

CHAPTER 256I

GROUP RESIDENTIAL HOUSING

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256I.01 CITATION.

Sections 256I.01 to 256I.06 shall be cited as the "Group Residential Housing Act."

History: 1989 c 282 art 5 s 115; 1992 c 513 art 8 s 33; 1Sp1993 c 1 art 8 s 7

256I.02 PURPOSE.

The Group Residential Housing Act establishes a comprehensive system of rates and payments for persons who reside in a group residence and who meet the eligibility criteria under section 256I.04, subdivision 1.

History: 1989 c 282 art 5 s 116; 1992 c 513 art 8 s 34; 1Sp1993 c 1 art 8 s 8

256I.03 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 256I.01 to 256I.06, the terms defined in this section have the meanings given them.

Subd. 2. **Group residential housing rate.** "Group residential housing rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for eligible individuals. Group residential housing rate does not include payments for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. The rate is negotiated by the county agency according to the provisions of sections 256I.01 to 256I.06.

Subd. 3. **Group residential housing.** "Group residential housing" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. This definition includes foster care settings for a single adult. To receive payment for a group residence rate, the residence must meet the requirements under section 256I.04, subdivision 2a.

Subd. 4. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 5. **MSA equivalent rate.** "MSA equivalent rate" means an amount equal to the total of:

(1) the combined maximum shelter and basic needs standards for MSA recipients living alone specified in section 256D.44, subdivisions 2, paragraph (a); and 3, paragraph (a); plus

(2) the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July each year; less

(3) the personal needs allowance authorized for medical assistance recipients under section 256B.35.

The MSA equivalent rate is to be adjusted on the first day of July each year to reflect changes in any of the component rates under clauses (1) to (3).

Subd. 6. **Medical assistance room and board rate.** "Medical assistance room and board rate" means an amount equal to the medical assistance income standard for a single individual living alone in the community less the medical assistance personal needs allowance under section 256B.35. For the purposes of this section, the amount of the group residential housing rate that exceeds the medical assistance room and board rate is considered a remedial care cost. A remedial care cost may be used to meet a spend down obligation under section 256B.056, subdivision 5. The medical assistance room and board rate is to be adjusted on the first day of January of each year.

Subd. 7. **Countable income.** "Countable income" means all income received by an applicant or recipient less any applicable exclusions or disregards. For a recipient of any cash

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benefit from the SSI program, countable income means the SSI benefit limit in effect at the time the person is in a GRH setting less \$20, less the medical assistance personal needs allowance. If the SSI limit has been reduced for a person due to events occurring prior to the persons entering the GRH setting, countable income means actual income less any applicable exclusions and disregards.

History: 1989 c 282 art 5 s 117; 1992 c 513 art 8 s 35,36; 1Sp1993 c 1 art 8 s 9-12; 1995 c 207 art 5 s 28,29

256I.04 ELIGIBILITY FOR GROUP RESIDENTIAL HOUSING PAYMENT.

Subdivision 1. Individual eligibility requirements. An individual is eligible for and entitled to a group residential housing payment to be made on the individual's behalf if the county agency has approved the individual's residence in a group residential housing setting and the individual meets the requirements in paragraph (a) or (b).

(a) The individual is aged, blind, or is over 18 years of age and disabled as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of the supplemental security income program, and the individual's countable income after deducting the (1) exclusions and disregards of the SSI program, (2) the medical assistance personal needs allowance under section 256B.35, and (3) an amount equal to the income actually made available to a community spouse by an elderly waiver recipient under the provisions of sections 256B.0575, paragraph (a), clause (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides.

Subd. 1a. County approval. A county agency may not approve a group residential housing payment for an individual in any setting with a rate in excess of the MSA equivalent rate for more than 30 days in a calendar year unless the county agency has developed or approved a plan for the individual which specifies that:

(1) the individual has an illness or incapacity which prevents the person from living independently in the community; and

(2) the individual's illness or incapacity requires the services which are available in the group residence.

The plan must be signed or countersigned by any of the following employees of the county of financial responsibility: the director of human services or a designee of the director; a social worker; or a case aide.

Subd. 1b. Optional state supplements to SSI. Group residential housing payments made on behalf of persons eligible under subdivision 1, paragraph (a), are optional state supplements to the SSI program.

Subd. 1c. Interim assistance. Group residential housing payments made on behalf of persons eligible under subdivision 1, paragraph (b), are considered interim assistance payments to applicants for the federal SSI program.

Subd. 2. Date of eligibility. An individual who has met the eligibility requirements of subdivision 1, shall have a group residential housing payment made on the individual's behalf from the first day of the month in which a signed application form is received by a county agency, or the first day of the month in which all eligibility factors have been met, whichever is later.

Subd. 2a. License required. A county agency may not enter into an agreement with an establishment to provide group residential housing unless:

(1) the establishment is licensed by the department of health as a hotel and restaurant; a board and lodging establishment; a residential care home; a boarding care home before March 1, 1985; or a supervised living facility, and the service provider for residents of the

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facility is licensed under chapter 245A. However, an establishment licensed by the department of health to provide lodging need not also be licensed to provide board if meals are being supplied to residents under a contract with a food vendor who is licensed by the department of health;

(2) the residence is licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265, or certified by a county human services agency prior to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265; or

(3) the establishment is registered under chapter 144D and provides three meals a day.

The requirements under clauses (1), (2), and (3) do not apply to establishments exempt from state licensure because they are located on Indian reservations and subject to tribal health and safety requirements.

Subd. 2b. Group residential housing agreements. Agreements between county agencies and providers of group residential housing must be in writing and must specify the name and address under which the establishment subject to the agreement does business and under which the establishment, or service provider, if different from the group residential housing establishment, is licensed by the department of health or the department of human services; the specific license or registration from the department of health or the department of human services held by the provider and the number of beds subject to that license; the address of the location or locations at which group residential housing is provided under this agreement; the per diem and monthly rates that are to be paid from group residential housing funds for each eligible resident at each location; the number of beds at each location which are subject to the group residential housing agreement; whether the license holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code; and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06 and subject to any changes to those sections. Group residential housing agreements may be terminated with or without cause by either the county or the provider with two calendar months prior notice.

Subd. 2c. Crisis shelters. Secure crisis shelters for battered women and their children designated by the Minnesota department of corrections are not group residences under this chapter.

Subd. 3. Moratorium on the development of group residential housing beds. (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (4) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); or (5) notwithstanding the provisions of subdivision 2a, for up to 190 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, para-

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graph (a), and receives a federal or state housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a.

(b) A county agency may enter into a group residential housing agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment, or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

Subd. 4. **Rental assistance.** For participants in the Minnesota supportive housing demonstration program under subdivision 3, paragraph (a), clause (5), notwithstanding the provisions of section 256I.06, subdivision 8, the amount of the group residential housing payment for room and board must be calculated by subtracting 30 percent of the recipient's adjusted income as defined by the United States Department of Housing and Urban Development for the Section 8 program from the fair market rent established for the recipient's living unit by the federal Department of Housing and Urban Development. This payment shall be regarded as a state housing subsidy for the purposes of subdivision 3. Notwithstanding the provisions of section 256I.06, subdivision 6, the recipient's countable income will only be adjusted when a change of greater than \$100 in a month occurs or upon annual redetermination of eligibility, whichever is sooner. The commissioner is directed to study the feasibility of developing a rental assistance program to serve persons traditionally served in group residential housing settings and report to the legislature by February 15, 1999.

History: 1989 c 282 art 5 s 118; 1991 c 292 art 2 s 68; 1992 c 513 art 8 s 37; 1Sp1993 c 1 art 8 s 13-21; 1994 c 529 s 16,17; 1995 c 207 art 5 s 30,31; 1996 c 451 art 5 s 34-36; 1997 c 113 s 19; 1998 c 407 art 3 s 18-20

256I.05 MONTHLY RATES.

Subdivision 1. **Maximum rates.** Monthly room and board rates negotiated by a county agency for a recipient living in group residential housing must not exceed the MSA equivalent rate specified under section 256I.03, subdivision 5, with the exception that a county agency may negotiate a room and board rate that exceeds the MSA equivalent rate by up to \$426.37 for recipients of waiver services under title XIX of the Social Security Act. This exception is subject to the following conditions:

(1) that the Secretary of Health and Human Services has not approved a state request to include room and board costs which exceed the MSA equivalent rate in an individual's set of waiver services under title XIX of the Social Security Act; or

(2) that the Secretary of Health and Human Services has approved the inclusion of room and board costs which exceed the MSA equivalent rate, but in an amount that is insufficient to cover costs which are included in a group residential housing agreement in effect on June 30, 1994; and

(3) the amount of the rate that is above the MSA equivalent rate has been approved by the commissioner. The county agency may at any time negotiate a lower room and board rate than the rate that would otherwise be paid under this subdivision.

Subd. 1a. **Supplementary rates.** (a) In addition to the room and board rate specified in subdivision 1, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the department of health, or licensed by the department

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of human services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0627, subdivision 4, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0627, subdivision 4, then the GRH rate is limited to the rate set in subdivision 1. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Subd. 1b. Rates for uncertified boarding care homes. Effective July 1, 1992, the maximum rate specified in subdivision 1 does not apply to a facility which was licensed by the Minnesota department of health as a boarding care home before March 1, 1985, and which is not certified to receive medical assistance.

Subd. 1c. Rate increases. A county agency may not increase the rates negotiated for group residential housing above those in effect on June 30, 1993, except as provided in paragraphs (a) to (g).

(a) A county may increase the rates for group residential housing settings to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) A county agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total group residential housing rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. County agencies must not include nor increase group residential housing difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When a group residential housing rate is used to pay for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences have received the prior approval of the county agency's social service staff. Prior approval is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the group residential housing establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the

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residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(f) Until June 30, 1994, a county agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0050 to 9549.0058.

(g) For the rate year beginning July 1, 1996, a county agency may increase the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in a residence that meets the following criteria:

- (1) it is licensed by the commissioner of health as a boarding care home;
- (2) it is not certified for the purposes of the medical assistance program;
- (3) at least 50 percent of its residents have a primary diagnosis of mental illness;
- (4) it has at least 17 beds; and
- (5) it provides medication administration to residents.

The rate following an increase under this paragraph must not exceed an amount equivalent to the average 1995 medical assistance payment for nursing home resident class A under the age of 65, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0010 to 9549.0080.

Subd. 1d. Supplementary service rates for certain facilities serving persons with mental illness or chemical dependency. Notwithstanding the provisions of subdivisions 1a and 1c for the fiscal year ending June 30, 1998, a county agency may negotiate a supplementary service rate in addition to the board and lodging rate for facilities licensed and registered by the Minnesota department of health under section 157.17 prior to December 31, 1996, if the facility meets the following criteria:

- (1) at least 75 percent of the residents have a primary diagnosis of mental illness, chemical dependency, or both, and have related special needs;
- (2) the facility provides 24-hour, on-site, year-round supportive services by qualified staff capable of intervention in a crisis of persons with late-state inebriety or mental illness who are vulnerable to abuse or neglect;
- (3) the services at the facility include, but are not limited to:
 - (i) secure central storage of medication;
 - (ii) reminders and monitoring of medication for self-administration;
 - (iii) support for developing an individual medical and social service plan, updating the plan, and monitoring compliance with the plan; and
 - (iv) assistance with setting up meetings, appointments, and transportation to access medical, chemical health, and mental health service providers;
- (4) each resident has a documented need for at least one of the services provided;
- (5) each resident has been offered an opportunity to apply for admission to a licensed residential treatment program for mental illness, chemical dependency, or both, have refused that offer, and the offer and their refusal has been documented to writing; and
- (6) the residents are not eligible for home and community-based services waivers because of their unique need for community support.

The total supplementary service rate must not exceed \$575.

Subd. 2. Monthly rates; exemptions. The maximum group residential housing rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. Notwithstanding the provisions of subdivision 1c, the rate paid to a facility reimbursed under this subdivision shall be determined under section 256B.431, or under section 256B.434 if the facility is accepted by the commissioner for participation in the alternative payment demonstration project.

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Subd. 3. Limits on rates. When a group residential housing rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a group residential housing rate under this chapter.

Subd. 4. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 5. Adult foster care rates. The commissioner shall annually establish statewide maintenance and difficulty of care limits for adults in foster care.

Subd. 6. Statewide rate setting system. The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in group residential housing to be effective as soon as possible. The commissioner may adopt rules to establish this rate setting system.

Subd. 7. [Repealed, 1992 c 513 art 8 s 59]

Subd. 7a. [Repealed, 1992 c 513 art 8 s 59]

Subd. 7b. Commissioner's duties. The commissioner shall not provide automatic annual inflation adjustments for group residential housing rates for the fiscal year beginning on July 1, 1993, and for subsequent fiscal years. The commissioner of finance shall include as a budget change request annual adjustments in reimbursement rates for group residential housing in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Subd. 7c. Demonstration project. The commissioner is authorized to pursue a demonstration project under federal food stamp regulation for the purpose of gaining federal reimbursement of food and nutritional costs currently paid by the state group residential housing program.

Subd. 8. State participation. For a resident of a group residence who is eligible under section 256I.04, subdivision 1, paragraph (b), state participation in the group residential housing payment is determined according to section 256D.03, subdivision 2. For a resident of a group residence who is eligible under section 256I.04, subdivision 1, paragraph (a), state participation in the group residential housing rate is determined according to section 256D.36.

Subd. 9. [Repealed, 1Sp 1993 c 1 art 8 s 29]

Subd. 10. [Repealed, 1Sp1993 c 1 art 8 s 29]

History: 1989 c 282 art 5 s 119; 1990 c 568 art 4 s 59,60; 1991 c 292 art 4 s 71-74; art 6 s 51; 1992 c 363 art 1 s 10; 1992 c 513 art 8 s 38-47; 1Sp1993 c 1 art 8 s 22-26; 1995 c 207 art 5 s 32-34; 1996 c 312 s 1; 1996 c 451 art 2 s 52; art 3 s 8; 1997 c 203 art 3 s 13; art 4 s 60; 3Sp1997 c 3 s 20; 1998 c 407 art 3 s 21

256I.051 [Repealed, 1Sp1993 c 1 art 8 s 29]

256I.06 PAYMENT METHODS.

Subdivision 1. Monthly payments. Monthly payments made on an individual's behalf for group residential housing must be issued as a voucher or vendor payment.

Subd. 2. Time of payment. A county agency may make payments to a group residence in advance for an individual whose stay in the group residence is expected to last beyond the calendar month for which the payment is made and who does not expect to receive countable earned income during the month for which the payment is made. Group residential housing payments made by a county agency on behalf of an individual who is not expected to remain in the group residence beyond the month for which payment is made must be made subsequent to the individual's departure from the group residence. Group residential housing payments made by a county agency on behalf of an individual with countable earned income must be made subsequent to receipt of a monthly household report form.

Subd. 3. Filing of application. The county agency must immediately provide an application form to any person requesting group residential housing. Application for group residential housing must be in writing on a form prescribed by the commissioner. The county agency must determine an applicant's eligibility for group residential housing as soon as the required verifications are received by the county agency and within 30 days after a signed application is received by the county agency for the aged or blind or within 60 days for the disabled.

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Subd. 4. Verification. The county agency must request, and applicants and recipients must provide and verify, all information necessary to determine initial and continuing eligibility and group residential housing payment amounts. If necessary, the county agency shall assist the applicant or recipient in obtaining verifications. If the applicant or recipient refuses or fails without good cause to provide the information or verification, the county agency shall deny or terminate eligibility for group residential housing payments.

Subd. 5. Redetermination of eligibility. The eligibility of each recipient must be redetermined at least once every 12 months.

Subd. 6. Reports. Recipients must report changes in circumstances that affect eligibility or group residential housing payment amounts within ten days of the change. Recipients with countable earned income must complete a monthly household report form. If the report form is not received before the end of the month in which it is due, the county agency must terminate eligibility for group residential housing payments. The termination shall be effective on the first day of the month following the month in which the report was due. If a complete report is received within the month eligibility was terminated, the individual is considered to have continued an application for group residential housing payment effective the first day of the month the eligibility was terminated.

Subd. 7. Determination of rates. The county in which a group residence is located will determine the amount of group residential housing rate to be paid on behalf of an individual in the group residence regardless of the individual's county of financial responsibility.

Subd. 8. Amount of group residential housing payment. The amount of a group residential housing payment to be made on behalf of an eligible individual is determined by subtracting the individual's countable income under section 256I.04, subdivision 1, for a whole calendar month from the group residential housing charge for that same month. The group residential housing charge is determined by multiplying the group residential housing rate times the period of time the individual was a resident or temporarily absent under section 256I.05, subdivision 1c, paragraph (d).

History: 1989 c 282 art 5 s 120; 1992 c 513 art 8 s 49; 1Sp1993 c 1 art 8 s 27; 1995 c 207 art 5 s 35,36