

## 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 (MFIP).** This chapter and chapter 256K may be cited as the Minnesota family investment program (MFIP). MFIP is the statewide implementation of components of the Minnesota family investment plan (MFIP) authorized and formerly codified in section 256.031 and Minnesota family investment plan—Ramsey county (MFIP—R) formerly codified in section 256.047.

*[For text of subs 2 to 5, see M.S.1998]*

**History:** 1999 c 159 s 77

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

*[For text of subd 1, see M.S.1998]*

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) diversionsary assistance under section 256J.47;

(5) the health care and human services training and retention program under chapter 116L, for costs associated with families with children with incomes below 200 percent of the federal poverty guidelines;

- (6) the pathways program under section 116L.04, subdivision 1a;
- (7) welfare-to-work extended employment services for MFIP participants with severe impairment to employment as defined in section 268A.15, subdivision 1a;
- (8) the family homeless prevention and assistance program under section 462A.204;
- (9) the rent assistance for family stabilization demonstration project under section 462A.205; and
- (10) program administration under this chapter.

*[For text of subs 3 to 5, see M.S.1998]*

**History:** 1999 c 245 art 6 s 5

**256J.03** [Repealed, 1999 c 245 art 1 s 20]

**256J.08 DEFINITIONS.**

*[For text of subs 1 to 10, see M.S.1998]*

Subd. 11. **Caregiver.** “Caregiver” means a minor child’s natural or adoptive parent or parents and stepparent 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 or stepparents do not reside in the same home: legal custodian or guardian, grandfather, grandmother, brother, sister, half-brother, half-sister, stepbrother, stepsister, uncle, aunt, first cousin or first cousin once removed, 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.

*[For text of subs 12 to 23, see M.S.1998]*

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. The commissioner shall determine the amount of the disregard according to section 256J.24, subdivision 10.

*[For text of subs 24a to 28, see M.S.1998]*

Subd. 28a. **Encumbrance.** “Encumbrance” means a legal claim against real or personal property that is payable upon the sale of that property.

*[For text of subs 29 to 38, see M.S.1998]*

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

*[For text of subs 40 to 51, see M.S.1998]*

Subd. 51a. **Legal custodian.** “Legal custodian” means any person who is under a legal obligation to provide care for a minor and who is in fact providing care for a minor. For an Indian child, “custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom, under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 260.755, subdivision 10.

*[For text of subs 52 to 55, see M.S.1998]*

Subd. 55a. **MFIP standard of need.** “MFIP standard of need” means the appropriate standard used to determine MFIP benefit payments for the MFIP unit and applies to:

- (1) the transitional standard, sections 256J.08, subdivision 85; and 256J.24, subdivision 5;

- (2) the shared household standard, section 256J.24, subdivision 9; and
- (3) the interstate transition standard, section 256J.43.

*[For text of subs 56 to 64, see M.S.1998]*

Subd. 65. **Participant.** "Participant" means a person who is currently receiving cash assistance or the food portion available through MFIP 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 and food assistance payment by the end of the payment month, who makes a written request for closure before the first of a payment month and repays cash and food assistance electronically issued for that payment month within that payment month, or who returns any uncashed assistance check and food coupons and withdraws from the program is not a participant. A person who withdraws a cash or food assistance payment by electronic transfer or receives and cashes an MFIP assistance check or food coupons 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 and food assistance payment because the person has been suspended from MFIP is a participant.

*[For text of subs 66 to 79, see M.S.1998]*

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

*[For text of subd 81, see M.S.1998]*

Subd. 82. **Sanction.** "Sanction" means the reduction of a family's assistance payment by a specified percentage of the MFIP standard of need 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.

*[For text of subs 82a and 82b, see M.S.1998]*

Subd. 83. **Significant change.** "Significant change" means a decline in gross income of the amount of the disregard as defined in subdivision 24 or more from the income used to determine the grant for the current month.

*[For text of subs 84 and 85, see M.S.1998]*

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 compensation, 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. 86a. **Unrelated member.** "Unrelated member" means an individual in the household who does not meet the definition of an eligible caregiver.

*[For text of subs 87 to 89, see M.S.1998]*

**History:** 1998 c 398 art 5 s 55; 1999 c 107 s 66; 1999 c 139 art 4 s 2; 1999 c 245 art 6 s 6-13

## 256J.11 CITIZENSHIP.

Subdivision 1. **General citizenship requirements.** (a) To be eligible for MFIP, 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. However, TANF dollars cannot be used to fund the MFIP 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. However, TANF dollars cannot be used to fund the MFIP 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.** State dollars shall fund the food portion of a noncitizen's MFIP benefits when federal food stamp dollars cannot be used to fund those benefits. The assistance provided under this subdivision, which is designated as a supplement to replace lost benefits under the federal food stamp program, must be disregarded as income in all programs that do not count food stamps as income where the commissioner has the authority to make the income disregard determination for the program.

**Subd. 3. Benefits funded with state money.** Legal adult noncitizens who have resided in the country for four years or more as a lawful permanent resident, 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:** 1999 c 159 s 78; 1999 c 245 art 6 s 14,15

**NOTE:** Subdivision 2 was also amended by Laws 1999, chapter 159, section 79, to read as follows:

"Subd. 2. **Noncitizens; food portion.** (a) For the period November 1, 1997, to June 30, 1999, noncitizens who do not meet one of the exemptions in section 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and are receiving cash assistance under MFIP are eligible for the average value of food stamps for the same family size and composition until MFIP is operative in the noncitizen's county of financial responsibility and thereafter, the food portion of MFIP. However, federal food stamp dollars cannot be used to fund the food portion of MFIP benefits for an individual under this subdivision. The assistance provided under this subdivision, which is designated as a supplement to replace lost benefits under the federal food stamp program, must be disregarded as income in all programs that do not count food stamps as income where the commissioner has the authority to make the income disregard determination for the program.

(b) The commissioner shall submit a state plan to the secretary of agriculture to allow the commissioner to purchase federal Food Stamp Program benefits in an amount equal to the MFIP food portion for each legal noncitizen receiving MFIP assistance who is ineligible to participate in the federal Food Stamp Program solely due to the provisions of section 402 or 403 of Public Law Number 104-193, as authorized by Title VII of the 1997 Emergency Supplemental Appropriations Act, Public Law Number 105-18. The commissioner shall enter into a contract as necessary with the secretary to use the existing federal Food Stamp Program benefits delivery system for the purposes of administering the food portion of MFIP under this subdivision."

## 256J.12 MINNESOTA RESIDENCE.

Subdivision 1. **Simple residency.** To be eligible for MFIP, an assistance unit must have established residency in this state which means the assistance unit is present in the state and intends to remain here. A person who lives in this state and who entered this state with a job commitment or to seek employment in this state, whether or not that person is currently employed, meets the criteria in this subdivision.

Subd. 1a. **30-day residency requirement.** An assistance unit is considered to have established residency in this state only when a child or caregiver has resided in this state for at least 30 consecutive days with the intention of making the person's home here and not for any temporary purpose. The birth of a child in Minnesota to a member of the assistance unit does not automatically establish the residency in this state under this subdivision of the other members of the assistance unit. 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 an assistance unit:

- (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 assistance unit 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.

(d) Applicants are considered to meet the residency requirement under subdivision 1a if they once resided in Minnesota and:

- (1) joined the United States armed services, returned to Minnesota within 30 days of leaving the armed services, and intend to remain in Minnesota; or
- (2) left to attend school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota.

(c) The 30-day residence requirement is met when:

- (1) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver; and
- (2) the relative caregiver has resided in Minnesota for at least 30 consecutive days and:
  - (i) the minor caregiver applies for and receives MFIP; or
  - (ii) the relative caregiver applies for assistance for the minor child but does not choose to be a member of the MFIP assistance unit.

*[For text of subs 2a to 4, see M.S. 1998]*

**History:** 1999 c 159 s 80; 1999 c 245 art 6 s 16, 17

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

*[For text of subd 1, see M.S. 1998]*

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 260B.007, subdivision 7, and 260C.007, subdivision 8, 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:** 1999 c 139 art 4 s 2

#### **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 260C.325, 525.615, or 525.6165, and related laws;

(iii) a caregiver as defined in section 256J.08, subdivision 11; or

(iv) an appropriate adult relative designated by a county agency.

(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 adult relative, or in an adult-supervised supportive living arrangement in order to receive MFIP unless:

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

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

(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 adult relative, or legal guardian; or

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

(c) The county agency shall inform minor applicants both orally and in writing about the eligibility requirements, their rights and obligations under the MFIP program, and any other applicable orientation information. 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, other adult relative, 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, legal guardian, or other adult relative 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) Regardless of living arrangement, MFIP must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child according to section 256J.39, subdivisions 2 to 4.

**History:** 1999 c 139 art 4 s 2; 1999 c 245 art 6 s 18

## 256J.20 PROPERTY LIMITATIONS.

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Other property limitations.** To be eligible for MFIP, 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 participants. The value of assets in clauses (1) to (20) must be excluded when determining the equity value of real and personal property:

(1) a licensed vehicle up to a loan value of less than or equal to \$7,500. The county agency shall apply any excess loan value as if it were equity 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 loan value and count only the loan value over

\$7,500, excluding: (i) the value of one vehicle per physically disabled person when the vehicle is needed to transport the disabled unit member; this exclusion does not apply to mentally disabled people; (ii) the value of special equipment for a handicapped member of the assistance unit; and (iii) any vehicle used for long-distance travel, other than daily commuting, for the employment of a unit member.

The county agency shall count the loan value of all other vehicles and apply this amount as if it were equity value to the asset limit described in this section. To establish the loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant document the loan 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 loan 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 at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if at least 50 percent of the vehicle's use is to produce income and 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 or other vehicle 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, emergency assistance, and diversionary 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 payment month;

(15) savings from earned income 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 federal earned income credit, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates and other federal or state tax rebates 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;

(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;



(19) the assets of children ineligible to receive MFIP benefits because foster care or adoption assistance payments are made on their behalf; and

(20) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause (43).

**History:** 1999 c 245 art 6 s 19

## 256J.21 INCOME LIMITATIONS.

*[For text of subd 1, see M.S.1998]*

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, employment, or informal carpooling arrangements directly related to 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)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) federal or state tax rebates;

(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 pro-

viders 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, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;
- (27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;
- (28) MFIP child care payments under section 119B.05;
- (29) all other payments made through MFIP 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 MFIP 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 parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children; and
- (43) income of the minor parent's parents and stepparents 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 parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash; and

(46) the principal portion of a contract for deed payment.

**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, 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 a maximum of \$200 per month for each child less than two years of age, and \$175 per month for each child two years of age and older under this chapter and chapter 119B;

(3) all payments made according to a court order for spousal support or 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; and

(4) an allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver according to section 256J.36.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicant units when at least one member has received work first or MFIP in this state within four months of the most recent application for MFIP, apply the disregard as defined in section 256J.08, subdivision 24, for all unit members.

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, the result of the computations in paragraphs (a) to (e) must be at least \$1.

(a) Apply an income disregard as defined in section 256J.08, subdivision 24, to gross earnings and subtract this amount from the family wage level. If the difference is equal to or greater than the MFIP standard of need, the assistance payment is equal to the MFIP standard of need. If the difference is less than the MFIP standard of need, 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 spousal support or 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) An allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver must be made according to section 256J.36.

(d) Subtract unearned income dollar for dollar from the MFIP standard of need to determine the assistance payment amount.

(e) 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.

(f) When the monthly income is greater than the MFIP standard of need after deductions and the income will only exceed the standard for one month, the county agency must suspend the assistance payment for the payment month.

*[For text of subd 5, see M.S.1998]*

**History:** 1999 c 159 s 81; 1999 c 245 art 6 s 20–22

## 256J.24 FAMILY COMPOSITION AND ASSISTANCE STANDARDS.

*[For text of subd 1, see M.S.1998]*

**Subd. 2. Mandatory assistance unit composition.** Except for minor caregivers and their children who must be in a separate assistance unit from the other persons in the household, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child, including a pregnant minor;
- (2) the minor child's minor siblings, minor half-siblings, and minor step-siblings;
- (3) the minor child's natural parents, adoptive parents, and stepparents; and
- (4) the spouse of a pregnant woman.

**Subd. 3. Individuals who must be excluded from an assistance unit.** (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP:

- (1) individuals receiving Supplemental Security Income or Minnesota supplemental aid;
- (2) individuals disqualified from the food stamp program or MFIP, until the disqualification ends;
- (3) children on whose behalf federal, state or local foster care payments are made, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and
- (4) children receiving ongoing monthly adoption assistance payments under section 259.67.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

*[For text of subs 4 to 6, see M.S.1998]*

**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. Not including the family wage level standard, assistance payments may not exceed the MFIP standard of need for the assistance unit.

**Subd. 8. Assistance paid to eligible assistance units.** Except for assistance units where a nonparental caregiver is not included in the grant, payments for shelter up to the amount of the cash portion of MFIP benefits for which the assistance unit is eligible shall be vendor paid for as many months as the assistance unit is eligible or six months, whichever comes first. The residual amount of the grant after vendor payment, if any, must be paid to the MFIP caregiver.

**Subd. 9. Shared household standard; MFIP.** (a) Except as prohibited in paragraph (b), the county agency must use the shared household standard when the household includes one or more unrelated members, as that term is defined in section 256J.08, subdivision 86a. The county agency must use the shared household standard, unless a member of the assistance unit is a victim of domestic violence and has an approved safety plan, regardless of the number of unrelated members in the household.

(b) The county agency must not use the shared household standard when all unrelated members are one of the following:

- (1) a recipient of public assistance benefits, including food stamps, Supplemental Security Income, adoption assistance, relative custody assistance, or foster care payments;
- (2) a roomer or boarder, or a person to whom the assistance unit is paying room or board;
- (3) a minor child under the age of 18;
- (4) a minor caregiver living with the minor caregiver's parents or in an approved supervised living arrangement;
- (5) a caregiver who is not the parent of the minor child in the assistance unit; or
- (6) an individual who provides child care to a child in the MFIP assistance unit.

(c) The shared household standard must be discontinued if it is not approved by the United States Department of Agriculture under the MFIP waiver.

Subd. 10. **MFIP exit level.** (a) In state fiscal years 2000 and 2001, the commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least 120 percent of the federal poverty guidelines in effect in October of each fiscal year. The adjustment to the disregard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented at the same time as the October food stamp cost-of-living adjustment is reflected in the food portion of MFIP transitional standard as required under subdivision 5a.

(b) In state fiscal year 2002 and thereafter, the earned income disregard percentage must be the same as the percentage implemented in October 2000.

**History:** 1999 c 245 art 6 s 23–28

## 256J.26 PERSONS INELIGIBLE; VENDOR PAYMENTS.

Subdivision 1. **Person convicted of drug offenses.** (a) Applicants or participants who have been convicted of a drug offense committed after July 1, 1997, may, if otherwise eligible, receive MFIP 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 participant shall be subject to random drug testing as a condition of continued eligibility and following any positive test for an illegal controlled substance is subject to the following sanctions:

(i) for failing a drug test the first time, the participant's grant shall be reduced by ten percent of the MFIP standard of need, prior to making vendor payments for shelter and utility costs; or

(ii) for failing a drug test two or more times, the residual amount of the participant's grant after making vendor payments for shelter and utility costs, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need.

(3) A participant who fails an initial drug test and is under a sanction due to other MFIP program requirements is subject to the sanction in clause (2)(ii).

(b) Applicants requesting only food stamps or participants receiving only food stamps, who have been convicted of a drug offense that occurred after July 1, 1997, may, if otherwise eligible, receive food stamps if the convicted applicant or participant is subject to random drug testing as a condition of continued eligibility. Following a positive test for an illegal controlled substance, the applicant is subject to the following sanctions:

(1) for failing a drug test the first time, food stamps shall be reduced by ten percent of the applicable food stamp allotment; and

(2) for failing a drug test two or more times, food stamps shall be reduced by an amount equal to 30 percent of the applicable food stamp allotment.

(c) For the purposes of this subdivision, "drug offense" means an offense 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 disqualified from receiving MFIP.

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 disqualified from receiving MFIP.

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 disqualified from receiving MFIP for ten years beginning on the date of the conviction.

**History:** 1999 c 159 s 82–85; 1999 c 245 art 6 s 29

### 256J.30 APPLICANT AND PARTICIPANT REQUIREMENTS AND RESPONSIBILITIES.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Requirement to apply for other benefits.** An applicant or participant must apply for, accept if eligible, 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.

*[For text of subds 3 to 5, see M.S.1998]*

Subd. 6. [Repealed, 1999 c 245 art 6 s 89]

Subd. 7. **Due date of MFIP household report form.** An MFIP 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 household report form must be received by the county agency the first working day that follows the eighth calendar day.

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

(a) When the county agency receives an incomplete MFIP household report form, the county agency must immediately return the incomplete form and clearly state what the caregiver must do for the form to be complete.

(b) The automated eligibility system must send a notice of proposed termination of assistance to the assistance unit if a complete MFIP household report form is not received by a county agency. The automated notice must be mailed to the caregiver by approximately the 16th of the month. 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 household report form is considered to have continued its application for assistance if a complete MFIP household report form is received within a calendar month after the month in which the form was due and assistance shall be paid for the period beginning with the first day of that calendar month.

(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 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 household report form when the caregiver asks for help;
- (3) a caregiver does not receive an MFIP 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 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 (17) within ten days of the date they 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. Calculation of overpayments for late reporting under clause (17) is specified in section 256J.09, subdivision 9. Changes in circumstances which must be reported within ten days must also be reported on the MFIP 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 employment services program;
- (8) a change in employment status;
- (9) information affecting an exception under section 256J.24, subdivision 9;
- (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;
- (16) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party; and
- (17) 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.

*[For text of subs 10 to 12, see M.S.1998]*

**History:** 1999 c 245 art 6 s 30-33

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

*[For text of subs 1 to 4, see M.S.1998]*

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

(a) A notice of adverse action must be mailed at least ten days before the effective date of the adverse action, except as provided in paragraphs (b) to (d).

(b) A notice of adverse action must be mailed no later than four working days before the end of the month when the county agency:

(1) is informed of the death of the only caregiver or payee in an assistance unit;

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

(3) has factual information to reduce, suspend, or terminate assistance based on the failure to timely report changes;

(4) 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;

(5) verifies that a member of an assistance unit has been removed from the home as a result of a judicial determination or placed in foster care, and the provisions of section 256J.13, subdivision 2, paragraph (c), clause (2), do not apply; or

(6) cannot locate a caregiver.

(c) A notice of adverse action must be mailed for a payment month when the caregiver makes a written request for closure before the first of that payment month.

(d) A notice of adverse action must be mailed before the effective date of the adverse action when the county agency receives the caregiver's signed and completed MFIP household report form or recertification form that includes information that requires payment reduction, suspension, or termination.

*[For text of subs 6 to 11, see M.S.1998]*

**Subd. 12. Right to discontinue cash assistance.** A participant who is not in vendor payment status may discontinue receipt of the cash assistance portion of the MFIP assistance grant and retain eligibility for child care assistance under section 119B.05 and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635. For the months a participant chooses to discontinue the receipt of the cash portion of the MFIP grant, the assistance unit accrues months of eligibility to be applied toward eligibility for child care under section 119B.05 and for medical assistance under sections 256B.055, subdivision 3a, and 256B.0635.

**History:** 1999 c 245 art 6 s 34,35

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

*[For text of subs 1 to 3, see M.S.1998]*

**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 eligibility;

(5) immigration status;

(6) social security number according to 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) burial accounts;
- (19) school attendance, if related to eligibility;
- (20) residence;
- (21) a claim of domestic violence if used as a basis for a deferral or exemption from the 60-month time limit in section 256J.42 or employment and training services requirements in section 256J.56;
- (22) disability if used as an exemption from employment and training services requirements under section 256J.56; and
- (23) information needed to establish an exception under section 256J.24, subdivision 9.

*[For text of subd 5a, see M.S.1998]*

**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, unless excluded, 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;
- (4) information to establish an exception under section 256J.24, subdivision 9, if questionable; and
- (5) inconsistent information, if related to eligibility.

*[For text of subd 7, see M.S.1998]*

**History:** 1999 c 245 art 6 s 36,37

### **256J.33 PROSPECTIVE AND RETROSPECTIVE DETERMINATION OF MFIP ELIGIBILITY.**

**Subdivision 1. Determination of eligibility.** A county agency must determine MFIP 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 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 to 2.

This income must be applied to the MFIP standard of need or family wage level 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 eligibility, a county agency must continue to determine whether an assistance unit is prospectively eligi-

ble 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 eligibility. An assistance unit is not eligible when the countable income equals or exceeds the MFIP standard of need 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 4, 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 4, 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 assistance for two consecutive months, the county agency must terminate MFIP assistance.

**History:** 1999 c 245 art 6 s 38

### 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. Notwithstanding subdivision 3, paragraph (a), clause (2), a county agency must use prospective budgeting for the first two months for a person who applies to be added to an assistance unit. 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 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 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 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.

*[For text of subd 2, see M.S.1998]*

**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 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 MFIP standard of need or family wage level 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. Supplemental assistance payments that result from significant changes are limited to two in a 12-month period regardless of the reason for the change. Notwithstanding any other statute or rule of law, supplementary assistance payments shall not be made when the significant change in income is the result of receipt of a lump sum, receipt of an extra paycheck, business fluctuation in self-employment income, or an assistance unit member's participation in a strike or other labor action. Supplementary assistance payments 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).

**History:** 1999 c 245 art 6 s 39-41

**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 MFIP standard of need or the Minnesota family wage level in section 256J.24 and countable income.

(a) When MFIP 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 eligibility.

(b) MFIP 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:** 1999 c 245 art 6 s 42

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

Except as prohibited in paragraphs (a) and (b), an allocation of income is allowed from the caregiver's income 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. That allocation is allowed in an amount up to the difference between the MFIP standard of need for the assistance unit when that ineligible person is included in the assistance unit and the MFIP standard of need for the assistance unit when the 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 an ineligible person, including the child's parent, even when that parent is the payee of the child's income.

(b) Income of a caregiver must not be allocated to meet the needs of a disqualified person.

**History:** 1999 c 245 art 6 s 43

**256J.37 TREATMENT OF INCOME AND LUMP SUMS.**

Subdivision 1. **Deemed income from ineligible household members.** Unless otherwise provided under subdivision 1a or 1b, the income of ineligible household members must be deemed after allowing the following disregards:

(1) the first 18 percent of the ineligible 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 or could claim as dependents for determining federal personal income tax liability;

(3) all payments made by the ineligible person according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the ineligible person since the support order was entered, the ineligible person has petitioned for a modification of the support order; and

(4) an amount for the needs of the ineligible person and 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 standard of need when the ineligible person is included in the assistance unit and the MFIP standard of need when the ineligible person is not included in the assistance unit.

Subd. 1a. **Deemed income from disqualified members.** The income of disqualified members must be deemed after allowing the following disregards:

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

(2) amounts the disqualified member actually paid to individuals not living in the same household but whom the disqualified member claims or could claim as dependents for determining federal personal income tax liability;

(3) all payments made by the disqualified member according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the disqualified member's legal obligation to pay support since the support order was entered, the disqualified member has petitioned for a modification of the support order; 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 the disqualified member as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP standard of need when the ineligible person is included in the assistance unit and the MFIP standard of need when the ineligible person is not included in the assistance unit. An amount shall not be allowed for the needs of a disqualified member.

*[For text of subd 1b, see M.S.1998]*

**Subd. 2. Deemed income and assets of sponsor of noncitizens.** (a) If a noncitizen applies for or receives MFIP, the county must deem the income and assets of the noncitizen's sponsor and the sponsor's spouse as provided in this paragraph and paragraph (b) or (c), whichever is applicable. The deemed income of a sponsor and the sponsor's spouse is considered unearned income of the noncitizen. The deemed assets of a sponsor and the sponsor's spouse are considered available assets of the noncitizen.

(b) The income and assets of a sponsor who signed an affidavit of support under title IV, sections 421, 422, and 423, of Public Law Number 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the income and assets of the sponsor's spouse, must be deemed to the noncitizen to the extent required by those sections of Public Law Number 104-193.

(c) The income and assets of a sponsor and the sponsor's spouse to whom the provisions of paragraph (b) do not apply must be deemed to the noncitizen to the full extent allowed under title V, section 5505, of Public Law Number 105-33, the Balanced Budget Act of 1997.

*[For text of subds 3 and 4, see M.S.1998]*

**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 compensation;
- (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.

*[For text of subs 6 to 8, see M.S.1998]*

**Subd. 9. Unearned income.** (a) The county agency must apply unearned income to the MFIP standard of need. 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 January 1, 2001, 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.

(c) The provisions of paragraph (b) shall not apply to MFIP participants who are exempt from the employment and training services component because they are:

- (i) individuals who are age 60 or older;
- (ii) 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; or
- (iii) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household.

(d) The provisions of paragraph (b) shall not apply to an MFIP assistance unit where the parental caregiver receives supplemental security income.

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 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 MFIP standard of need for the appropriate payment month, the assistance payment must be reduced according to the amount of the countable income. When the countable income is greater than the MFIP standard or family wage level, the assistance payment must be suspended for the payment month.

**History:** 1999 c 107 s 66; 1999 c 245 art 6 s 44-48

## 256J.38 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.

*[For text of subds 1 to 3, see M.S.1998]*

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 applicable 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 MFIP standard of need or the amount of the monthly assistance payment, whichever is less.

*[For text of subds 5 to 9, see M.S.1998]*

**History:** 1999 c 245 art 6 s 49

## 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.

(5) The commissioner, with the advance approval of the commissioner of finance, may issue cash assistance grant payments up to three days before the first day of each month, including three days before the start of each state fiscal year. Of the money appropriated for

cash assistance grant payments for each fiscal year, up to three percent of the annual state appropriation is available to the commissioner in the previous fiscal year. If that amount is insufficient for the costs incurred, an additional amount of the appropriation as needed may be transferred with the advance approval of the commissioner of finance.

*[For text of subs 2 to 4, see M.S.1998]*

**History:** 1999 c 245 art 1 s 19

### 256J.42 60-MONTH TIME LIMIT.

Subdivision 1. **Time limit.** (a) Except for the exemptions in this section, 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 in this or any other state or United States territory, or from a tribal TANF program, MFIP, the AFDC program formerly codified in sections 256.72 to 256.87, or the family general assistance program formerly codified in sections 256D.01 to 256D.23, funded in whole or in part by state appropriations, is ineligible to receive MFIP. Any cash assistance funded with TANF dollars in this or any other state or United States territory, or from a tribal TANF program, or MFIP 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 or United States territories 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 except under subdivision 5. The 60-month time period does not need to be consecutive months for this provision to apply.

(b) The months before July 1998 in which individuals received assistance as part of the field trials as an MFIP, MFIP-R, or MFIP or MFIP-R comparison group family are not included in the 60-month time limit.

*[For text of subs 3 and 4, see M.S.1998]*

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 caregiver is in the category in section 256J.56, paragraph (a), clause (1).

(b) From July 1, 1997, until the date MFIP is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with Minnesota Statutes 1996, section 256.73, subdivision 5a, and Minnesota Statutes 1998, section 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor 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.

(c) Any diversionary assistance or emergency assistance received does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with the requirements of section 256J.54 does not count toward the 60-month limit.

**History:** 1999 c 159 s 86,87; 1999 c 245 art 6 s 50,51

**NOTE:** Subdivision 1, paragraph (b), was also amended by Laws 1999, chapter 159, section 86, to read as follows:

"(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 formerly codified in sections 256.031 to 256.0361 or sections 256.047 to 256.048 are not included in the 60-month time limit."

### 256J.43 INTERSTATE TRANSITIONAL STANDARDS.

Subdivision 1. **Payment.** (a) Effective July 1, 1997, the amount of assistance paid to an eligible unit 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 interstate transitional standard that would have been received by the assistance unit from the state of immediate prior residence, or the amount calculated in accordance with MFIP standards. The lesser payment must continue until the assistance unit meets the 12-month requirement. An assistance unit that has not resided in Minnesota for 12 months from the date



of application is not exempt from the interstate transitional standards provisions solely because a child is born in Minnesota to a member of the assistance unit. Payment must be calculated by applying this MFIP's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or the MFIP transitional or shared household standard in this state, whichever is lower. Payment shall be made in vendor form for shelter 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 an assistance unit resides in this state, the number of months that a unit is eligible to receive MFIP benefits is limited to the number of months the assistance unit would have been eligible to receive similar benefits in the state of immediate prior residence.

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

(d) When an assistance unit moves to this state from another state where the assistance unit has exhausted that state's time limit for receiving benefits under that state's TANF program, the unit will not be eligible to receive any MFIP benefits in this state for 12 months from the date the assistance unit 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.

**Subd. 2. Temporary absence from Minnesota.** (a) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate transitional standards in this section is not affected by an absence from Minnesota for fewer than 30 consecutive days.

(b) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate transitional standards in this section is not affected by an absence from Minnesota for more than 30 consecutive days but fewer than 90 consecutive days, provided the assistance unit continues to maintain a residence in Minnesota during the period of absence.

**Subd. 3. Exceptions to the interstate payment policy.** Applicants who lived in another state in the 12 months prior to applying for assistance are exempt from the interstate payment policy for the months that a member of the unit:

(1) served in the United States armed services, provided the person returned to Minnesota within 30 days of leaving the armed forces, and intends to remain in Minnesota;

(2) attended school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, provided the person left Minnesota specifically to attend school and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota; or

(3) meets the following criteria:

(i) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver;

(ii) the minor caregiver applies for and receives family cash assistance;

(iii) the relative caregiver chooses not to be part of the MFIP assistance unit; and

(iv) the relative caregiver has resided in Minnesota for at least 12 months from the date the assistance unit applies for cash assistance.

Subd. 4. **Ineligible mandatory unit members.** Ineligible mandatory unit members who have resided in Minnesota for 12 months immediately before the unit's date of application establish the other assistance unit members' eligibility for the MFIP transitional standard, shared household or family wage level, whichever is applicable.

**History:** 1999 c 159 s 88; 1999 c 245 art 6 s 52

## 256J.45 ORIENTATION.

Subdivision 1. **County agency to provide orientation.** A county agency must provide each MFIP caregiver who is not exempt under section 256J.56, paragraph (a), clause (6) or (8), with a face-to-face orientation. The county agency must inform caregivers who are not exempt under section 256J.56, paragraph (a), clause (6) or (8), that failure to attend the orientation is considered an occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46. If the client complies with the orientation requirement prior to the first day of the month in which the grant reduction is proposed to occur, the orientation sanction shall be lifted.

Subd. 1a. **Pregnant and parenting minors.** Pregnant and parenting minors who are complying with the provisions of section 256J.54 are exempt from the requirement under subdivision 1, however, the county agency must provide information to the minor as required under section 256J.14.

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, including a description of the range of work and training activities that are allowable under MFIP-S to meet the individual needs of participants;
- (4) the consequences for failing to comply with the employment plan and other program requirements, and that the county agency may not impose a sanction when failure to comply is due to the unavailability of child care or other circumstances where the participant has good cause under subdivision 3;
- (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 121A.16 to 121A.19; 123B.02, subdivision 16; and 123B.10;
- (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;
- (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;
- (11) the caregiver's option to request approval of an education and training plan according to section 256J.52; and
- (12) the work study programs available under the higher education system.

*[For text of subd 3, see M.S.1998]*

**History:** 1999 c 86 art 1 s 59; 1999 c 245 art 6 s 53,54

## 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 a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision.

A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 or third-party liability for medical services under section 256J.30, subdivision 10, prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.49 to 256J.72 ten days prior to the effective date of the sanction. 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 by a participant in a single-parent household or by one participant in a two-parent household, the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need for an assistance unit of the same size with the residual grant 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.

(2) For a second or subsequent occurrence of noncompliance, or when both participants in a two-parent household are out of compliance at the same time, the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP grant for which the participant's assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size before the residual grant is paid to the assistance unit. 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 a participant in a one-parent household returns to compliance. In a two-parent household, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance.

(c) No later than during the second month that a sanction under paragraph (b), clause (2), is in effect due to noncompliance with employment services, 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.

*[For text of subd. 1a, see M.S. 1998]*

**Subd. 2. Sanctions for refusal to cooperate with support requirements.** The grant of an MFIP caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the

applicable MFIP standard of need. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective the first month following the month in which a required notice is given. A sanction must not be imposed when a caregiver comes into compliance with the requirements under section 256.741 prior to the effective date of the sanction. The sanction shall be removed in the month following the month that the caregiver cooperates with the support requirements. Each month that an MFIP caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance. An MFIP 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 shelter costs 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 MFIP standard of need, 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:** 1999 c 245 art 6 s 55–57

## 256J.47 DIVERSIONARY ASSISTANCE PROGRAM.

*[For text of subs 1 to 3, see M.S.1998]*

**Subd. 4. Ineligibility for MFIP; emergency assistance; and emergency general assistance.** Upon receipt of diversionary assistance, the family is ineligible for MFIP, 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 MFIP standard of need a family of the same size and

composition would have received under MFIP multiplied by 30, truncating the result. The ineligibility period begins the date the diversionary assistance is issued.

[For text of subd 5, see M.S.1998]

**History:** 1999 c 245 art 6 s 58

## 256J.48 EMERGENCY ASSISTANCE (EA).

[For text of subd 1, see M.S.1998]

**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;
- (4) the family's destitution or need for shelter or utilities did not arise because the assistance unit is under sanction, the caregiver is disqualified, or 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; and

(5) at least one child or pregnant woman in the emergency assistance unit meets MFIP citizenship requirements in section 256J.11.

**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 (e).

(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 containing 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: principal 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 standard of need 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, 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 county may require that assistance paid 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. 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, refuse removal 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.** Effective January 1, 1998, a county shall pay for special diets or dietary items for MFIP participants. Persons receiving emergency assistance funds for special

diets or dietary items are also eligible to receive emergency assistance for shelter and utility emergencies, if otherwise eligible. 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.

*[For text of subd 4, see M.S.1998]*

**History:** 1999 c 245 art 6 s 59,60

#### **256J.50 COUNTY DUTIES.**

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

(b) A county must provide employment and training services under sections 256J.515 to 256J.74 within 30 days after the caregiver's participation becomes mandatory under subdivision 5.

*[For text of subs 2 and 3, see M.S.1998]*

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

*[For text of subs 4 to 11, see M.S.1998]*

**History:** 1999 c 159 s 89; 1999 c 245 art 6 s 61

#### **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:

- (1) stresses the necessity and opportunity of immediate employment;
- (2) outlines the job search resources offered;
- (3) outlines education or training opportunities available;
- (4) describes the range of work activities, including activities under section 256J.49, subdivision 13, clause (18), that are allowable under MFIP to meet the individual needs of participants;
- (5) explains the requirements to comply with an employment plan;
- (6) explains the consequences for failing to comply; and
- (7) explains the services that are available to support job search and work and education.

Failure to attend the overview of employment and training services without good cause results in the imposition of a sanction under section 256J.46.

**History:** 1999 c 245 art 6 s 62

## 256J.52 ASSESSMENTS; PLANS.

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

*[For text of subd 2, see M.S.1998]*

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. Upon agreement by the job counselor and the participant, a job search support plan may limit a job search to jobs that are consistent with the participant's employment goal. 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. The job search support plan may also specify that the participant fulfill a specified portion of the required hours of job search through attending adult basic education or English as a second language classes.

(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;
- (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; or



(4) have an existing job search plan or employment plan developed for another program or are already involved in training or education activities under section 256J.55, subdivision 5.

(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. Failure to complete a secondary assessment shall result in the imposition of a sanction as specified in sections 256J.46 and 256J.57. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

(c) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the secondary assessment, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may ensure that appropriate services, including child care assistance and transportation, are available to the participant to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

(d) 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. At a minimum, the provider must make available information on the following resources: business and higher education partnerships operated under the Minnesota job skills partnership, community and technical colleges, adult basic education programs, and services offered by vocational rehabilitation programs. 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. Upon agreement by the job counselor and the participant, the employment plan may limit a job search to jobs that are consistent with the participant's employment goal. 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. 5a. Basic education activities in plan.** Participants with low skills in reading or mathematics who are proficient only at or below an eighth-grade level must be allowed to include basic education activities in a job search support plan or an employment plan, whichever is applicable.

*[For text of subs 6 to 9, see M.S.1998]*

**History:** 1999 c 245 art 6 s 63-67

**256J.54 MINOR PARENTS; EMPLOYMENT PLAN.**

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Responsibility for assessment and employment plan.** For caregivers who are under age 18 without a high school diploma or its equivalent, 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 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor or, at county option, by the social services agency under section 257.33. Upon reaching age 18 or 19 a caregiver who received social services under section 257.33 and is without a high school diploma or its equivalent has the option to choose whether to continue receiving services under the caregiver's plan from the social services agency or to utilize an MFIP employment and training service provider. 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 124D.331.

*[For text of subds 3 to 5, see M.S.1998]*

**History:** 1999 c 245 art 6 s 68

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

*[For text of subds 1 to 3, see M.S.1998]*

Subd. 4. **Choice of provider.** MFIP caregivers 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. Both parents in a two-parent family must choose the same employment and training service provider unless a special need, such as bilingual services, is identified but not available through one service provider.

*[For text of subd 5, see M.S.1998]*

**History:** 1999 c 245 art 6 s 69

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

(a) An MFIP 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 assistance unit; a relative in the household, or a foster child 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 who are single parents, or one parent in a two-parent family, employed at least 35 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 employed for 20 or more hours per week, provided the first parent is employed at least 35 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.

(b) The county agency must provide employment and training services to MFIP caregivers who are exempt under this section, but who volunteer to participate. Exempt volunteers may request approval for any work activity under section 256J.49, subdivision 13. The hourly participation requirements for nonexempt caregivers under section 256J.50, subdivision 5, do not apply to exempt caregivers who volunteer to participate.

**History:** 1999 c 245 art 6 s 70

### **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 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 member of the assistance unit, a relative in the household, or a foster child in the household 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) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;
- (9) the parental caregiver is already participating in acceptable work activities;
- (10) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;
- (11) activities identified in the job search support plan or employment plan are not available;
- (12) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or
- (13) the parental caregiver documents other verifiable impediments to compliance with the job search support plan or employment plan beyond the parental caregiver's control.

The job counselor shall work with the participant to reschedule mandatory meetings for individuals who fall under clauses (1), (3), (4), (5), (6), (7), and (8).

*[For text of subd 2, see M.S.1998]*

**History:** 1999 c 245 art 6 s 71

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

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

Subd. 2. [Repealed, 1999 c 245 art 6 s 89]

Subd. 2a. **Caseload-based funds allocation.** Effective for state fiscal year 2000, and for all subsequent years, money shall be allocated to counties and eligible tribal providers based on their average number of MFIP cases as a proportion of the statewide total number of MFIP cases:

(1) the average number of cases must be based upon counts of MFIP or tribal TANF cases as of March 31, June 30, September 30, and December 31 of the previous calendar year, less the number of child only cases and cases where all the caregivers are age 60 or over. Two-parent cases, with the exception of those with a caregiver age 60 or over, will be multiplied by a factor of two;

(2) the MFIP or tribal TANF case count for each eligible tribal provider shall be based upon the number of MFIP or tribal TANF cases who are enrolled in, or are eligible for enrollment in the tribe; and the case must be an active MFIP case; and the case members must reside within the tribal program's service delivery area;

(3) MFIP or tribal TANF cases counted for determining allocations to tribal providers shall be removed from the case counts of the respective counties where they reside to prevent duplicate counts;

(4) prior to allocating funds to counties and tribal providers, \$1,000,000 shall be set aside to allow the commissioner to use these set-aside funds to provide funding to county or tribal providers who experience an unforeseen influx of participants or other emergent situations beyond their control; and

(5) the commissioner shall use a portion of the funds in clause (4) to offset a reduction in funds allocated to any county between state fiscal year 1999 and state fiscal year 2000 that results from the adjustment in clause (3). The funding provided under this clause must reduce by half the reduction for state fiscal year 2000 that any county would otherwise experience in the absence of this clause.

Any funds specified in this clause that remain unspent by March 31 of each year shall be reallocated out to county and tribal providers using the funding formula detailed in clauses (1) to (5).

Subd. 3. [Repealed, 1999 c 245 art 6 s 89]

*[For text of subd 4, see M.S.1998]*

Subd. 5. [Repealed, 1999 c 159 s 154; 1999 c 245 art 6 s 89]

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 based on the county's proportion of the total statewide number of MFIP refugee cases in the previous fiscal year. Counties with less than one percent of the statewide number of MFIP 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 based on the county's proportion of the total statewide number of 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 MFIP 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 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 12 months following termination of the participant's eligibility for MFIP.

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 eligibility.

**History:** 1999 c 159 s 91,92; 1999 c 245 art 6 s 72–77

**NOTE:** Subdivision 3 was also amended by Laws 1999, chapter 159, section 90, to read as follows:

"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 remaining funds shall be allocated based on the county's average number of MFIP cases as compared to the statewide total number of cases. The average number of cases must be based on counts of MFIP cases as of March 31, June 30, September 30, and December 31 of the previous calendar year."

## 256J.67 COMMUNITY WORK EXPERIENCE.

*[For text of subds 1 to 3, see M.S.1998]*

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 MFIP standard of need 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 MFIP standard of need 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:** 1999 c 245 art 6 s 78

## 256J.74 RELATIONSHIP TO OTHER PROGRAMS.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Concurrent eligibility, limitations.** (a) An individual whose needs have been otherwise provided for in another state, in whole or in part by county, state, or federal dollars during a month, is ineligible to receive MFIP for the month.

(b) A county agency must not count an applicant or participant as a member of more than one assistance unit in this state in a given payment month, except as provided in clauses (1) and (2).

(1) A participant who is a member of an assistance unit is eligible to be included in a second assistance unit the month after the month the participant joins the second unit.

(2) An applicant whose needs are met through federal, state, or local foster care payments 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. Foster care payments must be considered prorated payments rather than a duplication of MFIP need.

*[For text of subds 3 to 5, see M.S.1998]*

**History:** 1999 c 245 art 6 s 79

## 256J.751 COUNTY PERFORMANCE MANAGEMENT.

(a) The commissioner shall report quarterly to all counties each county's performance on the following measures:

- (1) percent of MFIP caseload working in paid employment;
- (2) percent of MFIP caseload receiving only the food portion of assistance;

(3) number of MFIP cases that have left assistance;  
 (4) federal participation requirements as specified in title 1 of Public Law Number 104-193; and

(5) median placement wage rate.

(b) The commissioner shall, in consultation with counties, develop measures for county performance in addition to those in paragraph (a). In developing these measures, the commissioner must consider:

(1) a measure for MFIP cases that leave assistance due to employment;

(2) job retention after participants leave MFIP; and

(3) participant's earnings at a follow-up point after the participant has left MFIP.

(c) If sanctions occur for failure to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996, the state shall pay 88 percent of the sanction. The remaining 12 percent of the sanction will be paid by the counties. The county portion of the sanction will be distributed across all counties in proportion to each county's percentage of the MFIP average monthly caseload during the period for which the sanction was applied.

(d) If a county fails to meet the performance standards specified in title 1 of Public Law Number 104-193 of the Personal Responsibility and Work Opportunity Act of 1996 for any year, the commissioner shall work with counties to organize a joint state-county technical assistance team to work with the county. The commissioner shall coordinate any technical assistance with other departments and agencies including the departments of economic security and children, families, and learning as necessary to achieve the purpose of this paragraph.

**History:** 1999 c 245 art 6 s 80

## 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 256F.05, with administrative activities as part of the employment and training services under this chapter or chapter 256K, or with fraud prevention investigation activities under section 256.983. Before July 15, 1999, a county may ask for a review of the commissioner's determination when the county believes fiscal year 1996 information was inaccurate or incomplete. By August 15, 1999, the commissioner must adjust that county's base when the commissioner has determined that inaccurate or incomplete information was used to develop that base. The commissioner shall adjust the county's 1999 allocation amount to reflect the base change.

Subd. 2. **Allocation of county funds.** (a) 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.

(b) Beginning January 1, 2000, the commissioner shall allocate funds made available under this section on a calendar year basis to each county first, in amounts equal to each county's guaranteed floor as described in clause (1), second, to provide an allocation of up to \$2,000 to each county as provided for in clause (2), and third, any remaining funds shall be allocated in proportion to the sum of each county's average monthly MFIP cases plus ten percent of each county's average monthly MFIP recipients with budgeted earnings as determined by the most recent calendar year data available.

(1) Each county's guaranteed floor shall be calculated as follows:

(i) 90 percent of that county's allocation in the preceding calendar year; or  
(ii) when the amount of funds available is less than the guaranteed floor, each county's allocation shall be equal to the previous calendar year allocation reduced by the same percentage that the statewide allocation was reduced.

(2) Each county shall be allocated up to \$2,000. If, after application of the guaranteed floor, funds are insufficient to provide \$2,000 per county, each county's allocation under this clause shall be an equal share of remaining funds available.

*[For text of subd 3, see M.S.1998]*

**Subd. 4. Reporting requirement and reimbursement.** 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. The commissioner shall regularly review each county's eligible expenditures compared to its allocation. The commissioner may reallocate funds at any time, from counties which have not or will not have expended their allocations, to counties that have eligible expenditures in excess of their allocation.

**History:** 1999 c 159 s 93; 1999 c 245 art 6 s 81-83.