

CHAPTER 256J

MINNESOTA FAMILY INVESTMENT
PROGRAM—STATEWIDE

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256J.01 ESTABLISHING MINNESOTA FAMILY INVESTMENT PROGRAM—STATEWIDE.

Subdivision 1. **Implementation of Minnesota family investment program—statewide (MFIP-S).** This chapter and chapter 256K may be cited as the Minnesota family investment program—statewide (MFIP-S). MFIP-S is the statewide implementation of components of the Minnesota family investment plan (MFIP) authorized under section 256.031 and Minnesota family investment plan—Ramsey county (MFIP-R) in section 256.047.

Subd. 2. **Implementation of temporary assistance for needy families (TANF).** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law Number 104-193, eliminates the entitlement program of aid to families with dependent children (AFDC) and replaces it with block grants to states for temporary assistance for needy families (TANF). TANF provides cash assistance for a limited time to families with children and to pregnant women. Minnesota's TANF assistance will be provided through a statewide expansion of MFIP. The modifications specified in this chapter are necessary to comply with the new federal law and to improve MFIP. Eligible applicants and recipients of AFDC, family general assistance, and food stamps will be converted to the MFIP-S program. Effective

January 1, 1998, any new application received for family cash assistance will be processed under the rules of this chapter. Case maintenance conversion for existing AFDC and FGA cases to MFIP-S as described in this chapter will begin January 1, 1998, and continue through March 31, 1998.

Subd. 3. Relationship to other statutes and rules. MFIP-S replaces eligibility for families with children and pregnant women under the general assistance program, governed by sections 256D.01 to 256D.21 and Minnesota Rules, parts 9500.1200 to 9500.1270.

Subd. 4. Changes to waivers. The commissioner of human services may negotiate and obtain changes in the federal waivers and terms and conditions contained in MFIP, MFIP-R, and MFIP-S. The commissioner may also terminate federal waivers by directing so in the applicable state plan.

Subd. 5. Compliance system. The commissioner shall administer a compliance system for the state's temporary assistance for needy families (TANF) program, the food stamp program, emergency assistance, general assistance, medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, preadmission screening, child support program, 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 sanction and fiscal disallowances for noncompliance with federal regulations and state statutes.

History: 1997 c 85 art 1 s 1

256J.02 FEDERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT.

Subdivision 1. Commissioner's authority to administer block grant funds. The commissioner of human services is authorized to receive, administer, and expend funds available under the TANF block grant authorized under title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subd. 2. Use of money. State money appropriated for purposes of this section and TANF block grant money must be used for:

- (1) financial assistance to or on behalf of any minor child who is a resident of this state under section 256J.12;
- (2) employment and training services under this chapter or chapter 256K;
- (3) emergency financial assistance and services under section 256J.48;
- (4) diversionary assistance under section 256J.47; and
- (5) program administration under this chapter.

Subd. 3. Carry forward of federal money. Temporary assistance for needy families block grant money must be appropriated for the purposes in this section and is available until expended.

Subd. 4. Authority to transfer. Subject to limitations of title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the legislature may transfer money from the TANF block grant to the child care fund under chapter 119B, or the Title XX block grant under section 256E.07.

Subd. 5. Indirect cost liability. Notwithstanding the provisions of section 16A.127, the statewide and agency indirect cost liability identified as part of the TANF grant for any current fiscal year shall be limited to no more than the amount received in fiscal year 1996.

History: 1997 c 85 art 1 s 2

256J.03 TANF RESERVE ACCOUNT.

The Minnesota family investment program-statewide/TANF reserve account is created in the state treasury. Funds designated by the legislature and earnings available from

the federal TANF block grant appropriated to the commissioner but not expended in the biennium beginning July 1, 1997, shall be retained in the reserve account to be expended for the Minnesota family investment program—statewide in fiscal year 2000 and subsequent fiscal years.

History: 1997 c 203 art 9 s 15

256J.06 COMMUNITY INVOLVEMENT.

The MFIP-S program must be administered in a way that, in addition to the county agency, other sectors in the community such as employers from the public and private sectors, not-for-profit organizations, educational and social service agencies, program participants, labor unions, and neighborhood associations are involved.

History: 1997 c 85 art 1 s 3

256J.08 DEFINITIONS.

Subdivision 1. **Scope of definitions.** The terms used in this chapter have the following meanings unless otherwise provided for by text.

Subd. 2. **Absent parent.** “Absent parent” means a minor child’s parent who does not live in the same home as the child.

Subd. 3. **Agency error.** “Agency error” means an error that results in an overpayment or underpayment to an assistance unit and is not caused by an applicant’s or participant’s failure to provide adequate, correct, or timely information about income, property, household composition, or other circumstances.

Subd. 4. **Appeal.** “Appeal” means a written statement from an applicant or participant who requests a hearing under section 256J.31.

Subd. 5. **Applicant.** “Applicant” means a person who has submitted to a county agency an application and whose application has not been acted upon, denied, or voluntarily withdrawn.

Subd. 6. **Application.** “Application” means the submission by or on behalf of a family to a county agency of a completed, signed, and dated form, prescribed by the commissioner, that indicates the desire to receive assistance.

Subd. 7. **Assistance unit or MFIP-S assistance unit.** “Assistance unit” or “MFIP-S assistance unit” means a group of mandatory or optional people receiving or applying for MFIP-S benefits together.

Subd. 8. **Authorized representative.** “Authorized representative” means a person who is authorized, in writing, by an applicant or participant to act on the applicant’s or participant’s behalf in matters involving the application for assistance or participation in MFIP-S.

Subd. 9. **Basic needs.** “Basic needs” means the minimum personal requirements of subsistence and is restricted to food, clothing, shelter, utilities, and other items for which the loss, or lack of basic needs, is determined by the county agency to pose a direct, immediate threat to the physical health or safety of the applicant or participant.

Subd. 10. **Budget month.** “Budget month” means the calendar month which the county agency uses to determine the income or circumstances of an assistance unit to calculate the amount of the assistance payment in the payment month.

Subd. 11. **Caregiver.** “Caregiver” means a minor child’s natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, caregiver also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child’s natural or adoptive parent or parents do not reside in the same home: legal custodians, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, person of preceding generation as denoted by prefixes of “great,” “great-great,” or “great-great-great,” or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Subd. 12. **Client error.** “Client error” means an error that results in an overpayment or underpayment and is due to an applicant’s or participant’s failure to provide adequate, cor-

rect, or timely information concerning income, property, household composition, or other circumstances.

Subd. 13. **Commissioner.** “Commissioner” means the commissioner of human services or the commissioner’s designated representative.

Subd. 14. **Corrective payment.** “Corrective payment” means an assistance payment that is made to correct an underpayment.

Subd. 15. **Countable income.** “Countable income” means earned and unearned income that is not excluded under section 256J.21, subdivision 2, or disregarded under section 256J.21, subdivision 3.

Subd. 16. **Counted earnings.** “Counted earnings” means the earned income that remains after applicable disregards under section 256J.21, subdivision 4, have been subtracted from gross earned income.

Subd. 17. **County agency.** “County agency” means the agency designated by the county board to implement financial assistance for current programs and for MFIP–S and the agency responsible for enforcement of child support collection, and a county or multicounty agency that is authorized under sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer MFIP–S.

Subd. 18. **County board.** “County board” means a board of commissioners, a local services agency as defined in chapter 393, a board established under the Joint Powers Act, section 471.59, or a human services board under chapter 402.

Subd. 19. **County of financial responsibility.** “County of financial responsibility” means the county that has financial responsibility for providing public assistance as specified in chapter 256G.

Subd. 20. **County of residence.** “County of residence” means the county where the caregiver has established a home.

Subd. 21. **Date of application.** “Date of application” means the date on which the county agency receives an applicant’s signed application.

Subd. 22. **Deem.** “Deem” means to treat all or part of the income of an individual who is not in the assistance unit, but who is financially responsible for members of the assistance unit, as if it were income available to the assistance unit.

Subd. 23. **Department.** “Department” means the Minnesota department of human services.

Subd. 24. **Disregard.** “Disregard” means earned income that is not counted when determining initial eligibility or ongoing eligibility and calculating the amount of the assistance payment for participants.

Subd. 25. **Documentation.** “Documentation” means a written statement or record that substantiates or validates an assertion made by a person or an action taken by a person, agency, or entity.

Subd. 26. **Earned income.** “Earned income” means cash or in-kind income earned through the receipt of wages, salary, commissions, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, and any other profit from activity earned through effort or labor.

Subd. 27. **Earned income tax credit.** “Earned income tax credit” means the payment which can be obtained by a qualified person from an employer or from the Internal Revenue Service as provided by section 290.0671 and United States Code, title 26, subtitle A, chapter 1, subchapter A, part 4, subpart C, section 32.

Subd. 28. **Emergency.** “Emergency” means a situation or a set of circumstances that causes or threatens to cause destitution to a minor child.

Subd. 29. **Equity value.** “Equity value” means the amount of equity in real or personal property owned by a person and is determined by subtracting any outstanding encumbrances from the fair market value.

Subd. 30. **Excluded time.** “Excluded time” has the meaning given in section 256G.02.

Subd. 31. **Expedited issuance of the food stamp portion.** “Expedited issuance of the food stamp portion” means the issuance of the food stamp portion to eligible assistance units on the day of application as provided in section 393.07, subdivision 10a.

Subd. 32. **Fair hearing or hearing.** “Fair hearing” or “hearing” means the evidentiary hearing conducted by the department appeals referee to resolve disputes as specified in section 256J.40, or if not applicable, section 256.045.

Subd. 33. **Fair market value.** “Fair market value” means the price that an item of a particular make, model, size, material, or condition would sell for on the open market in the particular geographic area.

Subd. 34. **Family.** “Family” includes:

(1) the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adoptive siblings, together with their natural, adoptive parents, stepparents, or caregiver as defined in subdivision 11; and

(2) a pregnant woman with no other children.

Subd. 35. **Family wage level.** “Family wage level” means 110 percent of the transitional standard.

Subd. 36. **Federal Insurance Contribution Act or FICA.** “Federal Insurance Contribution Act” or “FICA” means the federal law under United States Code, title 26, subtitle C, chapter 21, subchapter A, sections 3101 to 3126, that requires withholding or direct payment from earned income.

Subd. 37. **Financial case record.** “Financial case record” means an assistance unit’s financial eligibility file.

Subd. 38. **Full-time student.** “Full-time student” means a person who is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or post-secondary school, and who meets the school’s standard for full-time attendance.

Subd. 39. **General educational development or GED.** “General educational development” or “GED” means the general educational development certification issued by the Minnesota board of education as an equivalent to a secondary school diploma under Minnesota Rules, part 3500.3100, subpart 4.

Subd. 40. **Gross earned income.** “Gross earned income” means earned income from employment before mandatory and voluntary payroll deductions. Gross earned income includes salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, and profits from other activity earned by an individual’s effort or labor. Gross earned income includes uniform and meal allowances if federal income tax is deducted from the allowance. Gross earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash.

Subd. 41. **Gross income.** “Gross income” is the sum of gross earned income and unearned income.

Subd. 42. **Gross receipts.** “Gross receipts” means the money received by a business before the expenses of the business are deducted.

Subd. 43. **Half-time student.** “Half-time student” means a person who is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or post-secondary school, and who meets the school’s standard of half-time attendance.

Subd. 44. **Home.** “Home” means the primary place of residence used by a person as the base for day-to-day living and does not include locations used as mail drops.

Subd. 45. **Homestead.** “Homestead” means the home that is owned by, and is the usual residence of, the assistance unit together with the surrounding property which is not separated from the home by intervening property owned by others. Public rights-of-way, such as roads which run through the surrounding property and separate it from the home, do not affect the exemption of the property. Homestead includes an asset that is not real property that the assistance unit uses as a home, such as a vehicle.

Subd. 46. **Household.** “Household” means a group of persons who live together.

Subd. 47. **Income.** “Income” means cash or in-kind benefit, whether earned or unearned, received by or available to an applicant or participant that is not an asset under section 256J.20.

Subd. 48. **Initial eligibility.** “Initial eligibility” means the determination of eligibility for an MFIP-S applicant.

Subd. 49. **In-kind income.** “In-kind income” means income, benefits, or payments which are provided in a form other than money or liquid assets, including the forms of goods, produce, services, privileges, or payments made on behalf of an applicant or participant by a third party.

Subd. 50. **Inquiry.** “Inquiry” means a communication to a county agency through mail, telephone, or in person, by which a person or authorized representative requests information about public assistance. The county agency shall also treat as an inquiry any communication in which a person requesting assistance offers information about the person’s family circumstances that indicates that eligibility for public assistance may exist.

Subd. 51. **Legally available.** “Legally available” means a person’s right under the law to secure, possess, dispose of, or control income or property.

Subd. 52. **Low-income home energy assistance program or LIHEAP.** “Low-income home energy assistance program” or “LIHEAP” means the program authorized under United States Code, title 42, chapter 94, subchapter II, sections 8621 to 8629, and administered by the Minnesota department of economic security.

Subd. 53. **Lump sum.** “Lump sum” means nonrecurring income that is not excluded in section 256J.21.

Subd. 54. **Medical assistance.** “Medical assistance” means the program established under chapter 256B and Title XIX of the Social Security Act.

Subd. 55. **MFIP-S household report form.** “MFIP-S household report form” means a form prescribed by the commissioner that a participant uses to report information to a county agency about changes in income and other circumstances.

Subd. 56. **Migrant worker.** “Migrant worker” means a person who travels away from home on a regular basis, usually with a group of other laborers, to seek employment in an agriculturally related activity.

Subd. 57. **Minnesota family investment program—statewide or MFIP-S.** “Minnesota family investment program—statewide” or “MFIP-S” means the assistance program authorized in this chapter and chapter 256K.

Subd. 58. **Minnesota supplemental aid or MSA.** “Minnesota supplemental aid” or “MSA” means the program established under sections 256D.33 to 256D.54.

Subd. 59. **Minor caregiver.** “Minor caregiver” means a person who:

- (1) is under the age of 18;
- (2) has never been married or otherwise legally emancipated; and
- (3) is either the natural parent of a minor child living in the same household or is eligible for assistance paid to a pregnant woman.

Subd. 60. **Minor child.** “Minor child” means a child who is living in the same home of a parent or other caregiver, is either less than 18 years of age or is under the age of 19 years and is regularly attending as a full-time student and is expected to complete a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19.

Subd. 61. **Monthly income test.** “Monthly income test” means the test used to determine ongoing eligibility and the assistance payment amount according to section 256J.21.

Subd. 62. **Nonrecurring income.** “Nonrecurring income” means a form of income which is received:

- (1) only one time or is not of a continuous nature; or
- (2) in a prospective payment month but is no longer received in the corresponding retrospective payment month.

Subd. 63. **Overpayment.** “Overpayment” means the portion of an assistance payment issued by the county agency that is greater than the amount for which the assistance unit is eligible.

Subd. 64. **Parent.** "Parent" means a child's biological or adoptive parent who is legally obligated to support that child.

Subd. 65. **Participant.** "Participant" means a person who is currently receiving cash assistance and the food portion available through MFIP-S as funded by TANF and the food stamp program. A person who fails to withdraw or access electronically any portion of the person's cash assistance payment by the end of the payment month or who returns any uncashed assistance check and withdraws from the program is not a participant. A person who withdraws a cash assistance payment by electronic transfer or receives and cashes a cash assistance check and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid. The term "participant" includes the caregiver relative and the minor child whose needs are included in the assistance payment. A person in an assistance unit who does not receive a cash assistance payment because the person has been suspended from MFIP-S or because the person's need falls below the \$10 minimum payment level is a participant.

Subd. 66. **Payee.** "Payee" means a person to whom an assistance payment is made payable.

Subd. 67. **Payment month.** "Payment month" means the calendar month for which the assistance payment is paid.

Subd. 68. **Personal property.** "Personal property" means an item of value that is not real property, including the value of a contract for deed held by a seller, assets held in trust on behalf of members of an assistance unit, cash surrender value of life insurance, value of a prepaid burial, savings account, value of stocks and bonds, and value of retirement accounts.

Subd. 69. **Probable fraud.** "Probable fraud" means the level of evidence that, if proven as fact, would establish that assistance has been wrongfully obtained.

Subd. 70. **Professional certification.** "Professional certification" means:

(1) a statement about a person's illness, injury, or incapacity that is signed by a licensed physician, psychological practitioner, or licensed psychologist, qualified by professional training and experience to diagnose and certify the person's condition; or

(2) a statement about an incapacity involving a spinal subluxation condition that is signed by a licensed chiropractor qualified by professional training and experience to diagnose and certify the condition.

Subd. 71. **Prospective budgeting.** "Prospective budgeting" means a method of determining the amount of the assistance payment in which the budget month and payment month are the same.

Subd. 72. **Protective payee.** "Protective payee" means a person other than the caregiver of an assistance unit who receives the monthly assistance payment on behalf of an assistance unit and is responsible to provide for the basic needs of the assistance unit to the extent of that payment.

Subd. 73. **Qualified noncitizen.** "Qualified noncitizen" means a person:

(1) who was lawfully admitted for permanent residence pursuant to United States Code, title 8;

(2) who was admitted to the United States as a refugee pursuant to United States Code, title 8; section 1157;

(3) whose deportation is being withheld pursuant to United States Code, title 8, section 1253(h);

(4) who was paroled for a period of at least one year pursuant to United States Code, title 8, section 1182(d)(5);

(5) who was granted conditional entry pursuant to United States Code, title 8, section 1153(a)(7);

(6) who was granted asylum pursuant to United States Code, title 8, section 1158; or

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Title V of the Omnibus Consolidated Appropriations Bill, Public Law Number 104-208.

Subd. 74. **Real property.** “Real property” means land and all buildings, structures, and improvements, or other fixtures on the land, belonging or appertaining to the land, and all mines, minerals, fossils, and trees on or under the land.

Subd. 75. **Reasonable compensation.** “Reasonable compensation” means the value received in exchange for property transferred to another owner that is consistent with fair market value and equals or exceeds the seller’s equity in the property, reduced by costs incurred in the sale.

Subd. 76. **Recertification.** “Recertification” means the periodic review of eligibility factors to determine an assistance unit’s continued eligibility.

Subd. 77. **Recoupment.** “Recoupment” means the action of the county agency to reduce a family’s monthly assistance payment to recover overpayments caused by client or agency error and overpayments received while an appeal is pending.

Subd. 78. **Recovery.** “Recovery” means actions taken by a county agency to reclaim the value of overpayments through voluntary repayment, recoupment from the assistance payment, court action, revenue recapture, or federal tax refund offset program (FTROP).

Subd. 79. **Recurring income.** “Recurring income” means a form of income which is: (1) received periodically, and may be received irregularly when receipt can be anticipated even though the date of receipt cannot be predicted; and

(2) from the same source or of the same type that is received and budgeted in a prospective month and is received in one or both of the first two retrospective months.

Subd. 80. **Reemployment insurance.** “Reemployment insurance” means the insurance benefit paid to an unemployed worker under sections 268.03 to 268.23.

Subd. 81. **Retrospective budgeting.** “Retrospective budgeting” means a method of determining the amount of the assistance payment in which the payment month is the second month after the budget month.

Subd. 82. **Sanction.** “Sanction” means the reduction of a family’s assistance payment by a specified percentage of the applicable transitional standard because: a nonexempt participant fails to comply with the requirements of sections 256J.52 to 256J.55; a parental caregiver fails without good cause to cooperate with the child support enforcement requirements; or a participant fails to comply with the insurance, tort liability, or other requirements of this chapter.

Subd. 83. **Significant change.** “Significant change” means a decline in gross income of 35 percent or more from the income used to determine the grant for the current month.

Subd. 84. **Supplemental Security Income or SSI.** “Supplemental Security Income” or “SSI” means the program authorized under title XVI of the Social Security Act.

Subd. 85. **Transitional standard.** “Transitional standard” means the basic standard for a family with no other income or a nonworking family and is a combination of the cash assistance needs and food assistance needs for a family of that size.

Subd. 86. **Unearned income.** “Unearned income” means income received by a person that does not meet the definition of earned income. Unearned income includes income from a contract for deed, interest, dividends, reemployment insurance, disability insurance payments, veterans benefits, pension payments, return on capital investment, insurance payments or settlements, severance payments, and payments for illness or disability whether the premium payments are made in whole or in part by an employer or participant.

Subd. 87. **Vendor.** “Vendor” means a provider of goods or services.

Subd. 88. **Vendor payment.** “Vendor payment” means a payment authorized by a county agency to a vendor.

Subd. 89. **Verification.** “Verification” means the process a county agency uses to establish the accuracy or completeness of information from an applicant, participant, third party, or other source as that information relates to program eligibility or an assistance payment.

History: 1986 c 444; 1997 c 85 art 1 s 4

256J.09 APPLYING FOR ASSISTANCE.

Subdivision 1. **Where to apply.** A person must apply for assistance at the county agency in the county where that person lives.

Subd. 2. County agency responsibility to provide information. A county agency must inform a person who inquires about assistance about eligibility requirements for assistance and how to apply for assistance, including diversionary assistance and emergency assistance. A county agency must offer the person brochures developed or approved by the commissioner that describe how to apply for assistance.

Subd. 3. Submitting the application form. A county agency must offer, in person or by mail, the application forms prescribed by the commissioner as soon as a person makes a written or oral inquiry. At that time, the county agency must inform the person that assistance begins with the date the signed application is received by the county agency or the date all eligibility criteria are met, whichever is later. The county agency must inform the applicant that any delay in submitting the application will reduce the amount of assistance paid for the month of application. A county agency must inform a person that the person may submit the application before an interview appointment. To apply for assistance, a person must submit a signed application to the county agency. Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The county agency must process the application within the time period required under subdivision 5. An applicant may withdraw the application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal. The notice must inform the applicant of the county agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a county agency, in writing, that the applicant does not wish to withdraw the application, the county agency must reinstate the application and finish processing the application.

Subd. 4. Verification of information on application. A county agency must verify information provided by an applicant as required in section 256J.32.

Subd. 5. Processing applications. Upon receiving an application, a county agency must determine the applicant's eligibility, approve or deny the application, inform the applicant of its decision according to the notice provisions in section 256J.31, and, if eligible, issue the assistance payment to the applicant. When a county agency is unable to process an application within 30 days, the county agency must inform the applicant of the reason for the delay in writing. When an applicant establishes the inability to provide required verification within the 30-day processing period, the county agency may not use the expiration of that period as the basis for denial.

Subd. 6. Invalid reason for delay. A county agency must not delay a decision on eligibility or delay issuing the assistance payment except to establish state residence by:

- (1) treating the 30-day processing period as a waiting period;
- (2) delaying approval or issuance of the assistance payment pending the decision of the county board; or
- (3) awaiting the result of a referral to a county agency in another county when the county receiving the application does not believe it is the county of financial responsibility.

Subd. 7. Changes in residence during application. The requirements in subdivisions 5 and 6 apply without regard to the length of time that an applicant remains, or intends to remain, a resident of the county in which the application is made. When an applicant leaves the county where application was made but remains in the state, section 256J.75 applies and the county agency may request additional information from the applicant about changes in circumstances related to the move.

Subd. 8. Additional applications. Until a county agency issues notice of approval or denial, additional applications submitted by an applicant are void. However, an application for monthly assistance and an application for emergency assistance or emergency general assistance may exist concurrently. More than one application for monthly assistance, emergency assistance, or emergency general assistance may exist concurrently when the county agency decisions on one or more earlier applications have been appealed to the commissioner, and the applicant asserts that a change in circumstances has occurred that would allow eligibility. A county agency must require additional application forms or supplemental forms as prescribed by the commissioner when a payee's name changes, or when a caregiver requests the addition of another person to the assistance unit.

Subd. 9. Addendum to an existing application. An addendum to an existing application must be used to add persons to an assistance unit regardless of whether the persons being added are required to be in the assistance unit. When a person is added by addendum to an assistance unit, eligibility for that person begins on the first of the month the addendum was filed except as provided in section 256J.74, subdivision 2, clause (1).

Subd. 10. Applicants who do not meet eligibility requirements for MFIP-S. When an applicant is not eligible for MFIP-S because the applicant does not meet eligibility requirements, the county agency must determine whether the applicant is eligible for food stamps, medical assistance, diversionary assistance, or has a need for emergency assistance when the applicant meets the eligibility requirements for those programs.

History: 1997 c 85 art 1 s 5

256J.10 MFIP-S ELIGIBILITY REQUIREMENTS.

To be eligible for MFIP-S, applicants must meet the general eligibility requirements in sections 256J.11 to 256J.15, the property limitations in section 256J.20, and the income limitations in section 256J.21.

History: 1997 c 85 art 1 s 6

256J.11 CITIZENSHIP.

Subdivision 1. General citizenship requirements. (a) To be eligible for AFDC or MFIP-S, whichever is in effect, a member of the assistance unit must be a citizen of the United States, a qualified noncitizen as defined in section 256J.08, or a noncitizen who is otherwise residing lawfully in the United States.

(b) A qualified noncitizen who entered the United States on or after August 22, 1996, is eligible for MFIP-S. However, TANF dollars cannot be used to fund the MFIP-S benefits for an individual under this paragraph for a period of five years after the date of entry unless the qualified noncitizen meets one of the following criteria:

(1) was admitted to the United States as a refugee under United States Code, title 8, section 1157;

(2) was granted asylum under United States Code, title 8, section 1158;

(3) was granted withholding of deportation under the United States Code, title 8, section 1253(h);

(4) is a veteran of the United States Armed Forces with an honorable discharge for a reason other than noncitizen status, or is a spouse or unmarried minor dependent child of the same; or

(5) is an individual on active duty in the United States Armed Forces, other than for training, or is a spouse or unmarried minor dependent child of the same.

(c) A person who is not a qualified noncitizen but who is otherwise residing lawfully in the United States is eligible for MFIP-S. However, TANF dollars cannot be used to fund the MFIP-S benefits for an individual under this paragraph.

(d) For purposes of this subdivision, a nonimmigrant in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), or an undocumented immigrant who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service, is not eligible for MFIP-S.

Subd. 2. Noncitizens; food portion. For the period September 1, 1997, to June 30, 1998, noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but were residing in this state as of July 1, 1997, are eligible for the 6/10 of the average value of food stamps for the same family size and composition until MFIP-S is operative in the noncitizen's county of financial responsibility and thereafter, the 6/10 of the food portion of MFIP-S. However, federal food stamp dollars cannot be used to fund the food portion of MFIP-S benefits for an individual under this subdivision.

Subd. 3. Benefits funded with state money. Legal adult noncitizens who have resided in the country for four years or more, whose benefits are funded entirely with state money, and who are under 70 years of age, must, as a condition of eligibility:

- (1) be enrolled in a literacy class, English as a second language class, or a citizen class;
- (2) be applying for admission to a literacy class, English as a second language class, and is on a waiting list;
- (3) be in the process of applying for a waiver from the Immigration and Naturalization Service of the English language or civics requirements of the citizenship test;
- (4) have submitted an application for citizenship to the Immigration and Naturalization Service and is waiting for a testing date or a subsequent swearing in ceremony; or
- (5) have been denied citizenship due to a failure to pass the test after two attempts or because of an inability to understand the rights and responsibilities of becoming a United States citizen, as documented by the Immigration and Naturalization Service or the county.

If the county social service agency determines that a legal noncitizen subject to the requirements of this subdivision will require more than one year of English language training, then the requirements of clause (1) or (2) shall be imposed after the legal noncitizen has resided in the country for three years. Individuals who reside in a facility licensed under chapter 144A, 144D, 245A, or 256I are exempt from the requirements of this subdivision.

History: 1997 c 85 art 1 s 7; 1997 c 203 art 12 s 7

256J.12 MINNESOTA RESIDENCE.

Subdivision 1. **Simple residency.** To be eligible for AFDC or MFIP-S, whichever is in effect, a family must have established residency in this state which means the family is present in the state and intends to remain here.

Subd. 1a. **30-day residency requirement.** A family is considered to have established residency in this state only when a child or caregiver has resided in this state for at least 30 days with the intention of making the person's home here and not for any temporary purpose. Time spent in a shelter for battered women shall count toward satisfying the 30-day residency requirement.

Subd. 2. **Exceptions.** (a) A county shall waive the 30-day residency requirement where unusual hardship would result from denial of assistance.

(b) For purposes of this section, unusual hardship means a family:

- (1) is without alternative shelter; or
- (2) is without available resources for food.

(c) For purposes of this subdivision, the following definitions apply (1) "metropolitan statistical area" is as defined by the U.S. Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area containing the county and for which the family is eligible, provided the family does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis-St. Paul metropolitan statistical area.

Subd. 2a. **Migrant workers.** Migrant workers, as defined in section 256J.08, and their immediate families are exempt from the requirements of subdivisions 1 and 1a, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Subd. 3. **Payment plan for new residents.** Assistance paid to an eligible family in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be at the standard and in the form specified in section 256J.43.

Subd. 4. **Severability clause.** If any subdivision in this section is enjoined from implementation or found unconstitutional by any court of competent jurisdiction, the remaining subdivisions shall remain valid and shall be given full effect.

History: 1997 c 85 art 1 s 8; 1997 c 203 art 12 s 8

256J.13 MINOR CHILD IN ASSISTANCE UNIT; PHYSICAL PRESENCE.

Subdivision 1. **Minor child or pregnant woman.** The assistance unit must include at least one minor child or a pregnant woman. If a minor child is a recipient of Supplemental

Security Income or Minnesota supplemental aid, the assistance unit is eligible for MFIP-S, but the needs of the minor child receiving Supplemental Security Income or Minnesota supplemental aid must not be taken into account when the county agency determines the amount of the assistance payment to be paid to the assistance unit.

Subd. 2. Physical presence. A minor child and a caregiver must live together except as provided in the following paragraphs.

(a) The physical presence requirement is met when a minor child is required to live away from the caregiver's home to meet the need for educational curricula that cannot be met by, but is approved by, the local public school district, the home is maintained for the minor child's return during periodic school vacations, and the caregiver continues to maintain responsibility for the support and care of the minor child.

(b) The physical presence requirement is met when an applicant caregiver or applicant minor child is away from the home due to illness or hospitalization, when the home is maintained for the return of the absent family member, the absence is not expected to last more than six months beyond the month of departure, and the conditions of clause (1), (2), or (3) apply:

(1) when the minor child and caregiver lived together immediately prior to the absence, the caregiver continues to maintain responsibility for the support and care of the minor child, and the absence is reported at the time of application;

(2) when the pregnant mother is hospitalized or out of the home due to the pregnancy; or

(3) when the newborn child and mother are hospitalized at the time of birth.

(c) The absence of a caregiver or minor child does not affect eligibility for the month of departure when the caregiver or minor child received assistance for that month and lived together immediately prior to the absence. Eligibility also exists in the following month when the absence ends on or before the tenth day of that month. A temporary absence of a caregiver or a minor child which continues beyond the month of departure must not affect eligibility when the home is maintained for the return of the absent family member, the caregiver continues to maintain responsibility for the support and care of the minor child, and one of clauses (1) to (7) applies:

(1) a participant caregiver or participant child is absent due to illness or hospitalization, and the absence is expected to last no more than six months beyond the month of departure;

(2) a participant child is out of the home due to placement in foster care as defined in section 260.015, subdivision 7, when the placement will not be paid under title IV-E of the Social Security Act, and when the absence is expected to last no more than six months beyond the month of departure;

(3) a participant minor child is out of the home for a vacation, the vacation is not with an absent parent, and the absence is expected to last no more than two months beyond the month of departure;

(4) a participant minor child is out of the home due to a visit or vacation with an absent parent, the home of the minor child remains with the caregiver, the absence meets the conditions of this paragraph and the absence is expected to last no more than two months beyond the month of departure;

(5) a participant caregiver is out of the home due to a death or illness of a relative, incarceration, training, or employment search and suitable arrangements have been made for the care of the minor child, or a participant minor child is out of the home due to incarceration, and the absence is expected to last no more than two months beyond the month of departure;

(6) a participant caregiver and a participant minor child are both absent from Minnesota due to a situation described in clause (5), except for incarceration, and the absence is expected to last no more than one month beyond the month of the departure; or

(7) a participant minor child has run away from home, and another person has not made application for that minor child, assistance must continue for no more than two months following the month of departure.

History: 1997 c 85 art 1 s 9

256J.14 ELIGIBILITY FOR PARENTING OR PREGNANT MINORS.

(a) The definitions in this paragraph only apply to this subdivision.

(1) "Household of a parent, legal guardian, or other adult relative" means the place of residence of:

(i) a natural or adoptive parent;

(ii) a legal guardian according to appointment or acceptance under section 260.242, 525.615, or 525.6165, and related laws; or

(iii) a caregiver.

(2) "Adult-supervised supportive living arrangement" means a private family setting which assumes responsibility for the care and control of the minor parent and minor child, or other living arrangement, not including a public institution, licensed by the commissioner of human services which ensures that the minor parent receives adult supervision and supportive services, such as counseling, guidance, independent living skills training, or supervision.

(b) A minor parent and the minor child who is in the care of the minor parent must reside in the household of a parent, legal guardian, other appropriate adult relative, or other caregiver, or in an adult-supervised supportive living arrangement in order to receive MFIP-S unless:

(1) the minor parent has no living parent, other appropriate adult relative, or legal guardian whose whereabouts is known;

(2) no living parent, other appropriate adult relative, or legal guardian of the minor parent allows the minor parent to live in the parent's, appropriate adult relative's, or legal guardian's home;

(3) the minor parent lived apart from the minor parent's own parent or legal guardian for a period of at least one year before either the birth of the minor child or the minor parent's application for MFIP-S;

(4) the physical or emotional health or safety of the minor parent or minor child would be jeopardized if the minor parent and the minor child resided in the same residence with the minor parent's parent, other appropriate adult relative, or legal guardian; or

(5) an adult supervised supportive living arrangement is not available for the minor parent and the dependent child in the county in which the minor currently resides. If an adult supervised supportive living arrangement becomes available within the county, the minor parent and child must reside in that arrangement.

(c) Minor applicants must be informed orally and in writing about the eligibility requirements and their rights and obligations under the MFIP-S program. The county must advise the minor of the possible exemptions and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

(d) If the county worker has reason to suspect that the physical or emotional health or safety of the minor parent or minor child would be jeopardized if they resided with the minor parent's parent or legal guardian, then the county worker must make a referral to child protective services to determine if paragraph (b), clause (4), applies. A new determination by the county worker is not necessary if one has been made within the last six months, unless there has been a significant change in circumstances which justifies a new referral and determination.

(e) If a minor parent is not living with a parent or legal guardian due to paragraph (b), clause (1), (2), or (4), the minor parent must reside, when possible, in a living arrangement that meets the standards of paragraph (a), clause (2).

(f) When a minor parent and minor child live with another adult relative, or in an adult-supervised supportive living arrangement, MFIP-S must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child in accordance with section 256J.39, subdivisions 2 to 4.

History: 1997 c 85 art 1 s 10

256J.15 OTHER ELIGIBILITY CONDITIONS.

Subdivision 1. **Eligibility when there is shared, court ordered, and other custody arrangements.** The language of a court order that specifies joint legal or physical custody does not preclude a determination that a parent is absent. Absence must be determined based on the actual facts of the absence according to paragraphs (a) to (c).

(a) When a minor child spends time in each of the parents' homes within a payment month, the minor child's home shall be considered the home in which the majority of the minor child's time is spent. When this time is exactly equal within a payment month, or when the parents alternately live in the minor child's home within a payment month, the minor child's home shall be with that parent who is applying for MFIP-S, unless the minor child's needs for the full payment month have already been met through the provision of assistance to the other parent for that month.

(b) When the physical custody of a minor child alternates between parents for periods of at least one payment month, each parent shall be eligible for assistance for any full payment months the minor child's home is with that parent, except under the conditions in paragraph (c).

(c) When a minor child's home is with one parent for the majority of time in each month for at least nine consecutive calendar months, and that minor child visits or vacations with the other parent under section 256J.13, the minor child's home remains with the first parent even when the stay with the second parent is for all or the majority of the months in the period of the temporary absence.

Subd. 2. **Eligibility during labor disputes.** To receive assistance under MFIP-S, a member of an assistance unit who is on strike must have been an MFIP-S participant on the day before the strike, or have been eligible for MFIP-S on the day before the strike.

The county agency must count the striker's prestrike earnings as current earnings. When a member of an assistance unit who is not in the bargaining unit that voted for the strike does not cross the picket line for fear of personal injury, the assistance unit member is not a striker. Except for a member of an assistance unit who is not in the bargaining unit that voted for the strike and who does not cross the picket line for fear of personal injury, a significant change cannot be invoked as a result of a labor dispute.

History: 1997 c 85 art 1 s 11

256J.20 PROPERTY LIMITATIONS.

Subdivision 1. **Property ownership provisions.** The county agency must apply paragraphs (a) to (d) to real and personal property. The county agency must use the equity value of legally available real and personal property, except property excluded in subdivisions 2 and 3, to determine whether an applicant or participant is eligible for assistance.

(a) When real or personal property is jointly owned by two or more persons, the county agency shall assume that each person owns an equal share, except that either person owns the entire sum of a joint personal checking or savings account. When an applicant or participant documents greater or lesser ownership, the county agency must use that greater or lesser share to determine the equity value held by the applicant or participant. Other types of ownership must be evaluated according to law.

(b) Real or personal property owned by the applicant or participant must be presumed legally available to the applicant or participant unless the applicant or participant documents that the property is not legally available to the applicant or participant. When real or personal property is not legally available, its equity value must not be applied against the limits of subdivisions 2 and 3.

(c) An applicant must disclose whether the applicant has transferred real or personal property valued in excess of the property limits in subdivisions 2 and 3 for which reasonable compensation was not received within one year prior to application. A participant must disclose all transfers of property valued in excess of these limits, according to the reporting requirements in section 256J.30, subdivision 9. When a transfer of real or personal property without reasonable compensation has occurred:

(1) the person who transferred the property must provide the property's description, information needed to determine the property's equity value, the names of the persons who received the property, and the circumstances of and reasons for the transfer; and

(2) when the transferred property can be reasonably reacquired, or when reasonable compensation can be secured, the property is presumed legally available to the applicant or participant.

(d) A participant may build the equity value of real and personal property to the limits in subdivisions 2 and 3.

Subd. 2. Real property limitations. Ownership of real property by an applicant or participant is subject to the limitations in paragraphs (a) and (b).

(a) A county agency shall exclude the homestead of an applicant or participant according to clauses (1) to (4):

(1) an applicant or participant who is purchasing real property through a contract for deed and using that property as a home is considered the owner of real property;

(2) the total amount of land that can be excluded under this subdivision is limited to surrounding property which is not separated from the home by intervening property owned by others. Additional property must be assessed as to its legal and actual availability according to subdivision 1;

(3) when real property that has been used as a home by a participant is sold, the county agency must treat the cash proceeds from the sale as excluded property for six months when the participant intends to reinvest the proceeds in another home and maintains those proceeds, unused for other purposes, in a separate account; and

(4) when the homestead is jointly owned, but the client does not reside in it because of legal separation, pending divorce, or battering or abuse by the spouse or partner, the homestead is excluded.

(b) The equity value of real property that is not excluded under paragraph (a) and which is legally available must be applied against the limits in subdivision 3. When the equity value of the real property exceeds the limits under subdivision 3, the applicant or participant may qualify to receive assistance when the applicant or participant continues to make a good faith effort to sell the property and signs a legally binding agreement to repay the amount of assistance, less child support collected by the agency. Repayment must be made within five working days after the property is sold. Repayment to the county agency must be in the amount of assistance received or the proceeds of the sale, whichever is less.

Subd. 3. Other property limitations. To be eligible for MFIP-S, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing recipients. The value of clauses (1) to (18) must be excluded when determining the equity value of real and personal property:

(1) licensed vehicles up to a total market value of less than or equal to \$7,500. The county agency shall apply any excess market value to the asset limit described in this section. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest market value and count only the market value over \$7,500. The county agency shall count the market value of all other vehicles and apply this amount to the asset limit described in this section. The value of special equipment for a handicapped member of the assistance unit is excluded. To establish the market value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant to document the value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used exclusively for the operation of a self-employment business, and any motor vehicles if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance and emergency assistance payments for the current month's needs;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the budget month;

(15) savings of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the earned income tax credit and Minnesota working family credit in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds; and

(18) money received by a participant of the corps to career program under section 84.0887, subdivision 2, paragraph (b), as a postservice benefit under the federal Americorps Act.

History: 1997 c 85 art 1 s 12; 1997 c 203 art 12 s 9

256J.21 INCOME LIMITATIONS.

Subdivision 1. Income inclusions. To determine MFIP-S eligibility, the county agency must evaluate income received by members of an assistance unit, or by other persons whose income is considered available to the assistance unit. All payments, unless specifically excluded in subdivision 2, must be counted as income.

Subd. 2. Income exclusions. (a) The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Job Training Partnership Act, United States Code, title 29, chapter 19, sections 1501 to 1792b;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment;

(4) all educational assistance, except the county agency must 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;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7) state and federal income tax refunds;

(8) state and federal earned income credits;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

(13) in-kind income, including any payments directly made by a third party to a provider of goods and services;

(14) assistance payments to correct underpayments, but only for the month in which the payment is received;

(15) emergency assistance payments;

(16) funeral and cemetery payments as provided by section 256.935;

(17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;

(18) any form of energy assistance payment made through Public Law Number 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;

(19) Supplemental Security Income, including retroactive payments;

(20) Minnesota supplemental aid, including retroactive payments;

(21) proceeds from the sale of real or personal property;

(22) adoption assistance payments under section 259.67;

(23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions;

(24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;

(25) rent rebates;

(26) income earned by a minor caregiver or minor child who is at least a half-time student;

(27) income earned by a caregiver under age 20 who is at least a half-time student in an approved secondary education program;

(28) MFIP-S child care payments under section 119B.05;

(29) all other payments made through MFIP-S to support a caregiver's pursuit of greater self-support;

(30) income a participant receives related to shared living expenses;

(31) reverse mortgages;

(32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

(33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

(34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

(35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law Number 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from the MFIP-S program consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Law Numbers 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parent when determining the grant for the minor parent in households that include a minor parent living with a parent on MFIP-S with other dependent children; and

(43) income of the minor parent's parent equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with a parent not on MFIP-S when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1.

Subd. 3. Initial income test. The county agency shall determine initial eligibility by considering all earned and unearned income that is not excluded under subdivision 2. To be eligible for MFIP-S, the assistance unit's countable income minus the disregards in paragraphs (a) and (b) must be below the transitional standard of assistance according to section 256J.24 for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the employment disregard is 18 percent of the gross earned income whether or not the member is working full time or part time;

(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to the maximum disregard allowed under this chapter and chapter 119B; and

(3) 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.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicants who have received AFDC, family general assistance, MFIP, MFIP-R, work first, or MFIP-S in this state within four months of the most recent application for MFIP-S, the employment disregard is 36 percent of the gross earned income.

After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

Subd. 4. Monthly income test and determination of assistance payment. The county agency shall determine ongoing eligibility and the assistance payment amount according to the monthly income test. To be eligible for MFIP-S, the result of the computations in paragraphs (a) to (e) must be at least \$1.

(a) Apply a 36 percent income disregard to gross earnings and subtract this amount from the family wage level. If the difference is equal to or greater than the transitional standard, the assistance payment is equal to the transitional standard. If the difference is less than the transitional standard, the assistance payment is equal to the difference. The employment disregard in this paragraph must be deducted every month there is earned income.

(b) All payments made according to a court order for the support of children not living in the assistance unit's household must 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 court order.

(c) Subtract unearned income dollar for dollar from the transitional standard to determine the assistance payment amount.

(d) When income is both earned and unearned, the amount of the assistance payment must be determined by first treating gross earned income as specified in paragraph (a). After determining the amount of the assistance payment under paragraph (a), unearned income must be subtracted from that amount dollar for dollar to determine the assistance payment amount.

(e) When the monthly income is greater than the transitional or family wage level standard after applicable deductions and the income will only exceed the standard for one month, the county agency must suspend the assistance payment for the payment month.

Subd. 5. Distribution of income. The income of all members of the assistance unit must be counted. Income may also be deemed from ineligible persons to the assistance unit. Income must be attributed to the person who earns it or to the assistance unit according to paragraphs (a) to (c).

(a) Funds distributed from a trust, whether from the principal holdings or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to an applicant or participant. Trusts are presumed legally available unless an applicant or participant can document that the trust is not legally available.

(b) Income from jointly owned property must be divided equally among property owners unless the terms of ownership provide for a different distribution.

(c) Deductions are not allowed from the gross income of a financially responsible household member or by the members of an assistance unit to meet a current or prior debt.

History: 1997 c 85 art 1 s 13

256J.24 FAMILY COMPOSITION AND ASSISTANCE STANDARDS.

Subdivision 1. MFIP-S assistance unit. An MFIP-S assistance unit is either a group of individuals with at least one minor child who live together whose needs, assets, and income are considered together and who receive MFIP-S assistance, or a pregnant woman who receives MFIP-S assistance. Individuals identified in subdivision 2 must be included in the MFIP-S assistance unit. Individuals identified in subdivision 3 must be excluded from the assistance unit. Individuals identified in subdivision 4 may be included in the assistance unit at their option. Individuals not included in the assistance unit who are identified in section 256J.37, subdivision 1 or 2, must have their income considered when determining eligibility and benefits for an MFIP-S assistance unit. All assistance unit members, whether mandatory or elective, who live together and for whom one caregiver or two caregivers apply must be included in a single assistance unit.

Subd. 2. Mandatory assistance unit composition. Except for minor caregivers who are in a separate assistance unit, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child;
- (2) the minor child's siblings, half-siblings, and step-siblings; and
- (3) the minor child's natural, adoptive parents, and stepparents.

Subd. 3. Individuals who must be excluded from an assistance unit. The following individuals must be excluded from an assistance unit:

- (1) individuals receiving Supplemental Security Income or Minnesota supplemental aid;
- (2) individuals living at home while performing court-imposed, unpaid community service work due to a criminal conviction;
- (3) individuals disqualified from the food stamp program or MFIP-S, until the disqualification ends;
- (4) children on whose behalf foster care payments under title IV-E of the Social Security Act are made, except as provided in section 256J.74, subdivision 2; and
- (5) children receiving ongoing monthly adoption assistance payments under section 269.67.

Subd. 4. Individuals who may elect to be included in the assistance unit. The minor child's eligible caregiver may choose to be in the assistance unit, if the caregiver is not required to be in the assistance unit under subdivision 2. If the relative caregiver chooses to be in the assistance unit, that person's spouse must also be in the unit.

Subd. 5. MFIP-S transitional standard. The following table represents the MFIP-S transitional standard table when all members of the assistance unit are eligible for both food and cash assistance.

Number of Eligible People	Standard
1	\$351
2	\$609
3	\$763
4	\$903
5	\$1,025
6	\$1,165
7	\$1,273
8	\$1,403
9	\$1,530
10	\$1,653
over 10	add \$121 per additional member.

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10.

Subd. 6. Application of assistance standards. The standards apply to the number of eligible persons in the assistance unit.

Subd. 7. Family wage level standard. The family wage level standard is 110 percent of the transitional standard under subdivision 5 and is the standard used when there is earned income in the assistance unit. As specified in section 256J.21, earned income is subtracted from the family wage level to determine the amount of the assistance payment. Assistance payments may not exceed the transitional standard for the assistance unit.

History: 1997 c 85 art 1 s 14

256J.25 RETURN OF UTILITY DEPOSIT.

A county may require that assistance paid under MFIP-S in the form of a utility deposit less any amount retained to satisfy outstanding utility costs be returned to the county when the person vacates the premises or be paid for the person's new housing unit as a vendor payment.

History: 1997 c 85 art 1 s 15

256J.26 PERSONS INELIGIBLE; VENDOR PAYMENTS.

Subdivision 1. Person convicted of drug offenses. (a) Applicants or recipients who have been convicted of a drug offense after July 1, 1997, may, if otherwise eligible, receive AFDC or MFIP-S benefits subject to the following conditions:

- (1) benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit;
- (2) the convicted applicant or recipient shall be subject to random drug testing as a condition of continued eligibility and is subject to sanctions under section 256J.46 following

any positive test for an illegal controlled substance, except that the grant must continue to be vendor paid under clause (1). For purposes of this subdivision, section 256J.46 is effective July 1, 1997.

This subdivision also applies to persons who receive food stamps under section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Subd. 2. Parole violators. An individual violating a condition of probation or parole or supervised release imposed under federal law or the law of any state is ineligible to receive AFDC or MFIP-S.

Subd. 3. Fleeing felons. An individual who is fleeing to avoid prosecution, or custody, or confinement after conviction for a crime that is a felony under the laws of the jurisdiction from which the individual flees, or in the case of New Jersey, is a high misdemeanor, is ineligible to receive AFDC or MFIP-S.

Subd. 4. Denial of assistance for ten years to a person found to have fraudulently misrepresented residency. An individual who is convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states is ineligible to receive AFDC or MFIP-S for ten years beginning on the date of the conviction.

History: 1997 c 85 art 1 s 16; 1997 c 203 art 12 s 10; 1997 c 245 art 4 s 1

256J.28 PROVISIONS RELATED SPECIFICALLY TO FOOD STAMP ASSISTANCE.

Subdivision 1. Expedited issuance of food stamp assistance. The following households are entitled to expedited issuance of food stamp assistance:

(1) households with less than \$150 in monthly gross income provided their liquid assets do not exceed \$100;

(2) migrant or seasonal farm worker households who are destitute as defined in Code of Federal Regulations, title 7, subtitle B, chapter 2, subchapter C, part 273, section 273.10, paragraph (e)(3), provided their liquid assets do not exceed \$100; and

(3) eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities.

The benefits issued through expedited issuance of food stamp assistance must be deducted from the amount of the full monthly MFIP-S assistance payment and a supplemental payment for the difference must be issued.

Subd. 2. Food stamps for household members not in the assistance unit. (a) For household members who purchase and prepare food with the MFIP-S assistance unit but are not part of the assistance unit, the county agency must determine a separate food stamp benefit based on regulations agreed upon with the United States Department of Agriculture.

(b) This subdivision does not apply to optional members who have chosen not to be in the assistance unit.

(c) Fair hearing requirements for persons who receive food stamps under this subdivision are governed by section 256.045, and Code of Federal Regulations, title 7, subtitle B, chapter II, part 273, section 273.15.

Subd. 3. Income disregard for certain programs, food assistance portion of assistance payment. The portion of the MFIP-S assistance payment that is designated by the commissioner as the food assistance portion of the assistance payment must be disregarded as income in the following programs:

(1) housing subsidy programs;

(2) low-income home energy assistance program;

- (3) Supplemental Security Income, when determining interim assistance amount; and
- (4) other programs that do not count food stamps as income.

For the purposes of this subdivision, the food assistance portion of the assistance payment means a predetermined portion of the MFIP-S assistance payment that may be received in point-of-purchase sites or as food stamps. The predetermined portion of the assistance payment will vary by family profile, which is based on family size.

Subd. 4. Food portion of MFIP-S assistance grant. (a) The MFIP-S assistance grant must be reduced in an amount equal to the food portion of the transitional standard for an assistance unit when a relative caregiver chooses not to be part of the assistance unit and is exempt from work activities under this chapter.

(b) The food portion of the MFIP-S grant must be reduced by \$30 for MFIP-S recipients who are also recipients of public housing subsidies.

History: 1997 c 85 art 1 s 17

256J.30 APPLICANT AND PARTICIPANT REQUIREMENTS AND RESPONSIBILITIES.

Subdivision 1. Applicant reporting requirements. An applicant must provide information on an application form and supplemental forms about the applicant's circumstances which affect MFIP-S eligibility or the assistance payment. An applicant must report changes identified in subdivision 9 while the application is pending. When an applicant does not accurately report information on an application, both an overpayment and a referral for a fraud investigation may result. When an applicant does not provide information or documentation, the receipt of the assistance payment may be delayed or the application may be denied depending on the type of information required and its effect on eligibility.

Subd. 2. Requirement to apply for other benefits. An applicant or participant must apply for and follow through with appealing any denials of eligibility for benefits from other programs for which the applicant or participant is potentially eligible and which would, if received, offset assistance payments. An applicant's or participant's failure to complete application for these benefits without good cause results in denial or termination of assistance. Good cause for failure to apply for these benefits is allowed when circumstances beyond the control of the applicant or participant prevent the applicant or participant from making an application.

Subd. 3. Responsibility to inquire. An applicant or participant who does not know or is unsure whether a given change in circumstances will affect the applicant's or participant's MFIP-S eligibility or assistance payment must contact the county agency for information.

Subd. 4. Participant's completion of recertification of eligibility form. A participant must complete forms prescribed by the commissioner which are required for recertification of eligibility according to section 256J.32, subdivision 6.

Subd. 5. Monthly MFIP-S household reports. Each assistance unit with a member who has earned income or a recent work history, and each assistance unit that has income deemed to it from a financially responsible person must complete a monthly MFIP-S household report form. "Recent work history" means the individual received earned income in the report month or any of the previous three calendar months even if the earnings are excluded. To be complete, the MFIP-S household report form must be signed and dated by the caregivers no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered, and documentation of earned income must be included.

Subd. 6. Six-month MFIP-S household report. Assistance units that are not required to report monthly under subdivision 5 must complete an MFIP-S household report form every six months. To be complete, the MFIP-S household report form must be signed and dated by the caregiver or caregivers no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered and documentation of earned income must be included.

Subd. 7. Due date of MFIP-S household report. An MFIP-S household report form must be received by the county agency by the eighth calendar day of the month following the

reporting period covered by the form. When the eighth calendar day of the month falls on a weekend or holiday, the MFIP-S household report form must be received by the county agency the first working day that follows the eighth calendar day. The county agency must send a notice of termination because of a late or incomplete MFIP-S household report form.

Subd. 8. Late MFIP-S household report forms. Paragraphs (a) to (d) apply to the reporting requirements in subdivision 7.

(a) When a caregiver submits an incomplete MFIP-S household report form before the last working day of the month on which a ten-day notice of termination can be issued, the county agency must return the incomplete form on or before the ten-day notice deadline or any previously sent ten-day notice of termination is invalid.

(b) When a complete MFIP-S household report form is not received by a county agency before the last ten days of the month in which the form is due, the county agency must send a notice of proposed termination of assistance. When a caregiver submits an incomplete form on or after the date a notice of proposed termination has been sent, the termination is valid unless the caregiver submits a complete form before the end of the month.

(c) An assistance unit required to submit an MFIP-S household report form is considered to have continued its application for assistance if a complete MFIP-S household report form is received within a calendar month after the month in which assistance was received and assistance shall be paid for the period beginning with the first day of the month in which the report was due.

(d) A county agency must allow good cause exemptions from the reporting requirements under subdivisions 5 and 6 when any of the following factors cause a caregiver to fail to provide the county agency with a completed MFIP-S household report form before the end of the month in which the form is due:

- (1) an employer delays completion of employment verification;
- (2) a county agency does not help a caregiver complete the MFIP-S household report form when the caregiver asks for help;
- (3) a caregiver does not receive an MFIP-S household report form due to mistake on the part of the department or the county agency or due to a reported change in address;
- (4) a caregiver is ill, or physically or mentally incapacitated; or
- (5) some other circumstance occurs that a caregiver could not avoid with reasonable care which prevents the caregiver from providing a completed MFIP-S household report form before the end of the month in which the form is due.

Subd. 9. Changes that must be reported. A caregiver must report the changes or anticipated changes specified in clauses (1) to (16) within ten days of the date they occur, within ten days of the date the caregiver learns that the change will occur, at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or within eight calendar days of a reporting period as in subdivision 5 or 6, whichever occurs first. A caregiver must report other changes at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or at the end of a reporting period under subdivision 5 or 6, as applicable. A caregiver must make these reports in writing to the county agency. When a county agency could have reduced or terminated assistance for one or more payment months if a delay in reporting a change specified under clauses (1) to (16) had not occurred, the county agency must determine whether a timely notice under section 256J.31, subdivision 4, could have been issued on the day that the change occurred. When a timely notice could have been issued, each month's overpayment subsequent to that notice must be considered a client error overpayment under section 256J.38. Changes in circumstances which must be reported within ten days must also be reported on the MFIP-S household report form for the reporting period in which those changes occurred. Within ten days, a caregiver must report:

- (1) a change in initial employment;
- (2) a change in initial receipt of unearned income;
- (3) a recurring change in unearned income;
- (4) a nonrecurring change of unearned income that exceeds \$30;
- (5) the receipt of a lump sum;
- (6) an increase in assets that may cause the assistance unit to exceed asset limits;

(7) a change in the physical or mental status of an incapacitated member of the assistance unit if the physical or mental status is the basis of exemption from an MFIP-S work and training program;

(8) a change in employment status;

(9) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child;

(10) a change in health insurance coverage;

(11) the marriage or divorce of an assistance unit member;

(12) the death of a parent, minor child, or financially responsible person;

(13) a change in address or living quarters of the assistance unit;

(14) the sale, purchase, or other transfer of property;

(15) a change in school attendance of a custodial parent or an employed child; and

(16) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party.

Subd. 10. Cooperation with health care benefits. (a) The caregiver of a minor child must cooperate with the county agency to identify and provide information to assist the county agency in pursuing third-party liability for medical services.

(b) A caregiver must assign to the department any rights to health insurance policy benefits the caregiver has during the period of MFIP-S eligibility.

(c) A caregiver must identify any third party who may be liable for care and services available under the medical assistance program on behalf of the applicant or participant and all other assistance unit members.

(d) When a participant refuses to identify any third party who may be liable for care and services, the recipient must be sanctioned as provided in section 256J.46, subdivision 1. The recipient is also ineligible for medical assistance for a minimum of one month and until the recipient cooperates with the requirements of this subdivision.

Subd. 11. Requirement to assign support and maintenance rights. To be eligible for MFIP-S, the caregiver must assign all rights to child support and spousal maintenance benefits according to sections 256.74, subdivision 5, and 256.741, if enacted.

Subd. 12. Requirement to provide social security numbers. Each member of the assistance unit must provide the member's social security number to the county agency, except for members in the assistance unit who are qualified noncitizens who are victims of domestic violence as defined under section 256J.08, subdivision 73, clause (7). When a social security number is not provided to the county agency for verification, this requirement is satisfied when each member of the assistance unit cooperates with the procedures for verification of numbers, issuance of duplicate cards, and issuance of new numbers which have been established jointly between the Social Security Administration and the commissioner.

History: 1997 c 85 art 1 s 18

256J.31 APPLICANT AND PARTICIPANT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES.

Subdivision 1. Right to information. An applicant or participant has the right to obtain from the county agency information about the benefits, requirements, restrictions, and appeal provisions of public assistance programs.

Subd. 2. Right to authorized representative. An applicant or participant has the right to designate an authorized representative to act on the applicant's or participant's behalf. An applicant or participant has the right to be assisted or represented by an authorized representative in eligibility determinations, recertification, conciliation conferences, the fair hearing process, and any other contacts with the county agency or the department. When a county agency determines that it is necessary for a person to assist an applicant or participant, the county agency must designate a staff member to assist the applicant or participant. Upon a request from an applicant or participant, a county agency must provide addresses and telephone numbers of organizations that provide legal services at low cost or no cost to low-income persons.

Subd. 3. Right of applicant to notice. A county agency must notify an applicant of the disposition of the applicant's application. The notice must be in writing and on forms prescribed by the commissioner. The county agency must mail the notice to the last known mailing address provided by the applicant. When an application is denied, the county agency must notify the applicant in writing of the reasons for the denial, of the right to appeal, and of the right to reapply for assistance.

Subd. 4. Participant's right to notice. A county agency must give a participant written notice of all adverse actions affecting the participant including payment reductions, suspensions, terminations, and use of protective, vendor, or two-party payments. The notice of adverse action must be on a form prescribed or approved by the commissioner and must be mailed to the last known mailing address provided by the participant. The county agency must state on the notice of adverse action the action it intends to take, the reasons for the action, the participant's right to appeal the action, the conditions under which assistance can be continued pending an appeal decision, and the related consequences of the action.

Subd. 5. Mailing of notice. The notice of adverse action shall be issued according to paragraphs (a) to (c).

(a) A county agency shall mail a notice of adverse action at least ten days before the effective date of the adverse action, except as provided in paragraphs (b) and (c).

(b) A county agency must mail a notice of adverse action at least five days before the effective date of the adverse action when the county agency has factual information that requires an action to reduce, suspend, or terminate assistance based on probable fraud.

(c) A county agency shall mail a notice of adverse action before or on the effective date of the adverse action when the county agency:

(1) receives the caregiver's signed monthly MFIP-S household report form that includes information that requires payment reduction, suspension, or termination;

(2) is informed of the death of a participant or the payee;

(3) receives a signed statement from the caregiver that assistance is no longer wanted;

(4) receives a signed statement from the caregiver that provides information that requires the termination or reduction of assistance;

(5) verifies that a member of the assistance unit is absent from the home and does not meet temporary absence provisions in section 256J.13;

(6) verifies that a member of the assistance unit has entered a regional treatment center or a licensed residential facility for medical or psychological treatment or rehabilitation;

(7) verifies that a member of an assistance unit has been placed in foster care, and the provisions of section 256J.13, subdivision 2, paragraph (b), do not apply;

(8) verifies that a member of an assistance unit has been approved to receive assistance by another state; or

(9) cannot locate a caregiver.

Subd. 6. Appeal rights. An applicant, participant, or former participant has the right to request a fair hearing when aggrieved by an action or inaction of a county agency. A request for a fair hearing and rights pending a fair hearing are set as specified in section 256J.40.

Subd. 7. Case records available. A county agency must make financial case records available to the participant or former participant as soon as possible but no later than the fifth business day following the date of the request. When the participant or former participant asks for photocopies of material from the financial case record, the county agency must provide one copy of each page at no cost.

Subd. 8. Right to manage affairs. Except for protective payment provisions authorized under section 256J.39, participants have the right to manage their own affairs.

Subd. 9. Right to protection. Minor caregivers have the right to protection. The county agency must refer a minor caregiver to the social service unit within 30 days of the date the application is approved. The social service unit must assist the caregiver who is less than 18 years of age to develop a plan as specified in section 256J.54.

Subd. 10. Protection from garnishment. MFIP-S grants or earnings of a caregiver while participating in full or part-time employment or training shall be protected from gar-

nishment. This protection for earnings shall extend for a period of six months from the date of termination from MFIP-S.

Subd. 11. **Responsibility to retain case records.** The county agency must retain financial case records and employment and training service records for MFIP-S cases according to chapter 13.

History: 1997 c 85 art 1 s 19

256J.315 COUNTY AND TRIBAL COOPERATION.

The county agency must cooperate with tribal governments in the implementation of MFIP-S to ensure that the program meets the special needs of persons living on Indian reservations. This cooperation must include, but is not limited to, the sharing of MFIP-S duties including initial screening, orientation, assessments, and provision of employment and training services. The county agency shall encourage tribal governments to assume duties related to MFIP-S and shall work cooperatively with tribes that have assumed responsibility for a portion of the MFIP-S program to expand tribal responsibilities, if that expansion is requested by the tribe.

History: 1997 c 85 art 1 s 20

256J.32 DOCUMENTING, VERIFYING, AND RECERTIFYING ELIGIBILITY.

Subdivision 1. **Verification of information.** A county agency must only require verification of information necessary to determine MFIP-S eligibility and the amount of the assistance payment.

Subd. 2. **Documentation.** The applicant or participant must document the information required under subdivisions 4 to 6 or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so. When an applicant or participant and the county agency are unable to obtain documents needed to verify information, the county agency may accept an affidavit from an applicant or participant as sufficient documentation.

Subd. 3. **Contacting third parties.** A county agency must not request information about an applicant or participant that is not of public record from a source other than county agencies, the department, or the United States Department of Health and Human Services without the person's prior written consent. An applicant's signature on an application form constitutes consent for contact with the sources specified on the application. A county agency may use a single consent form to contact a group of similar sources, such as banks or insurance agencies, but the sources to be contacted must be identified by the county agency prior to requesting an applicant's consent.

Subd. 4. **Factors to be verified.** The county agency shall verify the following at application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of a minor child to caregivers in the assistance unit;
- (4) age, if necessary to determine MFIP-S eligibility;
- (5) immigration status;
- (6) social security number in accordance with the requirements of section 256J.30, subdivision 12;
- (7) income;
- (8) self-employment expenses used as a deduction;
- (9) source and purpose of deposits and withdrawals from business accounts;
- (10) spousal support and child support payments made to persons outside the household;
- (11) real property;

- (12) vehicles;
- (13) checking and savings accounts;
- (14) savings certificates, savings bonds, stocks, and individual retirement accounts;
- (15) pregnancy, if related to eligibility;
- (16) inconsistent information, if related to eligibility;
- (17) medical insurance;
- (18) anticipated graduation date of an 18-year-old;
- (19) burial accounts;
- (20) school attendance, if related to eligibility; and
- (21) residence.

Subd. 5. Verification of immigration status. An applicant's written authorization is required before the county agency contacts the Immigration and Naturalization Service to verify immigration status under subdivision 4, clause (5). However, refusal to provide such authorization is grounds for a finding of ineligibility if the applicant fails to produce proof of eligible immigration status.

Subd. 5a. Inconsistent information. When the county agency verifies inconsistent information under subdivision 4, clause (16), or 6, clause (4), the reason for verifying the information must be documented in the financial case record.

Subd. 6. Recertification. The county agency shall recertify eligibility in an annual face-to-face interview with the participant and verify the following:

- (1) presence of the minor child in the home, if questionable;
- (2) income, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;
- (3) assets when the value is within \$200 of the asset limit; and
- (4) inconsistent information, if related to eligibility.

History: 1997 c 85 art 1 s 21

256J.33 PROSPECTIVE AND RETROSPECTIVE DETERMINATION OF MFIP-S ELIGIBILITY.

Subdivision 1. Determination of eligibility. A county agency must determine MFIP-S eligibility prospectively for a payment month based on retrospectively assessing income and the county agency's best estimate of the circumstances that will exist in the payment month.

Except as described in section 256J.34, subdivision 1, when prospective eligibility exists, a county agency must calculate the amount of the assistance payment using retrospective budgeting. To determine MFIP-S eligibility and the assistance payment amount, a county agency must apply countable income, described in section 256J.37, subdivisions 3 to 10, received by members of an assistance unit or by other persons whose income is counted for the assistance unit, described under sections 256J.21 and 256J.37, subdivisions 1 and 2.

This income must be applied to the transitional standard or family wage standard subject to this section and sections 256J.34 to 256J.36. Income received in a calendar month and not otherwise excluded under section 256J.21, subdivision 2, must be applied to the needs of an assistance unit.

Subd. 2. Prospective eligibility. A county agency must determine whether the eligibility requirements that pertain to an assistance unit, including those in sections 256J.11 to 256J.15 and 256J.20, will be met prospectively for the payment month. Except for the provisions in section 256J.34, subdivision 1, the income test will be applied retrospectively.

Subd. 3. Retrospective eligibility. After the first two months of MFIP-S eligibility, a county agency must continue to determine whether an assistance unit is prospectively eligible for the payment month by looking at all factors other than income and then determine whether the assistance unit is retrospectively income eligible by applying the monthly income test to the income from the budget month. When the monthly income test is not satisfied, the assistance payment must be suspended when ineligibility exists for one month or ended when ineligibility exists for more than one month.

Subd. 4. **Monthly income test.** A county agency must apply the monthly income test retrospectively for each month of MFIP-S eligibility. An assistance unit is not eligible when the countable income equals or exceeds the transitional standard or the family wage level for the assistance unit. The income applied against the monthly income test must include:

(1) gross earned income from employment, prior to mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and after the disregards in section 256J.21, subdivision 3, and the allocations in section 256J.36, unless the employment income is specifically excluded under section 256J.21, subdivision 2;

(2) gross earned income from self-employment less deductions for self-employment expenses in section 256J.37, subdivision 5, but prior to any reductions for personal or business state and federal income taxes, personal FICA, personal health and life insurance, and after the disregards in section 256J.21, subdivision 3, and the allocations in section 256J.36;

(3) unearned income after deductions for allowable expenses in section 256J.37, subdivision 9, and allocations in section 256J.36, unless the income has been specifically excluded in section 256J.21, subdivision 2;

(4) gross earned income from employment as determined under clause (1) which is received by a member of an assistance unit who is a minor child or minor caregiver and less than a half-time student;

(5) child support and spousal support received or anticipated to be received by an assistance unit;

(6) the income of a parent when that parent is not included in the assistance unit;

(7) the income of an eligible relative and spouse who seek to be included in the assistance unit; and

(8) the unearned income of a minor child included in the assistance unit.

Subd. 5. **When to terminate assistance.** When an assistance unit is ineligible for MFIP-S assistance for two consecutive months, the county agency must terminate MFIP-S assistance.

History: 1997 c 85 art 1 s 22

256J.34 CALCULATING PAYMENTS; SIGNIFICANT CHANGE; INCOME AVERAGING.

Subdivision 1. **Prospective budgeting.** A county agency must use prospective budgeting to calculate the assistance payment amount for the first two months for an applicant who has not received assistance in this state for at least one payment month preceding the first month of payment under a current application. Prospective budgeting is not subject to overpayments or underpayments unless fraud is determined under section 256.98.

(a) The county agency must apply the income received or anticipated in the first month of MFIP-S eligibility against the need of the first month. The county agency must apply the income received or anticipated in the second month against the need of the second month.

(b) When the assistance payment for any part of the first two months is based on anticipated income, the county agency must base the initial assistance payment amount on the information available at the time the initial assistance payment is made.

(c) The county agency must determine the assistance payment amount for the first two months of MFIP-S eligibility by budgeting both recurring and nonrecurring income for those two months.

(d) The county agency must budget the child support income received or anticipated to be received by an assistance unit to determine the assistance payment amount from the month of application through the date in which MFIP-S eligibility is determined and assistance is authorized. Child support income which has been budgeted to determine the assistance payment in the initial two months is considered nonrecurring income. An assistance unit must forward any payment of child support to the child support enforcement unit of the county agency following the date in which assistance is authorized.

Subd. 2. **Retrospective budgeting.** The county agency must use retrospective budgeting to calculate the monthly assistance payment amount after the payment for the first two months has been made under subdivision 1.

Subd. 3. Additional uses of retrospective budgeting. Notwithstanding subdivision 1, the county agency must use retrospective budgeting to calculate the monthly assistance payment amount for the first two months under paragraphs (a) and (b).

(a) The county agency must use retrospective budgeting to determine the amount of the assistance payment in the first two months of MFIP-S eligibility:

(1) when an assistance unit applies for assistance for the same month for which assistance has been interrupted, the interruption in eligibility is less than one payment month, the assistance payment for the preceding month was issued in this state, and the assistance payment for the immediately preceding month was determined retrospectively; or

(2) when a person applies in order to be added to an assistance unit, that assistance unit has received assistance in this state for at least the two preceding months, and that person has been living with and has been financially responsible for one or more members of that assistance unit for at least the two preceding months.

(b) Except as provided in clauses (1) to (4), the county agency must use retrospective budgeting and apply income received in the budget month by an assistance unit and by a financially responsible household member who is not included in the assistance unit against the appropriate transitional or family wage level standard to determine the assistance payment to be issued for the payment month.

(1) When a source of income ends prior to the third payment month, that income is not considered in calculating the assistance payment for that month. When a source of income ends prior to the fourth payment month, that income is not considered when determining the assistance payment for that month.

(2) When a member of an assistance unit or a financially responsible household member leaves the household of the assistance unit, the income of that departed household member is not budgeted retrospectively for any full payment month in which that household member does not live with that household and is not included in the assistance unit.

(3) When an individual is removed from an assistance unit because the individual is no longer a minor child, the income of that individual is not budgeted retrospectively for payment months in which that individual is not a member of the assistance unit, except that income of an ineligible child in the household must continue to be budgeted retrospectively against the child's needs when the parent or parents of that child request allocation of their income against any unmet needs of that ineligible child.

(4) When a person ceases to have financial responsibility for one or more members of an assistance unit, the income of that person is not budgeted retrospectively for the payment months which follow the month in which financial responsibility ends.

Subd. 4. Significant change in gross income. The county agency must recalculate the assistance payment when an assistance unit experiences a significant change, as defined in section 256J.08, resulting in a reduction in the gross income received in the payment month from the gross income received in the budget month. The county agency must issue a supplemental assistance payment based on the county agency's best estimate of the assistance unit's income and circumstances for the payment month. Budget adjustments that result from significant changes are limited to two in a 12-month period regardless of the reason for the change. Budget adjustments due to a significant change in the amount of direct support received must not be made after the date the assistance unit is required to forward support to the child support enforcement unit under subdivision 1, paragraph (d).

Subd. 5. Income averaging for participants paid weekly or biweekly. For the purposes of stabilizing assistance payments, the county agency may average income for participants paid weekly or biweekly. Monthly income may be computed by adding income from all paychecks, dividing the sum by the number of paychecks, and multiplying the results by 4.3 if paychecks are weekly or 2.16 if paychecks are biweekly. The county agency may not use income averaging unless discussed with the participant and requested by the participant.

History: 1997 c 85 art 1 s 23

256J.35 AMOUNT OF ASSISTANCE PAYMENT.

Except as provided in paragraphs (a) to (c), the amount of an assistance payment is equal to the difference between the transitional standard or the family wage level in section 256J.24 and countable income.

(a) When MFIP-S eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all other eligibility factors are met for that applicant, whichever is later. This provision applies when an applicant loses at least one day of MFIP-S eligibility.

(b) MFIP-S overpayments to an assistance unit must be recouped according to section 256J.38, subdivision 4.

(c) An initial assistance payment must not be made to an applicant who is not eligible on the date payment is made.

History: 1997 c 85 art 1 s 24

256J.36 ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS.

Except as prohibited in paragraphs (a) and (b), an allocation of income is allowed to meet the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible who also lives with the caregiver. An allocation is allowed from the caregiver's income to meet the need of an ineligible or excluded person. That allocation is allowed in an amount up to the difference between the MFIP-S family allowance for the assistance unit when that excluded or ineligible person is included in the assistance unit and the MFIP-S family allowance for the assistance unit when the excluded or ineligible person is not included in the assistance unit. These allocations must be deducted from the caregiver's counted earnings and from unearned income subject to paragraphs (a) and (b).

(a) Income of a minor child in the assistance unit must not be allocated to meet the need of a person who is not a member of the assistance unit, including the child's parent, even when that parent is the payee of the child's income.

(b) Income of an assistance unit must not be allocated to meet the needs of a person ineligible for failure to cooperate with program requirements including child support requirements, a person ineligible due to fraud, or a relative caregiver and the caregiver's spouse who opt out of the assistance unit.

History: 1997 c 85 art 1 s 25

256J.37 TREATMENT OF INCOME AND LUMP SUMS.

Subdivision 1. **Deemed income from ineligible household members.** The income of ineligible household members must be deemed after allowing the following disregards:

(1) the first 18 percent of the excluded family member's gross earned income;

(2) amounts the ineligible person actually paid to individuals not living in the same household but whom the ineligible person claims as dependents for determining federal personal income tax liability;

(3) child or spousal support paid to a person who lives outside of the household; and

(4) an amount for the needs of other persons who live in the household but are not included in the assistance unit and are or could be claimed by an ineligible person as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP-S need standard when the excluded person is included in the assistance unit and the MFIP-S need standard when the excluded person is not included in the assistance unit.

Subd. 2. **Deemed income and assets of sponsor of noncitizens.** All income and assets of a sponsor, or sponsor's spouse, who executed an affidavit of support for a noncitizen must be deemed to be unearned income of the noncitizen as specified in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law Number 104-193, sections 421 and 422, and subsequently set out in federal rules.

Subd. 3. Earned income of wage, salary, and contractual employees. The county agency must include gross earned income less any disregards in the initial and monthly income test. Gross earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time.

Subd. 4. Self-employment. Self-employed individuals are those who are responsible for their own work schedule and do not have coverage under an employer's liability insurance or workers' compensation. Self-employed individuals generally work for themselves rather than an employer. However, individuals employed in some types of services may be self-employed even if they have an employer or work out of another's business location. For example, real estate sales people, individuals who work for commission sales, manufacturer's representatives, and independent contractors may be self-employed. Self-employed individuals may or may not have FICA deducted from the check issued to them by an employer or another party.

Self-employed individuals may own a business singularly or in partnership. Individuals operating more than one self-employment business may use the loss from one business to offset self-employment income from another business. A loss from a self-employment business may not offset income earned under subdivision 3.

Subd. 5. Self-employment earnings. The county agency must determine self-employment income according to the following:

(a) Subtract allowable business expenses from total gross receipts. Allowable business expenses include:

- (1) interest on mortgages and loans;
- (2) employee wages, except for persons who are part of the assistance unit or whose income is deemed to the participant;
- (3) FICA funds paid on employees' wages, payment of employee workers' compensation, and reemployment insurance;
- (4) livestock and veterinary or breeding fees;
- (5) raw material;
- (6) seed and fertilizer;
- (7) maintenance and repairs that are not capital expenditures;
- (8) tax return preparation fees;
- (9) license fees, professional fees, franchise fees, and professional dues;
- (10) tools and supplies that are not capital expenditures;
- (11) fuel and transportation expenses other than fuel costs covered by the flat rate transportation deduction;
- (12) advertising costs;
- (13) meals eaten when required to be away from the local work site;
- (14) property expenses such as rent, insurance, taxes, and utilities;
- (15) postage;
- (16) purchase cost of inventory at time of sale;
- (17) loss from another self-employment business;
- (18) attorney fees allowed by the Internal Revenue Service; and
- (19) tuition for classes necessary to maintain or improve job skills or required by law to maintain job status or salary as allowed by the Internal Revenue Service.

(b) The county agency shall not allow a deduction for the following expenses:

- (1) purchases of capital assets;
- (2) payments on the principals of loans for capital assets;
- (3) depreciation;
- (4) amortization;
- (5) the wholesale costs of items purchased, processed, or manufactured which are unsold inventory;

(6) transportation costs that exceed the maximum standard mileage rate allowed for use of a personal car in the Internal Revenue Code;

(7) costs, in any amount, for mileage between an applicant's or participant's home and place of employment;

(8) salaries and other employment deductions made for members of an assistance unit or persons who live in the household for whom an employer is legally responsible;

(9) monthly expenses in excess of \$71 for each roomer;

(10) monthly expenses in excess of the Thrifty Food Plan amount for one person for each boarder. For purposes of this clause and clause (11), "Thrifty Food Plan" has the meaning given it in Code of Federal Regulations;

(11) monthly expenses in excess of the roomer rate plus the Thrifty Food Plan amount for one person for each roomer-boarder. If there is more than one boarder or roomer-boarder, use the total number of boarders as the unit size to determine the Thrifty Food Plan amount;

(12) an amount greater than actual expenses or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income;

(13) expenses not allowed by the Internal Revenue Code;

(14) expenses in excess of 60 percent of gross receipts for in-home child care unless a higher amount can be documented; and

(15) expenses that are reimbursed under the child and adult care food program as authorized under the National School Lunch Act, United States Code, title 42.

Subd. 6. Self-employment budget period. The self-employment budget period begins in the month of application or in the first month of self-employment. Gross receipts must be budgeted in the month received. Expenses must be budgeted against gross receipts in the month the expenses are paid, except for paragraphs (a) to (c).

(a) The purchase cost of inventory items, including materials which are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of the inventory items.

(b) A 12-month rolling average based on clauses (1) to (3) must be used to budget monthly income.

(1) For a business in operation for at least 12 months, the county agency shall use the average monthly self-employment income from the most current income tax report for the 12 months before the month of application. The county agency shall determine a new monthly average by adding in the actual self-employment income and expenses from the previous month and dropping the first month from the averaging period.

(2) For a business in operation for less than 12 months, the county agency shall compute the average for the number of months the business has been in operation to determine a monthly average. When data are available for 12 or more months, average monthly self-employment income is determined under clause (1).

(3) If the business undergoes a major change, the county agency shall compute a new rolling average beginning with the first month of the major change. For the purpose of this clause, major change means a change that affects the nature and scale of the business and is not merely the result of normal business fluctuations.

(c) For seasonal self-employment, the caregiver may choose whether to use actual income in the month of receipt and expenses in the month incurred or the rolling average method of computation. The choice must be made once per year at the time of application or recertification. For the purpose of this paragraph, seasonal means working six or less months per year.

Subd. 7. Farm income. Farm income is the difference between gross receipts and operating expenses. The county agency must not allow a deduction for expenses listed in subdivision 5, paragraph (b). Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from home-produced food.

Subd. 8. Rental income. The county agency must treat income from rental property as earned or unearned income. Income from rental property is unearned income unless the as-

assistance unit spends an average of ten hours per week on maintenance or management of the property. When the owner spends more than ten hours per week on maintenance or repairs, the earnings are considered self-employment earnings. An amount must be deducted for upkeep and repairs, as specified in subdivision 5, paragraph (b), clause (12), real estate taxes, insurance, utilities, and interest on principal payments. When the applicant or participant lives on the rental property, expenses for upkeep, taxes, insurance, utilities, and interest must be divided by the number of rooms to determine expense per room and expenses deducted must be deducted only for the number of rooms rented.

Subd. 9. Unearned income. (a) The county agency must apply unearned income, including housing subsidies as in paragraph (b), to the transitional standard. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) Effective July 1, 1998, the county agency shall count \$100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$100.

Subd. 10. Treatment of lump sums. (a) The county agency must treat lump-sum payments as earned or unearned income. If the lump-sum payment is included in the category of income identified in subdivision 9, it must be treated as unearned income. A lump sum is counted as income in the month received and budgeted either prospectively or retrospectively depending on the budget cycle at the time of receipt. When an individual receives a lump-sum payment, that lump sum must be combined with all other earned and unearned income received in the same budget month, and it must be applied according to paragraphs (a) to (c). A lump sum may not be carried over into subsequent months. Any funds that remain in the third month after the month of receipt are counted in the asset limit.

(b) For a lump sum received by an applicant during the first two months, prospective budgeting is used to determine the payment and the lump sum must be combined with other earned or unearned income received and budgeted in that prospective month.

(c) For a lump sum received by a participant after the first two months of MFIP-S eligibility, the lump sum must be combined with other income received in that budget month, and the combined amount must be applied retrospectively against the applicable payment month.

(d) When a lump sum, combined with other income under paragraphs (b) and (c), is less than the transitional standard for the applicable payment month, the assistance payment must be reduced according to the amount of the countable income. When the countable income is greater than the transitional standard or the family wage standard, the assistance payment must be suspended for the payment month.

History: 1997 c 85 art 1 s 26; 1997 c 203 art 12 s 11

256J.38 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.

Subdivision 1. Scope of overpayment. When a participant or former participant receives an overpayment due to agency, client, or ATM error, or due to assistance received while an appeal is pending and the participant or former participant is determined ineligible for assistance or for less assistance than was received, the county agency must recoup or recover the overpayment under the conditions of this section.

Subd. 2. Notice of overpayment. When a county agency discovers that a participant or former participant has received an overpayment for one or more months, the county agency must notify the participant or former participant of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the participant's or former participant's right to appeal. No limit applies to the period in which the county agency is required to recoup or recover an overpayment according to subdivisions 3 and 4.

Subd. 3. Recovering overpayments from former participants. A county agency must initiate efforts to recover overpayments paid to a former participant. Adults and minor caregivers of an assistance unit at the time an overpayment occurs, whether receiving assistance or not, are jointly and individually liable for repayment of the overpayment. The county agency must request repayment from the former participants. When an agreement for repayment is not completed within six months of the date of discovery or when there is a default on an agreement for repayment after six months, the county agency must initiate recovery consistent with chapter 270A, or section 541.05. When a person has been convicted of fraud under section 256.98, recovery must be sought regardless of the amount of overpayment. When an overpayment is less than \$35, and is not the result of a fraud conviction under section 256.98, the county agency must not seek recovery under this subdivision. The county agency must retain information about all overpayments regardless of the amount. When an adult or minor caregiver reapplies for assistance, the overpayment must be recouped under subdivision 4.

Subd. 4. Recouping overpayments from participants. A participant may voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this subdivision, until the total amount of the overpayment is repaid. When an overpayment occurs due to fraud, the county agency must recover ten percent of the transitional standard or the amount of the monthly assistance payment, whichever is less. When a nonfraud overpayment occurs, the county agency must recover three percent of the transitional standard or the amount of the monthly assistance payment, whichever is less.

Subd. 5. Recovering automatic teller machine errors. For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an ATM dispensing 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.

Subd. 6. Scope of underpayments. A county agency must issue a corrective payment for underpayments made to a participant or to a person who would be a participant if an agency or client error causing the underpayment had not occurred. The county agency must issue the corrective payment according to subdivision 8.

Subd. 7. Identifying the underpayment. An underpayment may be identified by a county agency, by a participant, by a former participant, or by a person who would be a participant except for agency or client error.

Subd. 8. Issuing corrective payments. A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment of the participant or by issuing a separate payment to a participant or former participant, or by reducing an existing overpayment balance. When an underpayment occurs in a payment month and is not identified until the next payment month or later, the county agency must first subtract the underpayment from any overpayment balance before issuing the corrective payment. The county agency must not apply an underpayment in a current payment month against an overpayment balance. When an underpayment in the current payment month is identified, the corrective payment must be issued within seven calendar days after the underpayment is identified.

Subd. 9. Appeals. A participant may appeal an underpayment, an overpayment, and a reduction in an assistance payment made to recoup the overpayment under subdivision 4. The participant's appeal of each issue must be timely under section 256.045. When an appeal based on the notice issued under subdivision 2 is not timely, the fact or the amount of that overpayment must not be considered as a part of a later appeal, including an appeal of a reduction in an assistance payment to recoup that overpayment.

History: 1997 c 85 art 1 s 27

256J.39 PAYMENT PROVISIONS; VENDOR PAYMENTS.

Subdivision 1. Payment policy. The following policies apply to monthly assistance payments and corrective payments:

(1) Grant payments may be issued in the form of warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution.

(2) The commissioner shall mail assistance payment checks to the address where a caregiver lives unless the county agency approves an alternate arrangement.

(3) The commissioner shall mail monthly assistance payment checks within time to allow postal service delivery to occur no later than the first day of each month. Monthly assistance payment checks must be dated the first day of the month. The commissioner shall issue electronic benefits transfer payments so that caregivers have access to the payments no later than the first of the month.

(4) The commissioner shall issue replacement checks promptly, but no later than seven calendar days after the provisions of sections 16A.46; 256.01, subdivision 11; and 471.415 have been met.

Subd. 2. Protective and vendor payments. Alternatives to paying assistance directly to a participant may be used when:

(1) a county agency determines that a vendor payment is the most effective way to resolve an emergency situation pertaining to basic needs;

(2) a caregiver makes a written request to the county agency asking that part or all of the assistance payment be issued by protective or vendor payments for shelter and utility service only. The caregiver may withdraw this request in writing at any time;

(3) a caregiver has exhibited a continuing pattern of mismanaging funds as determined by the county agency;

(4) the vendor payment is part of a sanction under section 256J.46, subdivision 2; or

(5) the vendor payment is required under section 256J.24 or 256J.43.

The director of a county agency must approve a proposal for protective or vendor payment for money mismanagement. During the time a protective or vendor payment is being made, the county agency must provide services designed to alleviate the causes of the mismanagement.

The continuing need for and method of payment must be documented and reviewed every 12 months. The director of a county agency must approve the continuation of protective or vendor payments.

When it appears that the need for protective or vendor payments will continue or is likely to continue beyond two years because the county agency's efforts have not resulted in sufficiently improved use of assistance on behalf of the minor child, judicial appointment of a legal guardian or other legal representative must be sought by the county agency.

Subd. 3. Choosing payees for protective or vendor payments. A county agency shall consult with a caregiver regarding the selection of the form of payment, the selection of a protective payee, and the distribution of the assistance payment to meet the various costs incurred by the assistance unit. When choosing a protective payee, the county agency shall notify the caregiver of a consultation date. If the caregiver fails to respond to the county agency's request for consultation by the effective date on the notice, the county agency must choose a protective payee for that payment month and subsequent payment months until the caregiver responds to the agency's request for consultation. The county agency must notify the caregiver of the right to appeal the determination that a protective or vendor payment should be made or continued and to appeal the selection of the payee. If a county agency is not able to find another protective payee, a county agency staff member may serve as a protective payee. The following persons may not serve as protective payees: a member of the county board of commissioners; the county agency staff member determining financial eligibility for the family; special investigative or resource staff; the staff member handling accounting or fiscal processes related to the participant; or a landlord, grocer, or other vendor dealing directly with the participant.

Subd. 4. Discontinuing protective or vendor payments. A county agency shall discontinue protective or vendor payments in two years or in the month following the county agency's failure to grant six-month approval to a money management plan, whichever occurs first. At least once every 12 months, a county agency shall review the performance of a protective payee acting under subdivision 2, clause (3), to determine whether a new payee

should be selected. When a participant complains about the performance of a protective payee, a review shall occur within 30 calendar days.

History: 1997 c 85 art 1 s 28

256J.395 VENDOR PAYMENT OF RENT AND UTILITIES.

(a) Effective July 1, 1997, when a county is required to provide assistance to a recipient in vendor form for rent and utilities under this chapter, or chapter 256, 256D, or 256K, the cost of utilities for a given family may be assumed to be:

(1) the average of the actual monthly cost of utilities for that family for the prior 12 months at the family's current residence, if applicable;

(2) the monthly plan amount, if any, set by the local utilities for that family at the family's current residence; or

(3) the estimated monthly utility costs for the dwelling in which the family currently resides.

(b) For purposes of this section, "utility" means any of the following: municipal water and sewer service; electric, gas, or heating fuel service; or wood, if that is the heating source.

(c) In any instance where a vendor payment for rent is directed to a landlord not legally entitled to the payment, the county social services agency shall immediately institute proceedings to collect the amount of the vendored rent payment, which shall be considered a debt under section 270A.03, subdivision 5.

History: 1997 c 85 art 1 s 29

256J.396 SUPPORT FROM PARENTS OF MINOR CAREGIVERS LIVING APART.

Subdivision 1. General provisions. A minor caregiver and the minor's dependent child living outside of the home of the adult parent must meet the criteria in section 256J.14, to be eligible for assistance in the MFIP-S program. A parent who lives outside the home of a minor child who is an unemancipated minor caregiver of an assistance unit is financially responsible for that minor caregiver unless the parent is a recipient of public assistance, SSI, MSA, medical assistance, general assistance, or general assistance medical care, and a court order does not otherwise provide a support obligation.

Subd. 2. Amount of support payment. The amount of support to be paid by a parent, except a parent specified in subdivision 4, must be determined according to paragraphs (a) to (f).

(a) A minor caregiver must provide information required by the county agency to identify the whereabouts of the minor caregiver's absent parent or parents.

(b) A county agency must notify an absent parent of the parent's legal responsibility to support a minor caregiver and shall request that the absent parent provide the following:

(1) the amount of the parent's earned and unearned income for the previous tax year;

(2) the amount of the parent's earned and unearned income for the current month;

(3) the number and names of dependents who are claimed or could be claimed by the parent on federal income tax forms;

(4) the amount of annual medical bills paid by the parent;

(5) the amount of annual housing costs paid by the parent;

(6) the costs for utilities and repairs to the home which are paid by the parent; and

(7) the amount of annual educational costs for family members paid by the parent.

(c) When a parent of a minor caregiver does not provide the information requested under paragraph (b), the county agency must refer the matter to the county attorney. Assistance to the minor caregiver must not be denied, delayed, reduced, or ended because of the lack of cooperation of the minor caregiver's parent.

(d) When the information requested under paragraph (b) is received by a county agency, the county agency must compare the parent's income against the scale set forth below using the conditions and procedures specified in paragraph (e).

Size of Family	Federal Poverty Guideline
1	\$ 9,288
2	12,432
3	15,576
4	18,720
5	21,864

For each additional family member add \$3,144.

(e) The parent's income is the parent's gross earned income plus unearned income, determined by the methods in section 256J.21. To determine family size, each person claimed or who could be claimed by a parent as a dependent on federal income tax forms, exclusive of the minor caregiver, must be included. A deduction from income must be allowed for the amount that medical, educational, and housing costs together exceed 30 percent of the parent's income. When the amount of income, after the allowable deduction, exceeds the annual income level in paragraph (d), a parent is liable to pay one-third of the excess for the annual support of the minor caregiver. These payments must be paid monthly to the minor caregiver or to the county agency on behalf of the minor caregiver.

(f) A county agency must notify the parents of the minor caregiver that they are liable for the amount of support determined by the county agency as specified in paragraph (e). When the support payment is received by the minor caregiver, it must be treated as unearned income of the assistance unit. When the support payment is not received, or a lesser amount is received in any payment month, the county agency must refer the matter to the county attorney.

Subd. 3. Reviews. A county agency must review financial responsibility every 12 months until minor caregivers reach the age of 18 or are otherwise emancipated. When a parent reports a change in circumstances, the county agency must review the required amount of payment within ten calendar days.

Subd. 4. Parents under court order for support. A parent who is required under an existing court order issued under some other authority in state or federal law to pay child support for a minor caregiver is subject to the conditions of that order in lieu of the requirements and contribution levels in subdivision 2.

History: 1997 c 85 art 1 s 30

256J.40 FAIR HEARINGS.

Caregivers receiving a notice of intent to sanction or a notice of adverse action that includes a sanction, reduction in benefits, suspension of benefits, denial of benefits, or termination of benefits may request a fair hearing. A request for a fair hearing must be submitted in writing to the county agency or to the commissioner and must be mailed within 30 days after a participant or former participant receives written notice of the agency's action or within 90 days when a participant or former participant shows good cause for not submitting the request within 30 days. A former participant who receives a notice of adverse action due to an overpayment may appeal the adverse action according to the requirements in this section. Issues that may be appealed are:

- (1) the amount of the assistance payment;
- (2) a suspension, reduction, denial, or termination of assistance;
- (3) the basis for an overpayment, the calculated amount of an overpayment, and the level of recoupment;
- (4) the eligibility for an assistance payment; and
- (5) the use of protective or vendor payments under section 256J.39, subdivision 2, clauses (1) to (3).

A county agency must not reduce, suspend, or terminate payment when an aggrieved participant requests a fair hearing prior to the effective date of the adverse action or within ten days of the mailing of the notice of adverse action, whichever is later, unless the participant requests in writing not to receive continued assistance pending a hearing decision. Assistance issued pending a fair hearing is subject to recovery under section 256J.38 when as a result of the fair hearing decision the participant is determined ineligible for assistance or the

amount of the assistance received. A county agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the participant change and are not related to the issue on appeal. The commissioner's order is binding on a county agency. No additional notice is required to enforce the commissioner's order.

A county agency shall reimburse appellants for reasonable and necessary expenses of attendance at the hearing, such as child care and transportation costs and for the transportation expenses of the appellant's witnesses and representatives to and from the hearing. Reasonable and necessary expenses do not include legal fees. Fair hearings must be conducted at a reasonable time and date by an impartial referee employed by the department. The hearing may be conducted by telephone or at a site that is readily accessible to persons with disabilities.

The appellant may introduce new or additional evidence relevant to the issues on appeal. Recommendations of the appeals referee and decisions of the commissioner must be based on evidence in the hearing record and are not limited to a review of the county agency action.

History: 1997 c 85 art 1 s 31

256J.42 60-MONTH TIME LIMIT.

Subdivision 1. Time limit. (a) An assistance unit in which any adult caregiver has received 60 months of cash assistance funded in whole or in part by the TANF block grant, MFIP-S, AFDC, or family general assistance, funded in whole or in part by state appropriations, is ineligible to receive MFIP-S. Any cash assistance funded with TANF dollars, or MFIP-S assistance funded in whole or in part by state appropriations, that was received by the unit on or after the date TANF was implemented, including any assistance received in states of prior residence, counts toward the 60-month limitation. The 60-month limit applies to a minor who is the head of a household or who is married to the head of a household. The 60-month time period does not need to be consecutive months for this provision to apply.

(b) Months before July 1998 in which individuals receive assistance as part of an MFIP, MFIP-R, or MFIP or MFIP-R comparison group family under sections 256.031 to 256.0361 or sections 256.047 to 256.048 are not included in the 60-month time limit.

Subd. 2. Assistance from another state. An individual whose needs have been otherwise provided for in another state, in whole or in part by the TANF block grant during a month, is ineligible to receive MFIP-S for the month.

Subd. 3. Adults living on an Indian reservation. In determining the number of months for which an adult has received assistance under MFIP-S, the county agency must disregard any month during which the adult lived on an Indian reservation if, during the month:

- (1) at least 1,000 individuals were living on the reservation; and
- (2) at least 50 percent of the adults living on the reservation were unemployed.

Subd. 4. Victims of domestic violence. Any cash assistance received by an assistance unit in a month when a caregiver is complying with a safety plan under the MFIP-S employment and training component does not count toward the 60-month limitation on assistance.

Subd. 5. Exemption for certain families. (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the parental caregiver is in the category in section 256J.56, clause (1). The exemption applies for the period of time the caregiver belongs to one of the categories specified in this subdivision.

(b) From July 1, 1997, until the date MFIP-S is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with sections 256.73, subdivision 5a, and 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

History: 1997 c 85 art 1 s 32; 1997 c 203 art 12 s 12

256J.43 INTERSTATE PAYMENT STANDARDS.

(a) Effective July 1, 1997, the amount of assistance paid to an eligible family in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be the lesser of either the payment standard that would have been received by the family from the state of immediate prior residence, or the amount calculated in accordance with AFDC or MFIP-S standards. The lesser payment must continue until the family meets the 12-month requirement. Payment must be calculated by applying this state's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or in this state, whichever is lower. Payment shall be made in vendor form for rent and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months a family resides in this state, the number of months that a family is eligible to receive AFDC or MFIP-S benefits is limited to the number of months the family would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the family received similar benefits while residing in the state of previous residence.

(d) When a family moves to this state from another state where the family has exhausted that state's time limit for receiving benefits under that state's TANF program, the family will not be eligible to receive any AFDC or MFIP-S benefits in this state for 12 months from the date the family moves here.

(e) For the purposes of this section, "state of immediate prior residence" means:

(1) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(2) the state in which an applicant who is a migrant worker maintains a home.

(f) The commissioner shall annually verify and update all other states' payment standards as they are to be in effect in July of each year.

(g) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

(h) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

History: 1997 c 85 art 1 s 33; 1997 c 203 art 12 s 13

256J.44 INITIAL SCREENING OF MFIP-S APPLICANT.

Subdivision 1. **Screening.** The county agency, or at county option, the county's employment and training service provider as defined in section 256J.49, must screen each applicant to determine immediate needs and to determine if the applicant may be eligible for:

(1) another program that is not partially funded through the federal temporary assistance to needy families block grant under title I of Public Law Number 104-193, including the expedited issuance of food stamps under section 256J.28, subdivision 1. If the applicant may be eligible for another program, a county caseworker must provide the appropriate referral to the program;

(2) the diversionary assistance program under section 256J.47; or

(3) the emergency assistance program under section 256J.48.

The applicant is required to attend the screening. If the applicant is not diverted from applying for MFIP-S under clauses (1) to (3), and if the applicant meets the MFIP-S eligibility requirements, then an orientation under section 256J.45 and an initial assessment under section 256J.52 must be completed; or, in the case of caregivers who are under the age of 20, a plan under section 256J.54 must be completed.

Subd. 2. **Support services to attend screening and orientation.** Upon a caregiver's request, the county agency must arrange for transportation and child care or reimburse care-

givers for transportation and child care expenses necessary to enable caregivers to attend the initial screening under this section and orientation under section 256J.51 if scheduled on a day other than when the caregiver makes application for assistance.

History: 1997 c 85 art 1 s 34

256J.45 ORIENTATION.

Subdivision 1. County agency to provide orientation. A county agency must provide each MFIP-S caregiver with a face-to-face orientation. The caregiver must attend the orientation. The county agency must inform the caregiver that failure to attend the orientation is considered a first occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46.

Subd. 2. General information. The MFIP-S orientation must consist of a presentation that informs caregivers of:

- (1) the necessity to obtain immediate employment;
- (2) the work incentives under MFIP-S;
- (3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP-S;
- (4) the consequences for failing to comply with the employment plan and other program requirements;
- (5) the rights, responsibilities, and obligations of participants;
- (6) the types and locations of child care services available through the county agency;
- (7) the availability and the benefits of the early childhood health and developmental screening under sections 123.701 to 123.74;
- (8) the caregiver's eligibility for transition year child care assistance under section 119B.05;
- (9) the caregiver's eligibility for extended medical assistance when the caregiver loses eligibility for MFIP-S due to increased earnings or increased child or spousal support; and
- (10) the caregiver's option to choose an employment and training provider and information about each provider, including but not limited to, services offered, program components, job placement rates, job placement wages, and job retention rates.

History: 1997 c 85 art 1 s 35

256J.46 SANCTIONS.

Subdivision 1. Sanctions for participants not complying with program requirements. (a) A participant who fails without good cause to comply with the requirements of this chapter, and who is not subject to sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision. A sanction under this subdivision becomes effective ten days after the required notice is given. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. A participant who has had one or more sanctions imposed must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence.

(b) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance, the participant's grant shall be reduced by ten percent of the applicable transitional standard. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second or subsequent occurrence of noncompliance, the participant's rent shall be vendor paid up to the amount of the MFIP-S grant for which the participant's assistance unit is eligible. At county option, the participant's utilities may also be vendor paid up to the amount of the MFIP-S grant remaining after vendor payment of the participant's rent. The vendor payment of rent and, if in effect, utilities, must be in effect for six months from the date that a sanction is imposed under this clause. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the applicable tran-

sitional standard before the residual is paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance. The vendor payment of rent and, if applicable, utilities shall be removed six months after the month in which the participant returns to compliance.

(c) No later than during the second month that a sanction under paragraph (b), clause (2), is in effect, the participant's case file must be reviewed to determine if:

(i) the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (16);

(ii) the participant qualifies for a good cause exception under section 256J.57; or

(iii) the participant qualifies for an exemption under section 256J.56.

If the lack of an identified activity can explain the noncompliance, the county must work with the participant to provide the identified activity, and the county must restore the participant's grant amount to the full amount for which the assistance unit is eligible. The grant must be restored retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption or good cause exception.

If the participant is found to qualify for a good cause exception or an exemption, the county must restore the participant's grant to the full amount for which the assistance unit is eligible. If the participant's grant is restored under this paragraph, the vendor payment of rent and if applicable, utilities, shall be removed six months after the month in which the sanction was imposed and the county must consider a subsequent occurrence of noncompliance to be a first occurrence.

Subd. 1a. Transitional rule; sanctions for AFDC, family GA, STRIDE, ACCESS, MFIP, or MFIP-R recipients. For purposes of determining a sanction under subdivision 1, for the first occurrence of noncompliance with a provision of this chapter or with section 256.741, if enacted, a recipient of assistance under AFDC, family general assistance, STRIDE, ACCESS, MFIP, or MFIP-R who was under a sanction in the month immediately preceding the receipt of assistance under MFIP-S shall be subject to sanction as provided in subdivision 1, paragraph (b), clause (1). The reduction in grant amount must be in effect for a minimum of one month. For a second or subsequent occurrence of noncompliance, the sanction shall be as provided in subdivision 1, paragraph (b), clause (2).

Subd. 2. Sanctions for refusal to cooperate with support requirements. The grant of an MFIP-S caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, if enacted, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the applicable transitional standard. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective ten days after the required notice is given. The sanction must be in effect for a minimum of one month and shall be removed only when the caregiver cooperates with the support requirements. Each month that an MFIP-S caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance. An MFIP-S caregiver who has had one or more sanctions imposed must remain in compliance with the requirements of section 256.741 for six months in order for a subsequent sanction to be considered a first occurrence.

Subd. 2a. Dual sanctions. (a) Notwithstanding the provisions of subdivisions 1 and 2, for a participant subject to a sanction for refusal to comply with child support requirements under subdivision 2 and subject to a concurrent sanction for refusal to cooperate with other program requirements under subdivision 1, sanctions shall be imposed in the manner prescribed in this subdivision.

A participant who has had one or more sanctions imposed under this subdivision must remain in compliance with the provisions of this chapter for six months in order for a subsequent occurrence of noncompliance to be considered a first occurrence. Any vendor payment of rent or utilities under this subdivision must remain in effect for six months after the month in which the participant is no longer subject to sanction under subdivision 1.

(b) If the participant was subject to sanction for:

(i) noncompliance under subdivision 1 before being subject to sanction for noncooperation under subdivision 2; or

(ii) noncooperation under subdivision 2 before being subject to sanction for noncompliance under subdivision 1;

the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2), and the requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(c) A participant who first becomes subject to sanction under both subdivisions 1 and 2 in the same month is subject to sanction as follows:

(i) in the first month of noncompliance and noncooperation, the participant's grant must be reduced by 25 percent of the applicable transitional standard, with any residual amount paid to the participant;

(ii) in the second and subsequent months of noncompliance and noncooperation, the participant shall be sanctioned as provided in subdivision 1, paragraph (b), clause (2).

The requirement that the county conduct a review as specified in subdivision 1, paragraph (c), remains in effect.

(d) A participant remains subject to sanction under subdivision 2 if the participant:

(i) returns to compliance and is no longer subject to sanction under subdivision 1; or

(ii) has the sanction under subdivision 1, paragraph (b), removed upon completion of the review under subdivision 1, paragraph (c).

A participant remains subject to sanction under subdivision 1, paragraph (b), if the participant cooperates and is no longer subject to sanction under subdivision 2.

History: 1997 c 85 art 1 s 36; 1997 c 245 art 4 s 2

256J.47 DIVERSIONARY ASSISTANCE PROGRAM.

Subdivision 1. Eligibility. A family is eligible to receive diversionary assistance once every 36 months if:

(1) a family member has resided in this state for at least 30 days;

(2) the caregiver provides verification that the caregiver has either experienced an unexpected occurrence that makes it impossible to retain or obtain employment or the caregiver has a temporary loss of income, which is not due to refusing to accept or terminating suitable employment as defined in section 256J.49, without good cause under section 256J.57, resulting in an emergency;

(3) the caregiver is at risk of MFIP-S eligibility if diversionary assistance is not provided and household income is below 140 percent of the federal poverty guidelines; and

(4) the diversionary assistance will resolve the emergency and divert the family from applying for MFIP-S.

For purposes of this section, diversionary assistance means a one-time lump-sum payment to an individual or third-party vendor to prevent long-term receipt of public assistance.

Subd. 2. County agency duties. County agencies shall:

(1) thoroughly explain to the caregiver the consequences of receiving diversionary assistance, specifically the resulting period of ineligibility under subdivision 4 for other assistance programs; and

(2) determine eligibility for diversionary assistance within five working days of the receipt of the verification that substantiates eligibility or ineligibility. Verification means client declaration and the best determination of the county agency.

Subd. 3. Maximum amount of assistance. The maximum amount of diversionary assistance that may be provided to a family is equal to the amount of the MFIP-S transitional standard for the same family size and composition for four months. The assistance provided under this program must be based on the immediate needs of the family. Counties must strive to provide the most cost-effective solution to the one-time emergency. Diversionary assistance is not cost effective if the family's anticipated income added to the diversion payment will not be sufficient to cover the family's immediate needs for the period of ineligibility un-

der subdivision 4, beginning with the month of application, or another emergency can reasonably be anticipated within the period of ineligibility.

Subd. 4. Ineligibility for MFIP-S; emergency assistance; and emergency general assistance. Upon receipt of diversionary assistance, the family is ineligible for MFIP-S, emergency assistance, and emergency general assistance for a period of time. To determine the period of ineligibility, the county shall use the following formula: regardless of household changes, the county agency must calculate the number of days of ineligibility by dividing the diversionary assistance issued by the transitional standard a family of the same size and composition would have received under MFIP-S, multiplied by 30, truncating the result. The ineligibility period begins the date the diversionary assistance is issued.

Subd. 5. Diversionary assistance grant; funding. The commissioner shall distribute diversionary assistance grants to counties. The commissioner may use federal block grant funding or state funding for the grants.

History: 1997 c 85 art 1 s 37

256J.48 EMERGENCY ASSISTANCE (EA).

Subdivision 1. Emergency financial assistance. County human service agencies shall grant emergency financial assistance to any needy pregnant woman or needy family with a child under the age of 21 who is or was within six months prior to application living with an eligible caregiver relative specified in section 256J.08.

Except for ongoing special diets, emergency assistance is available to a family during one 30-day period in a consecutive 12-month period. A county shall issue assistance for needs that accrue before that 30-day period only when it is necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. When emergency needs continue, a county may issue assistance for up to 30 days beyond the initial 30-day period of eligibility, but only when assistance is authorized during the initial period.

Subd. 2. Eligibility. Notwithstanding other eligibility provisions of this chapter, any family without resources immediately available to meet emergency needs identified in subdivision 3 shall be eligible for an emergency grant under the following conditions:

- (1) a family member has resided in this state for at least 30 days;
- (2) the family is without resources immediately available to meet emergency needs;
- (3) assistance is necessary to avoid destitution or provide emergency shelter arrangements; and
- (4) the family's destitution or need for shelter or utilities did not arise because the child or relative caregiver refused without good cause under section 256J.57 to accept employment or training for employment in this state or another state.

Subd. 3. Emergency needs. Emergency needs are limited to the following:

(a) **Rent.** A county agency may deny assistance to prevent eviction from rented or leased shelter of an otherwise eligible applicant when the county agency determines that an applicant's anticipated income will not cover continued payment for shelter, subject to conditions in clauses (1) to (3):

(1) a county agency must not deny assistance when an applicant can document that the applicant is unable to locate habitable shelter, unless the county agency can document that one or more habitable shelters are available in the community that will result in at least a 20 percent reduction in monthly expense for shelter and that this shelter will be cost-effective for the applicant;

(2) when no alternative shelter can be identified by either the applicant or the county agency, the county agency shall not deny assistance because anticipated income will not cover rental obligation; and

(3) when cost-effective alternative shelter is identified, the county agency shall issue assistance for moving expenses as provided in paragraph (d).

(b) **Definitions.** For purposes of paragraph (a), the following definitions apply (1) "metropolitan statistical area" is as defined by the United States Census Bureau; (2) "alternative shelter" includes any shelter that is located within the metropolitan statistical area con-

taining the county and for which the applicant is eligible, provided the applicant does not have to travel more than 20 miles to reach the shelter and has access to transportation to the shelter. Clause (2) does not apply to counties in the Minneapolis–St. Paul metropolitan statistical area.

(c) **Mortgage and contract for deed arrearages.** A county agency shall issue assistance for mortgage or contract for deed arrearages on behalf of an otherwise eligible applicant according to clauses (1) to (4):

(1) assistance for arrearages must be issued only when a home is owned, occupied, and maintained by the applicant;

(2) assistance for arrearages must be issued only when no subsequent foreclosure action is expected within the 12 months following the issuance;

(3) assistance for arrearages must be issued only when an applicant has been refused refinancing through a bank or other lending institution and the amount payable, when combined with any payments made by the applicant, will be accepted by the creditor as full payment of the arrearage;

(4) costs paid by a family which are counted toward the payment requirements in this clause are: principle and interest payments on mortgages or contracts for deed, balloon payments, homeowner's insurance payments, manufactured home lot rental payments, and tax or special assessment payments related to the homestead. Costs which are not counted include closing costs related to the sale or purchase of real property.

To be eligible for assistance for costs specified in clause (4) which are outstanding at the time of foreclosure, an applicant must have paid at least 40 percent of the family's gross income toward these costs in the month of application and the 11-month period immediately preceding the month of application.

When an applicant is eligible under clause (4), a county agency shall issue assistance up to a maximum of four times the MFIP–S transitional standard for a comparable assistance unit.

(d) **Damage or utility deposits.** A county agency shall issue assistance for damage or utility deposits when necessary to alleviate the emergency. The county may require that assistance paid in the form of a damage deposit or a utility 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 under 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 be 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.

(e) **Moving expenses.** A county agency shall issue assistance for expenses incurred when a family must move to a different shelter according to clauses (1) to (4):

(1) moving expenses include the cost to transport personal property belonging to a family, the cost for utility connection, and the cost for securing different shelter;

(2) moving expenses must be paid only when the county agency determines that a move is cost-effective;

(3) moving expenses must be paid at the request of an applicant, but only when destitution or threatened destitution exists; and

(4) moving expenses must be paid when a county agency denies assistance to prevent an eviction because the county agency has determined that an applicant's anticipated income will not cover continued shelter obligation in paragraph (a).

(f) **Home repairs.** A county agency shall pay for repairs to the roof, foundation, wiring, heating system, chimney, and water and sewer system of a home that is owned and lived in by an applicant.

The applicant shall document, and the county agency shall verify the need for and method of repair.

The payment must be cost-effective in relation to the overall condition of the home and in relation to the cost and availability of alternative housing.

(g) **Utility costs.** Assistance for utility costs must be made when an otherwise eligible family has had a termination or is threatened with a termination of municipal water and sewer

service, electric, gas or heating fuel service, or lacks wood when that is the heating source, subject to the conditions in clauses (1) and (2):

(1) a county agency must not issue assistance unless the county agency receives confirmation from the utility provider that assistance combined with payment by the applicant will continue or restore the utility; and

(2) a county agency shall not issue assistance for utility costs unless a family paid at least eight percent of the family's gross income toward utility costs due during the preceding 12 months.

Clauses (1) and (2) must not be construed to prevent the issuance of assistance when a county agency must take immediate and temporary action necessary to protect the life or health of a child.

(h) **Special diets.** A county shall pay for special diets or dietary items. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the Thrifty Food Plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the Thrifty Food Plan that are covered are as follows:

(1) high protein diet, at least 80 grams daily, 25 percent of Thrifty Food Plan;

(2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of Thrifty Food Plan;

(3) controlled protein diet, less than 40 grams and requires special products, 125 percent of Thrifty Food Plan;

(4) low cholesterol diet, 25 percent of Thrifty Food Plan;

(5) high residue diet, 20 percent of Thrifty Food Plan;

(6) pregnancy and lactation diet, 35 percent of Thrifty Food Plan;

(7) gluten-free diet, 25 percent of Thrifty Food Plan;

(8) lactose-free diet, 25 percent of Thrifty Food Plan;

(9) antidumping diet, 15 percent of Thrifty Food Plan;

(10) hypoglycemic diet, 15 percent of Thrifty Food Plan; or

(11) ketogenic diet, 25 percent of Thrifty Food Plan.

Subd. 4. Vendor payments for shelter or utility costs. An ongoing MFIP-S grant may, at county board option, be in the form of vendor payments if application for emergency assistance is for shelter or utility costs.

History: 1997 c 85 art 1 s 38

256J.49 EMPLOYMENT AND TRAINING SERVICES; DEFINITIONS.

Subdivision 1. Scope. The terms used in sections 256J.50 to 256J.72 have the meanings given them in this section.

Subd. 2. Domestic violence. "Domestic violence" means:

(1) physical acts that result, or threaten to result in, physical injury to an individual;

(2) sexual abuse;

(3) sexual activity involving a minor child;

(4) being forced as the caregiver of a minor child to engage in nonconsensual sexual acts or activities;

(5) threats of, or attempts at, physical or sexual abuse;

(6) mental abuse; or

(7) neglect or deprivation of medical care.

Subd. 3. Employment and training services. "Employment and training services" means programs, activities and services that are designed to assist participants in obtaining and retaining employment.

Subd. 4. Employment and training service provider. "Employment and training service provider" means:

(1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and 268.871, subdi-

vision 1, or is approved under section 256J.51 and is included in the county plan submitted under section 256J.50, subdivision 7; or

(2) a county agency, if the county is certified under clause (1) to provide employment and training services and the county has indicated that fact in the plan submitted under section 256J.50, subdivision 7.

Notwithstanding section 268.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Subd. 5. Employment plan. "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step.

Subd. 6. Federal participation standards. "Federal participation standards" means the work participation standards as specified in title I of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Subd. 7. Intensive English as a second language program. "Intensive English as a second language program" means an English as a second language program that offers at least 20 hours of class per week.

Subd. 8. Job counselor. "Job counselor" means a staff person employed by or under contract with the employment and training services provider who delivers services as specified in sections 256J.50 to 256J.55.

Subd. 9. Participant. "Participant" means a recipient of MFIP-S assistance who participates or is required to participate in employment and training services.

Subd. 10. Provider. "Provider" means an employment and training service provider.

Subd. 11. Safety plan. "Safety plan" means a plan developed by a victim of domestic violence or a person continuing to be at risk of domestic violence with the assistance of a public agency or a private nonprofit agency, including agencies that receive designation by the department of corrections to provide emergency shelter services or support services under section 611A.32. A safety plan shall not include a provision that automatically requires a domestic violence victim to seek an order of protection, or to attend counseling, as part of the safety plan.

Subd. 12. Suitable employment. "Suitable employment" means employment that:

- (1) is within the participant's physical and mental abilities;
- (2) pays hourly gross wages of not less than the applicable state or federal minimum wage;
- (3) meets health and safety standards set by federal, state and county agencies; and
- (4) complies with federal, state, and local antidiscrimination laws.

Subd. 13. Work activity. "Work activity" means any activity in a participant's approved employment plan that is tied to the participant's employment goal. For purposes of the MFIP-S program, any activity that is included in a participant's approved employment plan meets the definition of work activity as counted under the federal participation standards. Work activity includes, but is not limited to:

- (1) unsubsidized employment;
- (2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69;
- (3) work experience, including CWEP as specified in section 256J.67, and including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;
- (4) on-the-job training as specified in section 256J.66;
- (5) job search, either supervised or unsupervised;
- (6) job readiness assistance;
- (7) job clubs, including job search workshops;
- (8) job placement;
- (9) job development;

- (10) job-related counseling;
- (11) job coaching;
- (12) job retention services;
- (13) job-specific training or education;
- (14) job skills training directly related to employment;
- (15) the self-employment investment demonstration (SEID), as specified in section 256J.65;
- (16) preemployment activities, based on availability and resources, such as volunteer work, literacy programs and related activities, citizenship and English as a second language classes, or participation in dislocated worker services, chemical dependency treatment, mental health services, peer group networks, displaced homemaker programs, strength-based resiliency training, parenting education, or other programs designed to help families reach their employment goals and enhance their ability to care for their children;
- (17) community service programs;
- (18) vocational educational training or educational programs that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;
- (19) apprenticeships;
- (20) satisfactory attendance in general educational development diploma classes or an adult diploma program;
- (21) satisfactory attendance at secondary school, if the participant has not received a high school diploma;
- (22) adult basic education classes;
- (23) internships;
- (24) bilingual employment and training services;
- (25) providing child care services to a participant who is working in a community service program; and
- (26) activities included in a safety plan that is developed under section 256J.52, subdivision 6.

History: 1997 c 85 art 1 s 39; 1997 c 200 art 6 s 1

256J.50 COUNTY DUTIES.

Subdivision 1. Employment and training services component of MFIP-S. (a) By January 1, 1998, each county must develop and implement an employment and training services component of MFIP-S which is designed to put participants on the most direct path to unsubsidized employment. Participation in these services is mandatory for all MFIP-S caregivers, unless the caregiver is exempt under section 256J.56.

(b) A county may provide employment and training services to MFIP-S caregivers who are exempt from the employment and training services component but volunteer for the services.

Subd. 2. Pilot programs. In counties selected for the work first or work focused pilot programs, first-time applicants for assistance must meet the requirements of those programs in place of the requirements of the MFIP-S program. A county may, at its option, discontinue a work first or work focused pilot program.

Subd. 3. Transitional rule; MFIP or MFIP-R participant. A caregiver who was enrolled in MFIP or MFIP-R on the date the county implements the employment and training services component of MFIP-S and was making satisfactory progress toward the objectives specified in the caregiver's employment plan, may continue with the existing employment plan for up to two years with the approval of a job counselor. The job counselor may require changes to the plan in order to be consistent with this two-year time limit.

Subd. 3a. Transitional rule; STRIDE, ACCESS. (a) A county agency that is not a participant in the MFIP or MFIP-R field trials under sections 256.031 to 256.0361 shall not enroll a recipient into project STRIDE or ACCESS after the date that MFIP-S is implemented in the county.

(b) A caregiver who:

(i) was enrolled in project STRIDE or ACCESS continuously since March 1, 1997;

(ii) is not a part of an MFIP or MFIP-R comparison group; and

(iii) who is making satisfactory progress toward the objectives specified in the caregiver's employment plan, may, with the approval of the job counselor, continue with the existing employment plan for up to two years after the caregiver is enrolled in MFIP-S. For purposes of the federal participation standards, the activities in the caregiver's employment plan are work activities, as that term is defined in section 256J.49, subdivision 13.

(c) Notwithstanding contrary provisions of section 256.736, the employability plan of a caregiver who is enrolled in project STRIDE or ACCESS on or after July 1, 1997, must meet the requirements of section 256J.53.

Subd. 4. Service providing agencies. Unless the provisions of subdivision 8 apply, a county must select at least two employment and training service providers. A county may opt to provide services on its own as one of these providers.

Subd. 5. Participation requirements for single-parent and two-parent cases. A county must establish a uniform schedule for requiring participation by single parents. Mandatory participation must be required within six months of eligibility for cash assistance. For two-parent cases, participation is required concurrent with the receipt of MFIP-S cash assistance.

Subd. 6. Explanatory materials required. The county must:

(1) explain to applicants and recipients and provide explanatory materials regarding the relationship between the 60-month time limit on assistance funded with TANF dollars and the receipt of various benefits, including cash assistance, food stamps, medical assistance, and child care assistance; and

(2) provide assistance to applicants and recipients to enable them to minimize the use of their 60 allowable months of TANF-funded assistance.

Subd. 7. Local service unit plan. Each local or county service unit shall prepare and submit a plan as specified in section 268.88.

Subd. 8. County duty to ensure employment and training choices for participants. Each county, or group of counties working cooperatively, shall make available to participants the choice of at least two employment and training service providers as defined under section 256J.49, subdivision 4, except in counties utilizing workforce centers that use multiple employment and training services, offer multiple services options under a collaborative effort and can document that participants have choice among employment and training services designed to meet specialized needs.

Subd. 9. Exception; financial hardship. Notwithstanding subdivision 8, a county that explains in the plan required under subdivision 7 that the provision of alternative employment and training service providers would result in financial hardship for the county is not required to make available more than one employment and training provider.

History: 1997 c 85 art 1 s 40

256J.51 EMPLOYMENT AND TRAINING SERVICE PROVIDER; ALTERNATE APPROVAL PROCESS.

Subdivision 1. Provider application. An employment and training service provider that is not included in a county's plan under section 256J.50, subdivision 7, because the county has demonstrated financial hardship under subdivision 9 of that section, may appeal its exclusion to the commissioner of economic security under this section.

Subd. 2. Appeal; alternate approval. (a) An employment and training service provider that is not included by a county agency in the plan under section 256J.50, subdivision 7, and that meets the criteria in paragraph (b), may appeal its exclusion to the commissioner of economic security, and may request alternative approval by the commissioner of economic security to provide services in the county.

(b) An employment and training services provider that is requesting alternative approval must demonstrate to the commissioner that the provider meets the standards specified in

section 268.871, subdivision 1, paragraph (b), except that the provider's past experience may be in services and programs similar to those specified in section 268.871, subdivision 1, paragraph (b).

Subd. 3. Commissioner's review. (a) The commissioner must act on a request for alternative approval under this section within 30 days of the receipt of the request. If after reviewing the provider's request, and the county's plan submitted under section 256J.50, subdivision 7, the commissioner determines that the provider meets the criteria under subdivision 2, paragraph (b), and that approval of the provider would not cause financial hardship to the county, the county must submit a revised plan under subdivision 4 that includes the approved provider.

(b) If the commissioner determines that the approval of the provider would cause financial hardship to the county, the commissioner must notify the provider and the county of this determination. The alternate approval process under this section shall be closed to other requests for alternate approval to provide employment and training services in the county for up to 12 months from the date that the commissioner makes a determination under this paragraph.

Subd. 4. Revised plan required. The commissioner of economic security must notify the county agency when the commissioner grants an alternative approval to an employment and training service provider under subdivision 2. Upon receipt of the notice, the county agency must submit a revised plan under section 256J.50, subdivision 7, that includes the approved provider. The county has 90 days from the receipt of the commissioner's notice to submit the revised plan.

Subd. 5. Review not required. Notwithstanding subdivision 3, once a county meets the requirements of section 256J.50, subdivision 8, the commissioner may, but is not required to, act on a request by an employment and training services provider for alternative approval in that county.

History: 1997 c 85 art 1 s 41

256J.515 OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that stresses the necessity and opportunity of immediate employment, outlines the job search resources offered, explains the requirements to comply with an employment plan and the consequences for failing to comply, and explains the services that are available to support job search and work.

History: 1997 c 85 art 1 s 42

256J.52 ASSESSMENTS; PLANS.

Subdivision 1. Application limited to certain participants. This section applies to participants receiving MFIP-S assistance who are not exempt under section 256J.56, and to caregivers who volunteer for employment and training services under section 256J.50.

Subd. 2. Initial assessment. (a) The job counselor must, with the cooperation of the participant, assess the participant's ability to obtain and retain employment. This initial assessment must include a review of the participant's education level, prior employment or work experience, transferable work skills, and existing job markets.

(b) In assessing the participant, the job counselor must determine if the participant needs refresher courses for professional certification or licensure, in which case, the job search plan under subdivision 3 must include the courses necessary to obtain the certification or licensure, in addition to other work activities, provided the combination of the courses and other work activities are at least for 40 hours per week.

(c) If a participant can demonstrate to the satisfaction of the county agency that lack of proficiency in English is a barrier to obtaining suitable employment, the job counselor must include participation in an intensive English as a second language program if available or otherwise a regular English as a second language program in the individual's employment plan under subdivision 5. Lack of proficiency in English is not necessarily a barrier to employment.

(d) The job counselor may approve an education or training plan, and postpone the job search requirement, if the participant has a proposal for an education program which:

- (1) can be completed within 12 months;
- (2) meets the criteria of section 256J.53, subdivisions 2, 3, and 5; and
- (3) is likely, without additional training, to lead to monthly employment earnings which, after subtraction of the earnings disregard under section 256J.21, equal or exceed the family wage level for the participant's assistance unit.

(e) A participant who, at the time of the initial assessment, presents a plan that includes farming as a self-employed work activity must have an employment plan developed under subdivision 5 that includes the farming as an approved work activity.

Subd. 3. Job search; job search support plan. (a) If, after the initial assessment, the job counselor determines that the participant possesses sufficient skills that the participant is likely to succeed in obtaining suitable employment, the participant must conduct job search for a period of up to eight weeks, for at least 30 hours per week. The participant must accept any offer of suitable employment. The job counselor and participant must develop a job search support plan which specifies, at a minimum: whether the job search is to be supervised or unsupervised; support services that will be provided while the participant conducts job search activities; the courses necessary to obtain certification or licensure, if applicable, and after obtaining the license or certificate, the client must comply with subdivision 5; and how frequently the participant must report to the job counselor on the status of the participant's job search activities.

(b) During the eight-week job search period, either the job counselor or the participant may request a review of the participant's job search plan and progress towards obtaining suitable employment. If a review is requested by the participant, the job counselor must concur that the review is appropriate for the participant at that time. If a review is conducted, the job counselor may make a determination to conduct a secondary assessment prior to the conclusion of the job search.

(c) Failure to conduct the required job search, to accept any offer of suitable employment, to develop or comply with a job search support plan, or voluntarily quitting suitable employment without good cause results in the imposition of a sanction under section 256J.46. If at the end of eight weeks the participant has not obtained suitable employment, the job counselor must conduct a secondary assessment of the participant under subdivision 3.

Subd. 4. Secondary assessment. (a) The job counselor must conduct a secondary assessment for those participants who:

(1) in the judgment of the job counselor, have barriers to obtaining employment that will not be overcome with a job search support plan under subdivision 3;

(2) have completed eight weeks of job search under subdivision 3 without obtaining suitable employment; or

(3) have not received a secondary assessment, are working at least 20 hours per week, and the participant, job counselor, or county agency requests a secondary assessment.

(b) In the secondary assessment the job counselor must evaluate the participant's skills and prior work experience, family circumstances, interests and abilities, need for preemployment activities, supportive or educational services, and the extent of any barriers to employment. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

(c) The provider shall make available to participants information regarding additional vendors or resources which provide employment and training services that may be available to the participant under a plan developed under this section. The information must include a brief summary of services provided and related performance indicators. Performance indicators must include, but are not limited to, the average time to complete program offerings, placement rates, entry and average wages, and retention rates. To be included in the information given to participants, a vendor or resource must provide counties with relevant information in the format required by the county.

Subd. 5. Employment plan; contents. Based on the secondary assessment under subdivision 4, the job counselor and the participant must develop an employment plan for the participant that includes specific activities that are tied to an employment goal and a plan for long-term self-sufficiency, and that is designed to move the participant along the most direct path to unsubsidized employment. The employment plan must list the specific steps that will be taken to obtain employment and a timetable for completion of each of the steps. As part of the development of the participant's employment plan, the participant shall have the option of selecting from among the vendors or resources that the job counselor determines will be effective in supplying one or more of the services necessary to meet the employment goals specified in the participant's plan. In compiling the list of vendors and resources that the job counselor determines would be effective in meeting the participant's employment goals, the job counselor must determine that adequate financial resources are available for the vendors or resources ultimately selected by the participant. The job counselor and the participant must sign the developed plan to indicate agreement between the job counselor and the participant on the contents of the plan.

Subd. 6. Safety plan. Notwithstanding subdivisions 1 to 5, a participant who is a victim of domestic violence and who agrees to develop or has developed a safety plan meeting the definition under section 256J.49, subdivision 11, is deferred from the requirements of this section, sections 256J.54, and 256J.55 for a period of three months from the date the safety plan is approved. A participant deferred under this subdivision must submit a safety plan status report to the county agency on a quarterly basis. Based on a review of the status report, the county agency may approve or renew the participant's deferral each quarter, provided the personal safety of the participant is still at risk and the participant is complying with the plan. A participant who is deferred under this subdivision may be deferred for a total of 12 months under a safety plan, provided the individual is complying with the terms of the plan.

Subd. 7. Revision of plan. If the employee has lost or quit a job with good cause, the job counselor must ascertain the reason for the job loss and work with the participant to amend the job search support plan or employment plan, whichever is in effect, as necessary to address the problem. If a job search support plan is in effect, the participant, county agency, or job counselor may request a secondary assessment at this time.

History: 1997 c 85 art 1 s 43; 1997 c 245 art 4 s 3,4

256J.53 POST-SECONDARY EDUCATION; LIMITATIONS ON APPROVAL, JOB SEARCH REQUIREMENT.

Subdivision 1. Length of program. In order for a post-secondary education or training program to be approved work activity as defined in section 256J.49, subdivision 13, clause (18), it must be a program lasting 12 months or less, and the participant must meet the requirements of subdivisions 2 and 3. A program lasting up to 24 months may be approved on an exception basis if the conditions specified in subdivisions 2 to 4 are met. A participant may not be approved for more than a total of 24 months of post-secondary education or training.

Subd. 2. Documentation supporting program. In order for a post-secondary education or training program to be an approved activity in a participant's employment plan, the participant or the employment and training service provider must provide documentation that:

(1) the participant's employment plan identifies specific goals that can only be met with the additional education or training;

(2) there are suitable employment opportunities that require the specific education or training in the area in which the participant resides or is willing to reside;

(3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;

(4) the participant can meet the requirements for admission into the program; and

(5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP-S assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

Subd. 3. Satisfactory progress required. In order for a post-secondary education or training program to be an approved activity in a participant's employment plan, the partici-

pant must maintain satisfactory progress in the program. "Satisfactory progress" in an education or training program means (1) the participant remains in good standing while the participant is enrolled in the program, as defined by the education or training institution, or (2) the participant makes satisfactory progress as the term is defined in the participant's employment plan.

Subd. 4. Repayment of employment and training assistance. In order for a post-secondary education or training program lasting between 13 and 24 months to be an approved activity in a participant's employment plan, the participant must agree to repay the amount of employment and training funds paid by the county to support the individual's participation in each month of an education or training program after the 12th month of the program. Assistance obtained by the participant through the federal Pell grant program or other federal or state programs of higher education assistance must be excluded from the amount to be repaid by the participant. The participant and the county agency must develop a mutually acceptable repayment plan. The repayment plan must not assess any interest charges on the cost of the funds to be repaid. The loan is considered to be in repayment status when:

(1) the participant completes the program and obtains suitable employment that pays annual gross wages of at least 150 percent of the federal poverty level; or

(2) the participant leaves the program before completion of the program and obtains suitable employment that pays annual gross wages of at least 150 percent of the federal poverty level.

Subd. 5. Job search after completion of work activity. If a participant's employment plan includes a post-secondary educational or training program, the plan must include an anticipated completion date for those activities. At the time the education or training is completed, the participant must participate in job search. If, after three months of job search, the participant does not find a job that is consistent with the participant's employment goal, the participant must accept any offer of suitable employment.

History: 1997 c 85 art 1 s 44

256J.54 MINOR PARENTS; EMPLOYMENT PLAN.

Subdivision 1. Assessment of educational progress and needs. The county agency must document the educational level of each MFIP-S caregiver who is under the age of 20 and determine if the caregiver has obtained a high school diploma or its equivalent. If the caregiver has not obtained a high school diploma or its equivalent, and is not exempt from the requirement to attend school under subdivision 5, the county agency must complete an individual assessment for the caregiver. The assessment must be performed as soon as possible but within 30 days of determining MFIP-S eligibility for the caregiver. The assessment must provide an initial examination of the caregiver's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a caregiver under the age of 18, the assessment must also consider the results of either the caregiver's or the caregiver's minor child's child and teen checkup under Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748, if available, and the effect of a child's development and educational needs on the caregiver's ability to participate in the program. The county agency must advise the caregiver that the caregiver's first goal must be to complete an appropriate educational option if one is identified for the caregiver through the assessment and, in consultation with educational agencies, must review the various school completion options with the caregiver and assist in selecting the most appropriate option.

Subd. 2. Responsibility for assessment and employment plan. For caregivers who are under age 18, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 126.235.

Subd. 3. Educational option developed. If the job counselor or county social services agency identifies an appropriate educational option, it must develop an employment plan

which reflects the identified option. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the caregiver will take part in, including child care and supportive services, the consequences to the caregiver for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employment plan must, to the extent possible, reflect the preferences of the caregiver.

Subd. 4. No appropriate educational option. If the job counselor determines that there is no appropriate educational option for a caregiver who is age 18 or 19, the job counselor must develop an employment plan, as defined in section 256J.49, subdivision 5, for the caregiver. If the county social services agency determines that school attendance is not appropriate for a caregiver under age 18, the county agency shall refer the caregiver to social services for services as provided in section 257.33.

Subd. 5. School attendance required. (a) Notwithstanding the provisions of section 256J.56, minor parents, or 18- or 19-year-old parents without a high school diploma or its equivalent must attend school unless:

(1) transportation services needed to enable the caregiver to attend school are not available;

(2) appropriate child care services needed to enable the caregiver to attend school are not available;

(3) the caregiver is ill or incapacitated seriously enough to prevent attendance at school;

or
(4) the caregiver is needed in the home because of the illness or incapacity of another member of the household. This includes a caregiver of a child who is younger than six weeks of age.

(b) *The caregiver must be enrolled in a secondary school and meeting the school's attendance requirements. An enrolled caregiver is considered to be meeting the attendance requirements when the school is not in regular session, including during holiday and summer breaks.*

History: 1997 c 85 art 1 s 45

256J.55 PARTICIPANT REQUIREMENTS, RIGHTS, AND EXPECTATIONS.

Subdivision 1. Compliance with job search or employment plan; suitable employment. (a) Each MFIP-S participant must comply with the terms of the participant's job search support plan or employment plan. When the participant has completed the steps listed in the employment plan, the participant must comply with section 256J.53, subdivision 5, if applicable, and then the participant must not refuse any offer of suitable employment. The participant may choose to accept an offer of suitable employment before the participant has completed the steps of the employment plan.

(b) For a participant under the age of 20 who is without a high school diploma or general educational development diploma, the requirement to comply with the terms of the employment plan means the participant must meet the requirements of section 256J.54.

(c) Failure to develop or comply with a job search support plan or an employment plan, or quitting suitable employment without good cause, shall result in the imposition of a sanction as specified in sections 256J.46 and 256J.57.

Subd. 2. Duty to report. The participant must inform the job counselor within three working days regarding any changes related to the participant's employment status.

Subd. 3. Move to a different county. MFIP-S applicants or recipients who move to a different county in Minnesota and are required to participate in employment and training services are subject to the requirements of the destination county. An employment plan that was developed in the county of origin may be continued in the destination county if both the destination county and the participant agree to do so.

Subd. 4. Choice of provider. A participant must be able to choose from at least two employment and training service providers, unless the county has demonstrated to the commissioner that the provision of multiple employment and training service providers would result in financial hardship for the county, or the county is utilizing a workforce center as specified in section 256J.50, subdivision 8.

Subd. 5. **Option to utilize existing plan.** With job counselor approval, if a participant is already complying with a job search support or employment plan that was developed for a different program, the participant may utilize that plan and that program's services, subject to the requirements of subdivision 3, to be in compliance with sections 256J.52 to 256J.57 so long as the plan meets, or is modified to meet, the requirements of those sections.

History: 1997 c 85 art 1 s 46

256J.56 EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.

An MFIP-S caregiver is exempt from the requirements of sections 256J.52 to 256J.55 if the caregiver belongs to any of the following groups:

- (1) individuals who are age 60 or older;
- (2) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;
- (3) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the household;
- (4) women who are pregnant, if the pregnancy has resulted in a professionally certified incapacity that prevents the woman from obtaining or retaining employment;
- (5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;
- (6) individuals employed at least 40 hours per week or at least 30 hours per week and engaged in job search for at least an additional ten hours per week;
- (7) individuals experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek professional certification, as defined in section 256J.08, that the participant is incapable of participating in the program.

Persons in this exemption category must be reevaluated every 60 days; or

- (8) second parents in two-parent families, provided the second parent is employed for 20 or more hours per week.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

History: 1997 c 85 art 1 s 47

256J.57 GOOD CAUSE; FAILURE TO COMPLY; NOTICE; CONCILIATION CONFERENCE.

Subdivision 1. **Good cause for failure to comply.** The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of section 256J.45 or sections 256J.52 to 256J.55. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a family member is ill and needs care by the participant that prevents the participant from complying with the job search support plan or employment plan;
- (5) the parental caregiver is unable to secure necessary transportation;
- (6) the parental caregiver is in an emergency situation that prevents compliance with the job search support plan or employment plan;

- (7) the schedule of compliance with the job search support plan or employment plan conflicts with judicial proceedings;
- (8) the parental caregiver is already participating in acceptable work activities;
- (9) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;
- (10) activities identified in the job search support plan or employment plan are not available;
- (11) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or
- (12) the parental caregiver documents other verifiable impediments to compliance with the job search support plan or employment plan beyond the parental caregiver's control.

Subd. 2. Notice of intent to sanction. (a) When a participant fails without good cause to comply with the requirements of sections 256J.52 to 256J.55, the job counselor or the county agency must provide a notice of intent to sanction to the participant specifying the program requirements that were not complied with, informing the participant that the county agency will impose the sanctions specified in section 256J.46, and informing the participant of the opportunity to request a conciliation conference as specified in paragraph (b). The notice must also state that the participant's continuing noncompliance with the specified requirements will result in additional sanctions under section 256J.46, without the need for additional notices or conciliation conferences under this subdivision. If the participant does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the job counselor must notify the county agency that the assistance payment should be reduced. The county must then send a notice of adverse action to the participant informing the participant of the sanction that will be imposed, the reasons for the sanction, the effective date of the sanction, and the participant's right to have a fair hearing under section 256J.40.

(b) The participant may request a conciliation conference by sending a written request, by making a telephone request, or by making an in-person request. The request must be received within ten calendar days of the date the county agency mailed the ten-day notice of intent to sanction. If a timely request for a conciliation is received, the county agency's service provider must conduct the conference within five days of the request. The job counselor's supervisor, or a designee of the supervisor, must review the outcome of the conciliation conference. If the conciliation conference resolves the noncompliance, the job counselor must promptly inform the county agency and request withdrawal of the sanction notice.

(c) Upon receiving a sanction notice, the participant may request a fair hearing under section 256J.40, without exercising the option of a conciliation conference. In such cases, the county agency shall not require the participant to engage in a conciliation conference prior to the fair hearing.

(d) If the participant requests a fair hearing or a conciliation conference, sanctions will not be imposed until there is a determination of noncompliance. Sanctions must be imposed as provided in section 256J.46.

History: 1997 c 85 art 1 s 48

256J.61 REPORTING REQUIREMENTS.

The commissioner of human services, in cooperation with the commissioner of economic security, shall develop reporting requirements for county agencies and employment and training service providers according to section 256.01, subdivision 2, paragraph (17). Reporting requirements must, to the extent possible, use existing client tracking systems and must be within the limits of funds available. The requirements must include summary information necessary for state agencies and the legislature to evaluate the effectiveness of the services.

History: 1997 c 85 art 1 s 49

256J.62 ALLOCATION OF COUNTY EMPLOYMENT AND TRAINING SERVICES BLOCK GRANT.

Subdivision 1. **Allocation.** Money appropriated for MFIP-S employment and training services must be allocated to counties as specified in this section.

Subd. 2. **Guaranteed floor.** Money shall be allocated to counties in an amount equal to the county's guaranteed floor. The county's guaranteed allocation floor shall be calculated as follows:

(1) for fiscal 1998, the guaranteed allocation floor shall be calculated by multiplying the county's STRIDE allocation received for state fiscal year 1997 by 90 percent;

(2) for each subsequent fiscal year, the guaranteed allocation floor shall be calculated by multiplying the county's MFIP-S employment and training services allocation received the previous state fiscal year by 90 percent; and

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

Subd. 3. **Allocation of balance of funds.** If there remain funds to allocate after establishing each county's guaranteed floor under the provisions in subdivision 2, the balance of funds shall be allocated as follows:

(1) for state fiscal year 1998, the remaining funds shall be allocated based on the county's average number of AFDC and family general assistance cases as compared to the statewide total number of cases. The average number of cases shall be based on counts of AFDC and family general assistance cases as of March 31, June 30, September 30, and December 31 of calendar year 1996;

(2) for state fiscal year 1999, the remaining funds shall be allocated based on the county's average number of AFDC, family general assistance, MFIP-R, MFIP, and MFIP-S cases as compared to the statewide total number of cases. The average number of cases shall be based on counts of AFDC, family general assistance, MFIP-R, MFIP, and MFIP-S cases as of March 31, June 30, September 30, and December 31 of calendar year 1997; and

(3) for all subsequent state fiscal years, the remaining funds shall be allocated based on the county's average number of MFIP-S cases as compared to the statewide total number of cases. The average number of cases must be based on counts of MFIP-S cases as of March 31, June 30, September 30, and December 31 of the previous calendar year.

Subd. 4. **Administrative activities limit.** No more than 15 percent of the money allocated under this section may be used for administrative activities.

Subd. 5. **STRIDE allocation.** Funds allocated for STRIDE services for state fiscal year 1998 are allocated to county agencies based on the provisions of statute in effect on June 30, 1997. At the time that the AFDC program is replaced by the Temporary Assistance for Needy Families program under title I of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, any unexpended balance of a county's STRIDE allocation for that fiscal year remains available to the county for operation of MFIP-S employment and training services and for the operation of the STRIDE program for the MFIP and MFIP-R field trial counties for the balance of the fiscal year. These STRIDE funds shall be included in the calculation of the next year's MFIP-S employment and training allocation under the provisions of subdivision 2.

Subd. 6. **Bilingual employment and training services to refugees.** Funds appropriated to cover the costs of bilingual employment and training services to refugees shall be allocated to county agencies as follows:

(1) for state fiscal year 1998, the allocation shall be based on the county's proportion of the total statewide number of AFDC refugee cases in the previous fiscal year. Counties with less than one percent of the statewide number of AFDC, MFIP-R, or MFIP refugee cases shall not receive an allocation of bilingual employment and training services funds; and

(2) for each subsequent fiscal year, the allocation shall be based on the county's proportion of the total statewide number of MFIP-S refugee cases in the previous fiscal year. Coun-

ties with less than one percent of the statewide number of MFIP-S refugee cases shall not receive an allocation of bilingual employment and training services funds.

Subd. 7. Work literacy language programs. Funds appropriated to cover the costs of work literacy language programs to non-English-speaking recipients shall be allocated to county agencies as follows:

(1) for state fiscal year 1998, the allocation shall be based on the county's proportion of the total statewide number of AFDC or MFIP cases in the previous fiscal year where the lack of English is a barrier to employment. Counties with less than two percent of the statewide number of AFDC or MFIP cases where the lack of English is a barrier to employment shall not receive an allocation of the work literacy language program funds; and

(2) for each subsequent fiscal year, the allocation shall be based on the county's proportion of the total statewide number of MFIP-S cases in the previous fiscal year where the lack of English is a barrier to employment. Counties with less than two percent of the statewide number of MFIP-S cases where the lack of English is a barrier to employment shall not receive an allocation of the work literacy language program funds.

Subd. 8. Reallocation. The commissioner of human services shall review county agency expenditures of MFIP-S employment and training services funds at the end of the third quarter of the first year of the biennium and each quarter after that and may reallocate unencumbered or unexpended money appropriated under this section to those county agencies that can demonstrate a need for additional money.

Subd. 9. Continuation of certain services. At the request of the caregiver, the county may continue to provide case management, counseling or other support services to a participant following the participant's achievement of the employment goal, for up to six months following termination of the participant's eligibility for MFIP-S.

A county may expend funds for a specific employment and training service for the duration of that service to a participant if the funds are obligated or expended prior to the participant losing MFIP-S eligibility.

History: 1997 c 85 art 1 s 50

256J.645 INDIAN TRIBE MFIP-S EMPLOYMENT AND TRAINING.

Subdivision 1. Authorization to enter into agreements. Effective July 1, 1997, the commissioner may enter into agreements with federally recognized Indian tribes with a reservation in the state to provide MFIP-S employment and training services to members of the Indian tribe and to other caregivers who are a part of the tribal member's MFIP-S assistance unit. For purposes of this section, "Indian tribe" means a tribe, band, nation, or other federally recognized group or community of Indians. The commissioner may also enter into an agreement with a consortium of Indian tribes providing the governing body of each Indian tribe in the consortium complies with the provisions of this section.

Subd. 2. Tribal requirements. The Indian tribe must:

(1) agree to fulfill the responsibilities provided under the employment and training component of MFIP-S regarding operation of MFIP-S employment and training services, as designated by the commissioner;

(2) operate its employment and training services program within a geographic service area not to exceed the counties within which a border of the reservation falls;

(3) operate its program in conformity with section 13.46 and any applicable federal regulations in the use of data about MFIP-S recipients;

(4) coordinate operation of its program with the county agency, Job Training Partnership Act programs, and other support services or employment-related programs in the counties in which the tribal unit's program operates;

(5) provide financial and program participant activity recordkeeping and reporting in the manner and using the forms and procedures specified by the commissioner and permit inspection of its program and records by representatives of the state; and

(6) have the Indian tribe's employment and training service provider certified by the commissioner of economic security, or approved by the county.

Subd. 3. **Funding.** If the commissioner and an Indian tribe are parties to an agreement under this subdivision, the agreement may annually provide to the Indian tribe the funding amount in clause (1) or (2):

(1) if the Indian tribe operated a tribal STRIDE program during state fiscal year 1997, the amount to be provided is the amount the Indian tribe received from the state for operation of its tribal STRIDE program in state fiscal year 1997, except that the amount provided for a fiscal year may increase or decrease in the same proportion that the total amount of state funds available for MFIP-S employment and training services increased or decreased that fiscal year; or

(2) if the Indian tribe did not operate a tribal STRIDE program during state fiscal year 1997, the commissioner may provide to the Indian tribe for the first year of operations the amount determined by multiplying the state allocation for MFIP-S employment and training services to each county agency in the Indian tribe's service delivery area by the percentage of MFIP-S recipients in that county who were members of the Indian tribe during the previous state fiscal year. The resulting amount shall also be the amount that the commissioner may provide to the Indian tribe annually thereafter through an agreement under this subdivision, except that the amount provided for a fiscal year may increase or decrease in the same proportion that the total amount of state funds available for MFIP-S employment and training services increased or decreased that fiscal year.

Subd. 4. **County agency requirement.** Indian tribal members receiving MFIP-S benefits and residing in the service area of an Indian tribe operating employment and training services under an agreement with the commissioner must be referred by county agencies in the service area to the Indian tribe for employment and training services.

History: 1997 c 85 art 1 s 51

256J.65 THE SELF-EMPLOYMENT INVESTMENT DEMONSTRATION PROGRAM (SEID).

(a) A caregiver who enrolls and participates in the SEID program as specified in section 268.95, may, at county option, be exempted from other employment and training participation requirements for a period of up to 24 months, except for the school attendance requirements as specified in section 256J.54.

(b) The following income and resource considerations apply to SEID participants:

(1) an unencumbered cash reserve fund, composed of proceeds from a SEID business, is not counted against the grant if those funds are reinvested in the business and the value of the business does not exceed \$3,000. The value of the business is determined by deducting outstanding encumbrances from retained business profit; and

(2) the purchase of capital equipment and durable goods of an amount up to \$3,000 during a 24-month project period is allowed as a business expense.

(c) SEID participants with a county-approved employment plan are also eligible for employment and training services, including child care and transportation.

History: 1997 c 85 art 1 s 52

256J.66 ON-THE-JOB TRAINING.

Subdivision 1. **Establishing the on-the-job training program.** (a) County agencies may develop on-the-job training programs for MFIP-S caregivers who are participating in employment and training services. A county agency that chooses to provide on-the-job training may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

(b) Provision of an on-the-job training program under the Job Training Partnership Act, in and of itself, does not qualify as an on-the-job training program under this section.

(c) Participants in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in

accordance with applicable law, but in no event less than the federal or applicable state minimum wage, whichever is higher.

Subd. 2. Training and placement. (a) County agencies shall limit the length of training based on the complexity of the job and the caregiver's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in an on-the-job training position must be compatible with the participant's assessment and employment plan under section 256J.52.

History: 1997 c 85 art 1 s 53

256J.67 COMMUNITY WORK EXPERIENCE.

Subdivision 1. Establishing the community work experience program. To the extent of available resources, each county agency may establish and operate a work experience component for MFIP-S caregivers who are participating in employment and training services. This option for county agencies supersedes the requirement in section 402(a)(1)(B)(iv) of the Social Security Act that caregivers who have received assistance for two months and who are not exempt from work requirements must participate in a work experience program. The purpose of the work experience component is to enhance the caregiver's employability and self-sufficiency and to provide meaningful, productive work activities. The county shall use this program for an individual after exhausting all other employment opportunities. The county agency shall not require a caregiver to participate in the community work experience program unless the caregiver has been given an opportunity to participate in other work activities.

Subd. 2. Commissioner's duties. The commissioner shall assist counties in the design and implementation of these components.

Subd. 3. Employment options. (a) Work sites developed under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, community service, services to aged or disabled citizens, and child care. To the extent possible, the prior training, skills, and experience of a caregiver must be considered in making appropriate work experience assignments.

(b) Structured, supervised volunteer work with an agency or organization, which is monitored by the county service provider, may, with the approval of the county agency, be used as a work experience placement.

(c) As a condition of placing a caregiver in a program under this section, the county agency shall first provide the caregiver the opportunity:

(1) for placement in suitable subsidized or unsubsidized employment through participation in a job search; or

(2) for placement in suitable employment through participation in on-the-job training, if such employment is available.

Subd. 4. Employment plan. (a) The caretaker's employment plan must include the length of time needed in the work experience program, the need to continue job-seeking activities while participating in work experience, and the caregiver's employment goals.

(b) After each six months of a caregiver's participation in a work experience job placement, and at the conclusion of each work experience assignment under this section, the county agency shall reassess and revise, as appropriate, the caregiver's employment plan.

(c) A caregiver may claim good cause under section 256J.57, subdivision 1, for failure to cooperate with a work experience job placement.

(d) The county agency shall limit the maximum number of hours any participant may work under this section to the amount of the transitional standard divided by the federal or applicable state minimum wage, whichever is higher. After a participant has been assigned to a position for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the transitional standard divided by the rate of pay for individuals employed in the same or similar

occupations by the same employer at the same site. This limit does not apply if it would prevent a participant from counting toward the federal work participation rate.

History: 1997 c 85 art 1 s 54

256J.68 INJURY PROTECTION FOR WORK EXPERIENCE PARTICIPANTS.

Subdivision 1. Applicability. (a) This section must be used to determine payment of any claims resulting from an alleged injury or death of a person participating in a county or a tribal community work experience program that is approved by the commissioner and is operated by:

(i) the county agency;

(ii) the tribe;

(iii) a department of the state; or

(iv) a community-based organization under contract, prior to April 1, 1997, with a county agency to provide a community work experience program or a food stamp community work experience program, provided the organization has not experienced any individual injury loss or claim greater than \$1,000.

(b) This determination method is available to the community-based organization under paragraph (a), clause (iv), only for claims incurred by participants in the community work experience program or the food stamp community work experience program.

(c) This determination method applies to work experience programs authorized by the commissioner for persons applying for or receiving cash assistance and food stamps, and to the Minnesota parent's fair share program and the community service program under section 518.551, subdivision 5a, in a county with an approved community investment program for obligors.

Subd. 2. Investigation of the claim. Claims that are subject to this section must be investigated by the county agency or the tribal program responsible for supervising the work to determine whether the claimed injury occurred, whether the claimed medical expenses are reasonable, and whether the loss is covered by the claimant's insurance. If insurance coverage is established, the county agency or tribal program shall submit the claim to the appropriate insurance entity for payment. The investigating county agency or tribal program shall submit all valid claims, in the amount net of any insurance payments, to the department of human services.

Subd. 3. Submission of claim. The commissioner shall submit all claims for permanent partial disability compensation to the commissioner of labor and industry. The commissioner of labor and industry shall review all submitted claims and recommend to the department of human services an amount of compensation comparable to that which would be provided under the permanent partial disability compensation schedule of section 176.101, subdivision 2a.

Subd. 4. Claims less than \$1,000. The commissioner shall approve a claim of \$1,000 or less for payment if appropriated funds are available, if the county agency or tribal program responsible for supervising the work has made the determinations required by this section, and if the work program was operated in compliance with the safety provisions of this section. The commissioner shall pay the portion of an approved claim of \$1,000 or less that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims of \$1,000 or less paid during the preceding calendar year and shall be reimbursed by legislative appropriation for any claims that exceed the original appropriation provided to the commissioner to operate this program. Any unspent money from this appropriation shall carry over to the second year of the biennium, and any unspent money remaining at the end of the second year shall be returned to the state general fund.

Subd. 5. Claims more than \$1,000. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims in excess of \$1,000 and a list of claims of \$1,000 or less that were submitted to but not paid by the commissioner, together with any recommendations of appropri-

ate compensation. These claims shall be heard and determined by the appropriate committees of the senate and house of representatives and, if approved, must be paid under the legislative claims procedure.

Subd. 6. Compensation for certain costs. Compensation paid under this section is limited to reimbursement for reasonable medical expenses and permanent partial disability compensation for disability in like amounts as allowed in section 176.101, subdivision 2a. Compensation for injuries resulting in death shall include reasonable medical expenses and burial expenses in addition to payment to the participant's estate in an amount up to \$200,000. No compensation shall be paid under this section for pain and suffering, lost wages, or other benefits provided in chapter 176. Payments made under this section shall be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

Subd. 7. Exclusive procedure. The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant shall not be entitled to seek damages from any state, county, tribal, or reservation insurance policy or self-insurance program.

Subd. 8. Invalid claims. A claim is not valid for purposes of this section if the county agency responsible for supervising the work cannot verify to the commissioner:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this section; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards. A claim that is not valid because of failure to verify safety training or compliance with safety standards will not be paid by the department of human services or through the legislative claims process and must be heard, decided, and paid, if appropriate, by the local government unit or tribal program responsible for supervising the work of the claimant.

History: 1997 c 85 art 1 s 55

256J.69 GRANT DIVERSION.

Subdivision 1. Establishing the grant diversion program. (a) County agencies may develop grant diversion programs for MFIP-S participants participating in employment and training services. A county agency that chooses to provide grant diversion may divert to an employer part or all of the MFIP-S cash payment for the participant's assistance unit, in compliance with federal regulations and laws. Such payments to an employer are to subsidize employment for MFIP-S participants as an alternative to public assistance payments.

(b) In addition to diverting the MFIP-S grant to the employer, employment and training funds may be used to subsidize the grant diversion placement.

(c) Participants in grant diversion shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the federal or applicable state minimum wage, whichever is higher.

Subd. 2. Training and placement. (a) County agencies shall limit the length of training to nine months. Placement in a grant diversion training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in a grant diversion subsidized training position must be compatible with the assessment and employment plan or employability development plan established for the recipient under section 256J.52 or 256K.03, subdivision 8.

History: 1997 c 85 art 1 s 56

256J.72 NONDISPLACEMENT IN WORK ACTIVITIES.

Subdivision 1. Nondisplacement protection. For job assignments under jobs programs established under this chapter or chapter 256, 256D, or 256K, the county agency must

provide written notification to and obtain the written concurrence of the appropriate exclusive bargaining representatives with respect to job duties covered under collective bargaining agreements and ensure that no work assignment under this chapter or chapter 256, 256D, or 256K results in:

- (1) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section;
- (2) the hiring of an individual if any other person is on layoff, including seasonal layoff, from the same or a substantially equivalent job;
- (3) any infringement of the promotional opportunities of any currently employed individual;
- (4) the impairment of existing contract for services of collective bargaining agreements; or
- (5) a participant filling an established unfilled position vacancy, except for on-the-job training.

The written notification must be provided to the appropriate exclusive bargaining representatives at least 14 days in advance of placing recipients in temporary public service employment. The notice must include the number of individuals involved, their work locations and anticipated hours of work, a summary of the tasks to be performed, and a description of how the individuals will be trained and supervised.

Subd. 2. Dispute resolution. (a) If there is a dispute between an exclusive bargaining representative and a county provider or employer over whether job duties are within the scope of a collective bargaining unit, the exclusive bargaining representative, the county, the provider, or the employer may petition the bureau of mediation services to determine if the job duties are within the scope of a collective bargaining unit, and the bureau shall render a binding decision.

(b) In the event of a dispute under this section, the parties may:

- (1) use a grievance and arbitration procedure of an existing collective bargaining agreement to process a dispute over whether a violation of the nondisplacement provisions has occurred; or
- (2) if no grievance and arbitration procedure is in place, either party may submit the dispute to the bureau. The commissioner of the bureau of mediation services shall establish a procedure for a neutral, binding resolution of the dispute.

Subd. 3. Status of participant. A participant may not work in a temporary public service or community service job for a public employer for more than 67 working days or 536 hours, whichever is greater, as part of a work program established under this chapter, or chapter 256, 256D, or 256K. A participant who exceeds the time limits in this subdivision is a public employee, as that term is used in chapter 179A. Upon the written request of the exclusive bargaining representative, a county or public service employer shall make available to the affected exclusive bargaining representative a report of hours worked by participants in temporary public service or community service jobs.

History: 1997 c 85 art 1 s 57

256J.74 RELATIONSHIP TO OTHER PROGRAMS.

Subdivision 1. Social services. The county agency shall refer a participant for social services that are offered in the county of financial responsibility according to the criteria established by that county agency under Minnesota Rules, parts 9550.0010 to 9550.0092. A payment issued from federal funds under title XX of the Social Security Act, state funds under the Community Social Services Act, federal or state child welfare funds, or county funds in a payment month must not restrict MFIP-S eligibility or reduce the monthly assistance payment for that participant.

Subd. 2. Concurrent eligibility, limitations. A county agency must not count an applicant or participant as a member of more than one assistance unit in a given payment month, except as provided in clauses (1) and (2).

(1) A participant who is a member of an assistance unit in this state is eligible to be included in a second assistance unit in the first full month that the participant leaves the first assistance unit and lives with a second assistance unit.

(2) An applicant whose needs are met through foster care that is reimbursed under title IV–E of the Social Security Act for the first part of an application month is eligible to receive assistance for the remaining part of the month in which the applicant returns home. Title IV–E payments and adoption assistance payments must be considered prorated payments rather than a duplication of MFIP–S need.

Subd. 3. Emergency assistance, assistance unit with a minor child. An MFIP–S assistance unit with a minor child or a pregnant woman without a minor child is eligible for emergency assistance when the assistance unit meets the requirements in section 256J.48, subdivision 2.

Subd. 4. Medical assistance. Medical assistance eligibility for MFIP–S participants shall be determined as described in chapter 256B.

History: 1997 c 85 art 1 s 58

256J.75 COUNTY OF FINANCIAL RESPONSIBILITY POLICIES.

Subdivision 1. County of financial responsibility. The county of financial responsibility is the county in which a minor child or pregnant woman lives on the date the application is signed, unless subdivision 4 applies. When more than one county is financially responsible for the members of an assistance unit, financial responsibility must be assigned to a single county beginning the first day of the calendar month after the assistance unit members are required to be in a single assistance unit. Financial responsibility must be assigned to the county that was initially responsible for the assistance unit member with the earliest date of application. The county in which the assistance unit is currently residing becomes financially responsible for the entire assistance unit beginning two full calendar months after the month in which financial responsibility was consolidated in one county.

Subd. 2. Change in residence. (a) When an assistance unit moves from one county to another and continues to receive assistance, the new county of residence becomes the county of financial responsibility when that assistance unit has lived in that county in nonexcluded status for two full calendar months. “Nonexcluded status” means the period of residence that is not considered excluded time under section 256G.02, subdivision 6. When a minor child moves from one county to another to reside with a different caregiver, the caregiver in the former county is eligible to receive assistance for that child only through the last day of the month of the move. The caregiver in the new county becomes eligible to receive assistance for the child the first day of the month following the move or the date of application, whichever is later.

(b) When an applicant moves from one county to another while the application is pending, the county where application first occurred is the county of financial responsibility until the applicant has lived in the new county for two full calendar months, unless the applicant’s move is covered under section 256G.02, subdivision 6.

Subd. 3. Responsibility for incorrect assistance payments. A county of residence, when different from the county of financial responsibility, will be charged by the commissioner for the value of incorrect assistance payments and medical assistance paid to or on behalf of a person who was not eligible to receive that amount. Incorrect payments include payments to an ineligible person or family resulting from decisions, failures to act, miscalculations, or overdue recertification. However, financial responsibility does not accrue for a county when the recertification is overdue at the time the referral is received by the county of residence or when the county of financial responsibility does not act on the recommendation of the county of residence. When federal or state law requires that medical assistance continue after assistance ends, this subdivision also governs financial responsibility for the extended medical assistance.

Subd. 4. Excluded time. When an applicant or participant resides in an excluded time facility as described in section 256G.02, subdivision 6, the county that is financially responsible for the applicant or participant is the county in which the applicant or participant last resided outside such a facility immediately before entering the facility. When an applicant or participant has not resided in this state for any time other than excluded time as defined in section 256G.02, subdivision 6, the county that is financially responsible for the applicant or

participant is the county in which the applicant or participant resides on the date the application is signed.

History: 1997 c 85 art 1 s 59

256J.76 COUNTY ADMINISTRATIVE AID.

Subdivision 1. Administrative functions. Beginning July 1, 1997, counties will receive federal funds from the TANF block grant for use in supporting eligibility, fraud control, and other related administrative functions. The federal funds available for distribution, as determined by the commissioner, must be an amount equal to federal administrative aid distributed for fiscal year 1996 under titles IV–A and IV–F of the Social Security Act in effect prior to October 1, 1996. This amount must include the amount paid for local collaboratives under sections 245.4932 and 256F.13, but must not include administrative aid associated with child care under section 119B.05, with emergency assistance intensive family preservation services under section 256.8711, with administrative activities as part of the employment and training services under section 256.736, or with fraud prevention investigation activities under section 256.983.

Subd. 2. Allocation of county funds. The commissioner shall determine and allocate the funds available to each county, on a calendar year basis, proportional to the amount paid to each county for fiscal year 1996, excluding the amount paid for local collaboratives under sections 245.4932 and 256F.13. For the period beginning July 1, 1997, and ending December 31, 1998, each county shall receive 150 percent of its base year allocation.

Subd. 3. Monthly payments to counties. The commissioner shall pay counties monthly as federal funds are available. The commissioner may certify the payments for the first three months of a calendar year.

Subd. 4. Reporting requirement. The commissioner shall specify requirements for reporting according to section 256.01, subdivision 2, paragraph (17). Each county shall be reimbursed at a rate of 50 percent of eligible expenditures up to the limit of its allocation.

History: 1997 c 85 art 1 s 60