this section.

(b) An individual designated as ombudsman staff under this section must successfully complete an orientation training conducted under the direction of the ombudsman or approved by the ombudsman. Orientation training shall be at least 20 hours and will consist of training in: investigation, dispute resolution, health care regulation, confidentiality, resident and patients' rights, and health care reimbursement.

(c) The ombudsman shall develop and implement a continuing education program for individuals designated as ombudsman staff under this section. The continuing education program shall be at least 60 hours annually.

(d) An individual designated as an ombudsman volunteer under this section must successfully complete an approved orientation training course with a minimum curriculum including federal and state bills of rights for long–term care residents, acute hospital patients and home care clients, the Vulnerable Adults Act, confidentiality, and the role of the ombudsman.

(e) The ombudsman shall develop and implement a continuing education program for ombudsman volunteers which will provide a minimum of 12 hours of continuing education per year.

(f) The ombudsman may withdraw an individual's designation if the individual fails to perform duties of this section or meet continuing education requirements. The individual may request a reconsideration of such action by the board on aging whose decision shall be final.

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

Subd. 3. **Posting.** Every long–term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. A home care service provider shall provide all recipients, including those in elderly housing with services under chapter 144D, with the address and telephone number of the office. Counties shall provide clients receiving a consumer support grant or a service allowance with the name, address, and telephone number of the office. The posting or notice is subject to approval by the ombudsman.

Subd. 4. **Access to long–term care and acute care facilities and clients.** The ombudsman or designee may:

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

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

(3) enter any acute care facility without notice at any time to interview a patient or observe services being provided to the patient as part of an investigation of a matter that is within the scope of the ombudsman's authority, but only if the ombudsman's or designee's presence does not intrude upon the privacy of another patient or interfere with routine hospital services provided to any patient in the facility;

(4) communicate privately and without restriction with any client in accordance with section 144.651, as long as the ombudsman has the client's consent for such communication;

(5) inspect records of a long–term care facility, home care service provider, or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651; and

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(6) with the consent of a client or client's legal guardian, the ombudsman or designated staff shall have access to review records pertaining to the care of the client according to sections 144.335 and 144.651. If a client cannot consent and has no legal guardian, access to the records is authorized by this section.

A person who denies access to the ombudsman or designee in violation of this subdivision or aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

Subd. 5. **Access to state records.** The ombudsman or designee, excluding volunteers, has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman or designee shall first obtain the individual's consent. If the individual cannot consent and has no legal guardian, then access to the data is authorized by this section.

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

Subd. 6. **Prohibition against discrimination or retaliation.** (a) No entity shall take discriminatory, disciplinary, or retaliatory action against an employee or volunteer, or a patient, resident, or guardian or family member of a patient, resident, or guardian for filing in good faith a complaint with or providing information to the ombudsman or designee including volunteers. A person who violates this subdivision or who aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

(b) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of report, is discriminatory, disciplinary, or retaliatory. For the purpose of this clause, the term "adverse action" refers to action taken by the entity involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge or transfer from a facility;

(2) termination of service;

(3) restriction or prohibition of access to the facility or its residents;

(4) discharge from or termination of employment;

(5) demotion or reduction in remuneration for services; and

(6) any restriction of rights set forth in section 144.651 or 144A.44.

History: *1997 c 7 art 2 s 44; 1997 c 203 art 9 s 6*

256.9744 OFFICE DATA.

[For text of subd 1, see M.S.1996]

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

History: *1997 c 203 art 9 s 7*

256.9772 HEALTH CARE CONSUMER ASSISTANCE GRANT PROGRAM.

The board on aging shall award grants to area agencies on aging to develop projects to provide information about health coverage and to provide assistance to individuals in obtaining public and private health care benefits. Projects must:

(1) train and support staff and volunteers to work in partnership to provide one–on–one information and assistance services;

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(2) provide individual consumers with assistance in understanding the terms of a certificate, contract, or policy of health coverage, including, but not limited to, terms relating to covered services, limitations on services, limitations on access to providers, and enrollee complaint and appeal procedures;

(3) assist individuals to understand medical bills and to process health care claims and appeals to obtain health care benefits;

(4) coordinate with existing health insurance counseling programs serving Medicare eligible individuals or establish programs to serve all consumers;

(5) target those individuals determined to be in greatest social and economic need for counseling services; and

(6) operate according to United States Code, title 42, section 1395b–4, if serving Medicare beneficiaries.

History: *1997 c 203 art 9 s 8*

256.978 LOCATION OF PARENTS, ACCESS TO RECORDS.

Subdivision 1. **Request for information.** (a) The public authority responsible for child support in this state or any other state, in order to locate a person to establish paternity and child support or to modify or enforce child support, may request information reasonably necessary to the inquiry from the records of all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.19 or any other law to the contrary, provide the information necessary for this purpose. Employers, utility companies, insurance companies, financial institutions, and labor associations doing business in this state shall provide information as provided under subdivision 2 upon written or electronic request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support within 30 days of service of the request made by the public authority. Information requested and used or transmitted by the commissioner according to the authority conferred by this section may be made available to other agencies, statewide systems, and political subdivisions of this state, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program.

(b) For purposes of this section, "state" includes the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Subd. 2. **Access to information.** (a) A request for information by the public authority responsible for child support of this state or any other state may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee or independent contractor of the employer. Information to be released by employers of employees is limited to place of residence, employment status, wage or payment information, benefit information, and social security number. Information to be released by employers of independent contractors is limited to place of residence or address, contract status, payment information, benefit information, and social security number or identification number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence, home telephone, work telephone, source of income, employer and place of employment, and social security number;

(3) insurance companies when there is reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence, home telephone, work telephone, employer, social security number, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence, home telephone, work telephone, social security number, and current and past employment information; and

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(5) financial institutions when there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance policies, or other forms of financial dealings with the institution. Information to be released by the financial institution is limited to place of residence, home telephone, work telephone, identifying information on the type of financial relationships, social security number, current value of financial relationships, and current indebtedness of the subject with the financial institution.

(b) For purposes of this subdivision, utility companies include telephone companies, radio common carriers, and telecommunications carriers as defined in section 237.01, and companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable television services to retail customers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, insurance companies, benefit associations, safe deposit companies, money market mutual funds, or similar entities authorized to do business in the state.

[For text of subd 3, see M.S.1996]

History: *1997 c 66 s 79; 1997 c 203 art 6 s 11,12; 1997 c 245 art 3 s 6*

256.979 CHILD SUPPORT INCENTIVES.

Subd. 5. **Paternity establishment and child support order establishment and modification bonus incentives.** (a) A bonus incentive program is created to increase the number of paternity establishments and establishment and modifications of child support orders done by county child support enforcement agencies.

(b) A bonus must be awarded to a county child support agency for each case for which the agency completes a paternity or child support order establishment or modification through judicial or administrative processes.

(c) The rate of bonus incentive is $100 for each paternity or child support order establishment and modification set in a specific dollar amount.

(d) No bonus shall be paid for a modification that is a result of a termination of child care costs according to section 518.551, subdivision 5, paragraph (b), or due solely to a reduction of child care expenses.

Subd. 6. **Claims for bonus incentive.** (a) The commissioner of human services and the county agency shall develop procedures for the claims process and criteria using automated systems where possible.

(b) Only one county agency may receive a bonus per paternity establishment or child support order establishment or modification for each case. The county agency completing the action or procedure needed to establish paternity or a child support order or modify an order is the county agency entitled to claim the bonus incentive.

(c) Disputed claims must be submitted to the commissioner of human services and the commissioner's decision is final.

(d) For purposes of this section, "case" means a family unit for whom the county agency is providing child support enforcement services.

Subd. 7. **Distribution.** (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid in the order in which claims are received.

(b) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

(c) The county agency shall repay any bonus erroneously issued.

(d) A county agency shall maintain a record of bonus incentives claimed and received for each quarter.

(e) Payment of bonus incentives is limited by the amount of the appropriation for this purpose. If the appropriation is insufficient to cover all claims, the commissioner of human services may prorate payments among the county agencies.

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Subd. 8. **Medical provider reimbursement.** (a) A fee to the providers of medical services is created for the purpose of increasing the numbers of signed and notarized recognition of parentage forms completed in the medical setting.

(b) A fee of $25 shall be paid to each medical provider for each properly completed recognition of parentage form sent to the department of vital statistics.

(c) The office of vital statistics shall notify the department of human services quarterly of the numbers of completed forms received and the amounts paid.

(d) The department of human services shall remit quarterly to each medical provider a payment for the number of signed recognition of parentage forms completed by that medical provider and sent to the office of vital statistics.

(e) The commissioners of the department of human services and the department of health shall develop procedures for the implementation of this provision.

(f) Payments will be made to the medical provider within the limit of available appropriations.

(g) Federal matching funds received as reimbursement for the costs of the medical provider reimbursement must be retained by the commissioner of human services for educational programs dedicated to the benefits of paternity establishment.

Subd. 9. [Repealed, 1997 c 203 art 6 s 93]

Subd. 10. **Transferability between bonus incentive accounts and grants to county agencies.** The commissioner of human services may transfer money appropriated for child support enforcement county performance incentives under this section and section 256.9791 among county performance incentive accounts. Incentive funds to counties transferred under this section must be reinvested in the child support enforcement program and may not be used to supplant money now spent by counties for child support enforcement.

History: *1997 c 245 art 1 s 4–8*

256.9791 MEDICAL SUPPORT BONUS INCENTIVES.

Subdivision 1. **Bonus incentive.** (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health insurance coverage for persons who are receiving medical assistance under section 256B.055 and for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each person for whom coverage is identified and enforced by the child support enforcement program when the obligor is under a court order to provide dependent health insurance coverage.

(c) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

[For text of subds 2 to 6, see M.S.1996]

History: *1997 c 245 art 1 s 9*

256.9792 ARREARAGE COLLECTION PROJECTS.

Subdivision 1. **Arrearage collections.** Arrearage collection projects are created to increase the revenue to the state and counties, reduce public assistance expenditures for former public assistance cases, and increase payments of arrearages to persons who are not receiving public assistance by submitting cases for arrearage collection to collection entities, including but not limited to, the department of revenue and private collection agencies.

Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section:

(b) "Public assistance arrearage case" means a case where current support may be due, no payment, with the exception of tax offset, has been made within the last 90 days, and the arrearages are assigned to the public agency according to section 256.741.

(c) "Public authority" means the public authority responsible for child support enforcement.

(d) "Nonpublic assistance arrearage case" means a support case where arrearages have accrued that have not been assigned according to section 256.741.

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[For text of subds 3 to 8, see M.S.1996]

History: *1997 c 203 art 6 s 13,14*

256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.

Subdivision 1. **Wrongfully obtaining assistance.** A person who commits any of the following acts or omissions with intent to defeat the purposes of sections 145.891 to 145.897, 256.12, 256.031 to 256.361, 256.72 to 256.871, 256.9365, 256.94 to 256.966, child care, MFIP–S, chapter 256B, 256D, 256J, 256K, or 256L, or all of these sections, is guilty of theft and shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5):

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to include child care or vouchers produced according to sections 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94, and 256L.01 to 256L.16, to which the person is not entitled or assistance greater than that to which the person is entitled;

(2) knowingly aids or abets in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the county agency.

The continued receipt of assistance to which the person is not entitled or greater than that to which the person is entitled as a result of any of the acts, failure to act, or concealment described in this subdivision shall be deemed to be continuing offenses from the date that the first act or failure to act occurred.

[For text of subds 2 and 3, see M.S.1996]

Subd. 4. **Recovery of assistance.** The amount of assistance determined to have been incorrectly paid is recoverable from:

(1) the recipient or the recipient's estate by the county or the state as a debt due the county or the state or both; and

(2) any person found to have taken independent action to establish eligibility for, conspired with, or aided and abetted, any recipient of public assistance found to have been incorrectly paid.

The obligations established under this subdivision shall be joint and several and shall extend to all cases involving client error as well as cases involving wrongfully obtained assistance.

[For text of subds 5 to 7, see M.S.1996]

Subd. 8. **Disqualification from program.** Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court–ordered stay which carries with it any probationary or other conditions, in the aid to families with dependent children program, the Minnesota family assistance program–statewide, the food stamp program, the Minnesota family investment plan, child care program, the general assistance or family general assistance program, or the Minnesota supplemental aid program shall be disqualified from that program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

(1) for one year after the first offense;

(2) for two years after the second offense; and

(3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided

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under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

Subd. 9. **Welfare reform coverage.** All references to MFIP–S or Minnesota family investment program–statewide contained in sections 256.017, 256.019, 256.045, 256.046, and 256.98 to 256.9866 shall be construed to include all variations of the Minnesota family investment program including, but not limited to, chapter 256J, MFIP–S, MFIP–R, and chapter 256K.

History: *1997 c 85 art 5 s 8–10; 1Sp1997 c 5 s 14,15*

256.981 TRAINING OF WELFARE FRAUD PROSECUTORS.

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

History: *1997 c 85 art 4 s 14*

256.983 FRAUD PREVENTION INVESTIGATIONS.

Subdivision 1. **Programs established.** Within the limits of available appropriations, the commissioner of human services shall require the maintenance of budget neutral fraud prevention investigation programs in the counties participating in the fraud prevention investigation project established under this section. If funds are sufficient, the commissioner may also extend fraud prevention investigation programs to other counties provided the expansion is budget neutral to the state.

[For text of subds 2 and 3, see M.S.1996]

Subd. 4. **Funding.** (a) County agency reimbursement shall be made through the settlement provisions applicable to the aid to families with dependent children program, food stamp program, Minnesota family investment program–statewide, and medical assistance program and other federal and state–funded programs.

(b) The commissioner will maintain program compliance if for any three consecutive month period, a county agency fails to comply with fraud prevention investigation program guidelines, or fails to meet the cost–effectiveness standards developed by the commissioner. This result is contingent on the commissioner providing written notice, including an offer of technical assistance, within 30 days of the end of the third or subsequent month of noncompliance. The county agency shall be required to submit a corrective action plan to the commissioner within 30 days of receipt of a notice of noncompliance. Failure to submit a corrective action plan or, continued deviation from standards of more than ten percent after submission of a corrective action plan, will result in denial of funding for each subsequent month, or billing the county agency for fraud prevention investigation (FPI) service provided by the commissioner, or reallocation of program grant funds, or investigative resources, or both, to other counties. The denial of funding shall apply to the general settlement received by the county agency on a quarterly basis and shall not reduce the grant amount applicable to the FPI project.

History: *1997 c 85 art 5 s 11,12*

256.984 DECLARATION AND PENALTY.

Subdivision 1. **Declaration.** Every application for public assistance under this chapter and/or chapters 256B, 256D, 256K, MFIP–S program, and food stamps under chapter 393

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shall be in writing or reduced to writing as prescribed by the state agency and shall contain the following declaration which shall be signed by the applicant:

"I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than $10,000, or both."

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

History: *1997 c 85 art 5 s 13*

256.986 COUNTY COORDINATION OF FRAUD CONTROL ACTIVITIES.

(a) The county agency shall prepare and submit to the commissioner of human services by April 30 of each state fiscal year a plan to coordinate county duties related to the prevention, investigation, and prosecution of fraud in public assistance programs. Each county must submit its first annual plan prior to April 30, 1998.

(b) Within the limits of appropriations specifically made available for this purpose, the commissioner may make grants to counties submitting plans under paragraph (a) to implement coordination activities.

History: *1997 c 85 art 5 s 14*

256.9861 FRAUD CONTROL; PROGRAM INTEGRITY REINVESTMENT PROJECT.

Subdivision 1. **Program established.** Within the limits of available state and federal appropriations, the commissioner of human services shall make funding available to county agencies for fraud control efforts and require the maintenance of county efforts and financial contributions that were in place during fiscal year 1996.

Subd. 2. **County proposals.** Each included county shall develop and submit annual funding, staffing, and operating grant proposals to the commissioner no later than April 30 of each year for the purpose of allocating federal and state funding and appropriations. Each proposal shall provide information on:

(1) the staffing and funding of the fraud investigation and prosecution operations;

(2) job descriptions for agency fraud control staff;

(3) contracts covering outside investigative agencies;

(4) operational methods to integrate the use of fraud prevention investigation techniques; and

(5) implementation and utilization of administrative disqualification hearings and diversions by the existing county fraud control and prosecution procedures.

[For text of subd 3, see M.S.1996]

Subd. 4. **Standards.** The commissioner shall, after consultation with the involved counties, establish standards governing the performance levels of county investigative units based on grant agreements with the county agencies. The standards shall take into consideration and may include investigative caseloads, grant savings levels, the comparison of fraud prevention and prosecution directed investigations, utilization levels of administrative disqualification hearings, the timely reporting and implementation of disqualifications, and the timeliness of the submission of statistical reports.

Subd. 5. **Funding.** (a) State funding shall be made available contingent on counties submitting a plan that is approved by the department of human services. Failure or delay in obtaining that approval shall not, however, eliminate the obligation to maintain fraud control efforts at the June 30, 1996, level. County agency reimbursement shall be made through the settlement provisions applicable to the AFDC, MFIP–S, food stamp, and medical assistance programs.

(b) Should a county agency fail to comply with the standards set, or fail to meet cost–effectiveness standards developed by the commissioner for any three–month period, the com-

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missioner shall deny reimbursement or administrative costs, after allowing an opportunity to establish compliance.

(c) Any denial of reimbursement under paragraph (b) is contingent on the commissioner providing written notice, including an offer of technical assistance, within 30 days of the end of the third or subsequent months of noncompliance. The county agency shall be required to submit a corrective action plan to the commissioner within 30 days of receipt of a notice of noncompliance. Failure to submit a corrective action plan or continued deviation from standards of more than ten percent after submission of corrective action plan, will result in denial of funding for each such month during the grant year, or billing of the county agency for program integrity reinvestment project services provided by the commissioner or reallocation of grant funds to other counties. The denial of funding shall apply to the general settlement received by the county agency on a quarterly basis and shall not reduce the grant amount applicable to the program integrity reinvestment project.

History: *1997 c 85 art 5 s 15–18*

256.9863 ASSISTANCE TRANSACTION CARD; PRESUMPTION OF RECEIPT OF BENEFITS.

Any person in whose name an assistance transaction card has been issued shall be presumed to have received the benefit of all transactions involving that card. This presumption applies in all situations unless the card in question has been reported lost or stolen by the cardholder. This presumption may be overcome by a preponderance of evidence indicating that the card was neither used by nor with the consent of the cardholder. Overcoming this presumption does not create any new or additional payment obligation not otherwise established in law, rule, or regulation.

History: *1997 c 85 art 5 s 19*

256.9864 REPORTS BY RECIPIENT.

(a) An assistance unit with a recent work history or with earned income shall report monthly to the county agency on income received and other circumstances affecting eligibility or assistance amounts. All other assistance units shall report on income and other circumstances affecting eligibility and assistance amounts, as specified by the state agency.

(b) An assistance unit required to submit a report on the form designated by the commissioner and within ten days of the due date or the date of the significant change, whichever is later, or otherwise report significant changes which would affect eligibility or assistance amounts, is considered to have continued its application for assistance effective the date the required report is received by the county agency, if a complete report is received within a calendar month in which assistance was received, except that no assistance shall be paid for the period beginning with the end of the month in which the report was due and ending with the date the report was received by the county agency.

History: *1997 c 85 art 5 s 20*

256.9865 RECOVERY OF OVERPAYMENTS AND ATM ERRORS.

Subdivision 1. **Obligation to recover.** If an amount of MFIP–S assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. This recovery authority also extends to preexisting claims or newly discovered claims established under the AFDC program in effect on January 1, 1997. The agency shall give written notice to the recipient of its intention to recover the overpayment. County agency efforts and financial contributions shall be maintained at the level in place during fiscal year 1996.

Subd. 2. **Recoupment.** When an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member for one or more monthly assistance payments until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need in nonfraud cases and ten percent where fraud has occurred. For recipients receiving benefits via electronic benefits transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing

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funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error. In cases where there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

Subd. 3. **Voluntary repayments.** Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the aid reductions in subdivision 2, to include further voluntary reductions in the grant level agreed to in writing by the individual, until the total amount of the overpayment is repaid.

Subd. 4. **Closed case recoveries.** The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance according to standards adopted by rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than $35 paid to an individual no longer on assistance unless the individual has been convicted of fraud under section 256.98.

History: *1997 c 85 art 5 s 21*

256.9866 COMMUNITY SERVICE AS A COUNTY OBLIGATION.

Community service shall be an acceptable sentencing option but shall not reduce the state or federal share of any amount to be repaid or any subsequent recovery. Any reduction or offset of any such amount ordered by a court shall be treated as follows:

(1) any reduction in an overpayment amount, to include the amount ordered as restitution, shall not reduce the underlying amount established as an overpayment by the state or county agency;

(2) total overpayments shall continue as a debt owed and may be recovered by any civil or administrative means otherwise available to the state or county agency; and

(3) any amount ordered to be offset against any overpayment shall be deducted from the county share only of any recovery and shall be based on the prevailing state minimum wage. To the extent that any deduction is in fact made against any state or county share, it shall be reimbursed from the county share of payments to be made under section 256.025.

History: *1997 c 85 art 5 s 22*

256.996 [Repealed, 1997 c 245 art 2 s 12]

256.998 WORK REPORTING SYSTEM.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Date of hiring" means the earlier of: (1) the first day for which an employee is owed compensation by an employer; or (2) the first day that an employee reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by an employee.

(d) "Employee" means a person who resides or works in Minnesota, performs services for compensation, in whatever form, for an employer and satisfies the criteria of an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

(1) persons hired for domestic service in the private home of the employer, as defined in the Federal Tax Code; or

(2) an employee of the federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting according to this law would endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more employees for payment, and satisfies the criteria of an employer under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as defined in paragraph (g). Employer also includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous employee who was laid off, fur-

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loughed, separated, granted a leave without pay, or terminated from employment when a period of 90 days elapses from the date of layoff, furlough, separation, leave, or termination to the date of the person's return to work.

(g) "Labor organization" means entities located or doing business in this state that meet the criteria of labor organization under section 2(5) of the National Labor Relations Act. This includes any entity, that may also be known as a hiring hall, used to carry out requirements described in chapter 7 of the National Labor Relations Act.

(h) "Payor" means a person or entity located or doing business in Minnesota who pays money to an independent contractor according to an agreement for the performance of services.

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

Subd. 3. **Duty to report.** Employers doing business in this state shall report to the commissioner of human services the hiring of any employee who resides or works in this state to whom the employer anticipates paying earnings. Employers shall submit reports required under this subdivision within 20 calendar days of the date of hiring of the employee.

Employers are not required to report the hiring of any person who will be employed for less than two months' duration; and will have gross earnings less than $250 per month.

[For text of subds 4 and 5, see M.S.1996]

Subd. 6. **Sanctions.** If an employer fails to report under this section, the commissioner of human services, by certified mail, shall send the employer a written notice of noncompliance requesting that the employer comply with the reporting requirements of this section. The notice of noncompliance must explain the reporting procedure under this section and advise the employer of the penalty for noncompliance. An employer who has received a notice of noncompliance and later incurs a second violation is subject to a civil penalty of $25 for each intentionally unreported employee. An employer who has received a notice of noncompliance is subject to a civil penalty of $500 for each intentionally unreported employee, if noncompliance is the result of a conspiracy between an employer and an employee not to supply the required report or to supply a false or incomplete report. These penalties may be imposed and collected by the commissioner of human services. An employer who has been served with a notice of noncompliance and incurs a second or subsequent violation resulting in a civil penalty, has the right to a contested case hearing under chapter 14. An employer has 20 days from the date of service of the notice, to file a request for a contested case hearing with the commissioner. The order of the administrative law judge constitutes the final decision in the case.

Subd. 7. **Access to data.** The commissioner of human services shall retain the information reported to the work reporting system for a period of six months. Data in the work reporting system may be disclosed to the public authority responsible for child support enforcement, federal agencies, state and local agencies of other states for the purposes of enforcing state and federal laws governing child support, and agencies responsible for the administration of programs under title IV–A of the Social Security Act, the department of economic security, and the department of labor and industry.

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

Subd. 9. **Independent contractors.** The state and all political subdivisions of the state, when acting in the capacity of an employer, shall report the hiring of any person as an independent contractor to the centralized work reporting system in the same manner as the hiring of an employee is reported.

Other payors may report independent contractors to whom they make payments that require the filing of a 1099–MISC report. Payors reporting independent contractors shall report by use of the same means and provide the same information required under subdivisions 4 and 5. The commissioner of human services shall establish procedures for payors reporting under this section.

Subd. 10. **Use of work reporting system information in determining eligibility for public assistance programs.** The commissioner of human services is authorized to use in-

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formation from the work reporting system to determine eligibility for applicants and recipients of public assistance programs administered by the department of human services. Data including names, dates of birth, and social security numbers of people applying for or receiving public assistance benefits will be compared to the work reporting system information to determine if applicants or recipients of public assistance are employed. County agencies will be notified of discrepancies in information obtained from the work reporting system.

Subd. 11. **Action on information.** Upon receipt of the discrepant information, county agencies will notify clients of the information and request verification of employment status and earnings. County agencies must attempt to resolve the discrepancy within 45 days of receipt of the information.

Subd. 12. **Client notification.** Persons applying for public assistance programs administered by the department of human services will be notified at the time of application that data including their name, date of birth, and social security number will be shared with the work reporting system to determine possible employment. All current public assistance recipients will be notified of this provision prior to its implementation.

History: *1997 c 203 art 6 s 15–20; 1997 c 245 art 1 s 10; art 3 s 7*

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