

CHAPTER 256J

MINNESOTA FAMILY INVESTMENT PROGRAM

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256J.021 SEPARATE STATE PROGRAM FOR USE OF STATE MONEY.

Beginning October 1, 2001, and each year thereafter, the commissioner of human services must treat financial assistance expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a two-parent eligible household as expenditures under a separately funded state program and report those expenditures to the federal Department of Health and Human Services as separate state program expenditures under Code of Federal Regulations, title 45, section 263.5.

History: *1Sp2001 c 9 art 10 s 5*

256J.08 DEFINITIONS.

[For text of subds 1 to 50, see M.S.2000]

Subd. 50a. [Repealed, 1Sp2001 c 9 art 10 s 67]

[For text of subds 51 to 55, see M.S.2000]

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

[For text of subd 56, see M.S.2000]

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

[For text of subds 58 to 67, see M.S.2000]

Subd. 67a. **Person trained in domestic violence.** “Person trained in domestic violence” means an individual who works for an organization that is designated by the Minnesota center for crime victims services as providing services to victims of domestic violence, or a county staff person who has received similar specialized training, and

includes any other person or organization designated by a qualifying organization under this section.

[For text of subds 68 to 89, see M.S.2000]

History: *1Sp2001 c 9 art 10 s 6,7,66*

256J.09 APPLYING FOR ASSISTANCE.

Subdivision 1. **Where to apply.** To apply for assistance a person must submit a signed application to the county agency in the county where that person lives.

Subd. 2. **County agency responsibility to provide information.** When a person inquires about assistance, a county agency must:

(1) explain the eligibility requirements of, and how to apply for, diversionary assistance as provided in section 256J.47; emergency assistance as provided in section 256J.48; MFIP as provided in section 256J.10; or any other assistance for which the person may be eligible; and

(2) offer the person brochures developed or approved by the commissioner that describe how to apply for assistance.

Subd. 3. **Submitting the application form.** (a) A county agency must offer, in person or by mail, the application forms prescribed by the commissioner as soon as a person makes a written or oral inquiry. At that time, the county agency must:

(1) inform the person that assistance begins with the date the signed application is received by the county agency or the date all eligibility criteria are met, whichever is later;

(2) inform the person that any delay in submitting the application will reduce the amount of assistance paid for the month of application;

(3) inform a person that the person may submit the application before an interview;

(4) explain the information that will be verified during the application process by the county agency as provided in section 256J.32;

(5) inform a person about the county agency's average application processing time and explain how the application will be processed under subdivision 5;

(6) explain how to contact the county agency if a person's application information changes and how to withdraw the application;

(7) inform a person that the next step in the application process is an interview and what a person must do if the application is approved including, but not limited to, attending orientation under section 256J.45 and complying with employment and training services requirements in sections 256J.52 to 256J.55;

(8) explain the child care and transportation services that are available under paragraph (c) to enable caregivers to attend the interview, screening, and orientation; and

(9) identify any language barriers and arrange for translation assistance during appointments, including, but not limited to, screening under subdivision 3a, orientation under section 256J.45, and the initial assessment under section 256J.52.

(b) Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The county agency must process the application within the time period required under subdivision 5. An applicant may withdraw the application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal. The notice must inform the applicant of the county agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a county agency, in writing, that the applicant does not wish to withdraw the application, the county agency must reinstate the application and finish processing the application.

(c) Upon a participant's request, the county agency must arrange for transportation and child care or reimburse the participant for transportation and child care expenses necessary to enable participants to attend the screening under subdivision 3a and orientation under section 256J.45.

Subd. 3a. **Screening.** The county agency, or at county option, the county's employment and training service provider as defined in section 256J.49, must screen each applicant to determine immediate needs and to determine if the applicant may be eligible for:

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

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

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

Subd. 3b. **Interview to determine referrals and services.** If the applicant is not diverted from applying for MFIP, and if the applicant meets the MFIP eligibility requirements, then a county agency must:

(1) identify an applicant who is under the age of 20 and explain to the applicant the assessment procedures and employment plan requirements for minor parents under section 256J.54;

(2) explain to the applicant the eligibility criteria for an exemption under the family violence provisions in section 256J.52, subdivision 6, and explain what an applicant should do to develop an alternative employment plan;

(3) determine if an applicant qualifies for an exemption under section 256J.56 from employment and training services requirements, explain how a person should report to the county agency any status changes, and explain that an applicant who is exempt may volunteer to participate in employment and training services;

(4) for applicants who are not exempt from the requirement to attend orientation, arrange for an orientation under section 256J.45 and an initial assessment under section 256J.52;

(5) inform an applicant who is not exempt from the requirement to attend orientation that failure to attend the orientation is considered an occurrence of noncompliance with program requirements and will result in an imposition of a sanction under section 256J.46; and

(6) explain how to contact the county agency if an applicant has questions about compliance with program requirements.

[For text of subds 4 to 10, see M.S.2000]

History: 1Sp2001 c 9 art 10 s 8-12

256J.12 MINNESOTA RESIDENCE.

[For text of subds 1 to 2a, see M.S.2000]

Subd. 3. [Repealed, 1Sp2001 c 9 art 10 s 67]

[For text of subd 4, see M.S.2000]

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

[For text of subd 1, see M.S.2000]

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 15, 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: 2001 c 178 art 1 s 44

256J.20 PROPERTY LIMITATIONS.

[For text of subds 1 and 2, see M.S.2000]

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

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

History: *1Sp2001 c 2 s 144*

256J.21 INCOME LIMITATIONS.

[For text of subd 1, see M.S.2000]

Subd. 2. Income exclusions. 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 providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;
- (19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient;
- (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, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;
- (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;

(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.

[For text of subds 3 to 5, see M.S.2000]

History: *1Sp2001 c 9 art 10 s 13*

256J.24 FAMILY COMPOSITION; ASSISTANCE STANDARDS; EXIT LEVEL.

[For text of subd 1, see M.S.2000]

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.

A minor child must have a caregiver for the child to be included in the assistance unit.

[For text of subds 3 to 8, see M.S.2000]

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 family violence and has an alternative employment 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. 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.

History: *1Sp2001 c 9 art 10 s 14-16*

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 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 for an assistance unit of the same size. When a sanction under this subdivision is in effect, the job counselor must attempt to meet with the person face-to-face. During the face-to-face meeting, the job counselor must explain the consequences of a subsequent drug test failure and inform the participant of the right to appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting; or

(ii) for failing a drug test two times, the participant is permanently disqualified from receiving MFIP assistance, both the cash and food portions. The assistance unit's MFIP grant must be reduced by the amount which would have otherwise been made available to the disqualified participant. Disqualification under this item does not make a participant ineligible for food stamps. Before a disqualification under this provision is imposed, the job counselor must attempt to meet with the participant face-to-face. During the face-to-face meeting, the job counselor must identify other resources that may be available to the participant to meet the needs of the family and inform the participant of the right to appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting.

(3) A participant who fails a drug test the first time and is under a sanction due to other MFIP program requirements is considered to have more than one occurrence of noncompliance and is subject to the applicable level of sanction as specified under section 256J.46, subdivision 1, paragraph (d).

(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 an amount equal to 30 percent of the applicable food stamp allotment. When a sanction under this clause is in effect, a job counselor must attempt to meet with the person face-to-face. During the face-to-face meeting, a job counselor must explain the consequences of a subsequent drug test failure and inform the participant of the right to appeal the sanction under section 256J.40. If a face-to-face meeting is not possible, a county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting; and

(2) for failing a drug test two times, the participant is permanently disqualified from receiving food stamps. Before a disqualification under this provision is imposed, a job counselor must attempt to meet with the participant face-to-face. During the face-to-face meeting, the job counselor must identify other resources that may be available to the participant to meet the needs of the family and inform the participant of the right to appeal the disqualification under section 256J.40. If a face-to-face meeting is not possible, a county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5, and must include the information required in the face-to-face meeting.

(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.

[For text of subds 2 to 4, see M.S.2000]

History: 1Sp2001 c 9 art 10 s 17

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

[For text of subds 1 to 3, see M.S.2000]

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

[For text of subds 5 to 11, see M.S.2000]

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. 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.

History: *1Sp2001 c 9 art 2 s 57; art 10 s 18*

NOTE: The amendment to subdivision 12 by Laws 2001, First Special Session chapter 9, article 2, section 57, is effective July 1, 2002. Laws 2001, First Special Session chapter 9, article 2, section 57, the effective date.

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

[For text of subs 1 to 3, see M.S.2000]

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 family violence if used as a basis for a waiver from the 60-month time limit in section 256J.42 and regular 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 subs 5a to 7, see M.S.2000]

Subd. 7a. **Requirement to report to immigration and naturalization services.** The commissioner shall comply with the reporting requirements under United States Code, title 42, section 611a, and any federal regulation or guidance adopted under that law.

History: *1Sp2001 c 9 art 10 s 19,20*

256J.37 TREATMENT OF INCOME AND LUMP SUMS.

[For text of subs 1 to 8, see M.S.2000]

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 July 1, 2003, 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.

[For text of subd 10, see M.S.2000]

History: 1Sp2001 c 9 art 10 s 21

256J.39 PAYMENT PROVISIONS; VENDOR PAYMENTS.

[For text of subd 1, see M.S.2000]

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

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

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

(3) the vendor payment is part of a sanction under section 256J.46;

(4) the vendor payment is required under section 256J.24, subdivision 8, or 256J.26;

(5) protective payments are required for minor parents under section 256J.14; or

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

The director of a county agency, or the director's designee, must approve a proposal for protective or vendor payment for money mismanagement when there is a pattern of mismanagement under clause (6). During the time a protective or vendor payment is being made, the county agency must provide services designed to alleviate the causes of the mismanagement.

The continuing need for and method of payment must be documented and reviewed every 12 months. The director of a county agency or the director's designee must approve the continuation of protective or vendor payments. When it appears that the need for protective or vendor payments will continue or is likely to continue beyond two years because the county agency's efforts have not resulted in sufficiently improved use of assistance on behalf of the minor child, judicial appointment of a legal guardian or other legal representative must be sought by the county agency.

[For text of subds 3 and 4, see M.S.2000]

History: 1Sp2001 c.9 art 10 s 22

256J.415 NOTICE OF TIME LIMIT 12 MONTHS PRIOR TO 60-MONTH TIME LIMIT EXPIRING.

The county agency shall mail a notice to each assistance unit when the assistance unit has 12 months of TANF assistance remaining and each month thereafter until the 60-month limit has expired. The notice must be developed by the commissioner of human services and must contain information about the 60-month limit, the number of months the participant has remaining, the hardship extension policy, and any other information that the commissioner deems pertinent to an assistance unit nearing the 60-month limit.

History: *1Sp2001 c 9 art 10 s 23*

256J.42 60-MONTH TIME LIMIT; EXEMPTIONS.

Subdivision 1. **Time limit.** (a) Except as otherwise provided for 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 caregiver 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.

Subd. 3. **Adults living in Indian country.** In determining the number of months for which an adult has received assistance under MFIP-S, the county agency must disregard any month during which the adult lived in Indian country if during the month at least 50 percent of the adults living in Indian country were not employed.

Subd. 4. **Victims of family violence.** Any cash assistance received by an assistance unit in a month when a caregiver complied with a safety plan or after October 1, 2001, complied or is complying with an alternative employment plan under section 256J.49, subdivision 1a, does not count toward the 60-month limitation on assistance.

[For text of subd 5, see M.S.2000]

Subd. 6. **Case review.** (a) Within 180 days, but not less than 60 days, before the end of the participant's 60th month on assistance, the county agency or job counselor must review the participant's case to determine if the employment plan is still appropriate or if the participant is exempt under section 256J.56 from the employment and training services component, and attempt to meet with the participant face-to-face.

(b) During the face-to-face meeting, a county agency or the job counselor must:

(1) inform the participant how many months of counted assistance the participant has accrued and when the participant is expected to reach the 60th month;

(2) explain the hardship extension criteria under section 256J.425 and what the participant should do if the participant thinks a hardship extension applies;

(3) identify other resources that may be available to the participant to meet the needs of the family; and

(4) inform the participant of the right to appeal the case closure under section 256J.40.

(c) If a face-to-face meeting is not possible, the county agency must send the participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5.

(d) Before a participant's case is closed under this section, the county must ensure that:

(1) the case has been reviewed by the job counselor's supervisor or the review team designated in the county's approved local service unit plan to determine if the criteria for a hardship extension, if requested, were applied appropriately; and

(2) the county agency or the job counselor attempted to meet with the participant face-to-face.

History: *1Sp2001 c 9 art 10 s 24-27*

256J.425 HARDSHIP EXTENSIONS.

Subdivision 1. **Eligibility.** To be eligible for a hardship extension, a participant in an assistance unit subject to the time limit under section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance, must be in compliance in the month the participant is applying for the extension. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned.

Subd. 1a. **Review.** If a county grants a hardship extension under this section, a county agency shall review the case every six or 12 months, whichever is appropriate based on the participant's circumstances and the extension category.

Subd. 2. **Ill or incapacitated.** (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance, is eligible to receive months of assistance under a hardship extension if the participant belongs to any of the following groups:

(1) participants who are suffering from a professionally certified illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment and who are following the treatment recommendations of the health care provider certifying the illness, injury, or incapacity;

(2) participants whose presence in the home is required as a caregiver because of a professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household and the illness or incapacity is expected to continue for more than 30 days; or

(3) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this category are presumed to be prevented from obtaining or retaining employment.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3).

Subd. 3. **Hard-to-employ participants.** An assistance unit subject to the time limit in section 256J.42, subdivision 1, in which any participant has received 60 counted months of assistance, is eligible to receive months of assistance under a hardship extension if the participant belongs to any of the following groups:

(1) a person who is diagnosed by a licensed physician, psychological practitioner, or other qualified professional, as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining unsubsidized employment;

(2) a person who:

(i) has been assessed by a vocational specialist or the county agency to be unemployable for purposes of this subdivision; or

(ii) has an IQ below 80 who has been assessed by a vocational specialist or a county agency to be employable, but not at a level that makes the participant eligible for an extension under subdivision 4 or, in the case of a non-English-speaking person for whom it is not possible to provide a determination due to language barriers or absence of culturally appropriate assessment tools, is determined by a qualified professional to have an IQ below 80. A person is considered employable if positions of employment in the local labor market exist, regardless of the current availability of openings for those positions, that the person is capable of performing; or

(3) a person who is determined by the county agency to be learning disabled or, in the case of a non-English-speaking person for whom it is not possible to provide a medical diagnosis due to language barriers or absence of culturally appropriate assessment tools, is determined by a qualified professional to have a learning disability. If a rehabilitation plan for the person is developed or approved by the county agency, the plan must be incorporated into the employment plan. However, a rehabilitation plan does not replace the requirement to develop and comply with an employment plan under section 256J.52. For purposes of this section, "learning disabled" means the applicant or recipient has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. The disability must severely limit the applicant or recipient in obtaining, performing, or maintaining suitable employment. Learning disabled does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; mental retardation; emotional disturbance; or due to environmental, cultural, or economic disadvantage.

Subd. 4. Employed participants. (a) An assistance unit subject to the time limit under section 256J.42, subdivision 1, in which any participant has received 60 months of assistance, is eligible to receive assistance under a hardship extension if the participant belongs to:

(1) a one-parent assistance unit in which the participant is participating in work activities for at least 30 hours per week, of which an average of at least 25 hours per week every month are spent participating in employment; or

(2) a two-parent assistance unit in which the participants are participating in work activities for at least 55 hours per week, of which an average of at least 45 hours per week every month are spent participating in employment.

For purposes of this section, employment means:

(1) unsubsidized employment under section 256J.49, subdivision 13, clause (1);

(2) subsidized employment under section 256J.49, subdivision 13, clause (2);

(3) on-the-job training under section 256J.49, subdivision 13, clause (4);

(4) an apprenticeship under section 256J.49, subdivision 13, clause (19);

(5) supported work. For purposes of this section, "supported work" means services supporting a participant on the job which include, but are not limited to, supervision, job coaching, and subsidized wages;

(6) a combination of (1) to (5); or

(7) child care under section 256J.49, subdivision 13, clause (25), if it is in combination with paid employment.

(b) If a participant is complying with a child protection plan under chapter 260C, the number of hours required under the child protection plan count toward the number of hours required under this subdivision.

(c) The county shall provide the opportunity for subsidized employment to participants needing that type of employment within available appropriations.

(d) To be eligible for a hardship extension for employed participants under this subdivision, a participant in a one-parent assistance unit or both parents in a two-parent assistance unit must be in compliance for at least ten out of the 12 months immediately preceding the participant's 61st month on assistance. If only one parent in a two-parent assistance unit fails to be in compliance ten out of the 12 months immediately preceding the participant's 61st month, the county shall give the assistance

unit the option of disqualifying the noncompliant parent. If the noncompliant participant is disqualified, the assistance unit must be treated as a one-parent assistance unit for the purposes of meeting the work requirements under this subdivision and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

(e) The employment plan developed under section 256J.52, subdivision 5, for participants under this subdivision must contain the number of hours specified in paragraph (a) related to employment and work activities. The job counselor and the participant must sign the employment plan to indicate agreement between the job counselor and the participant on the contents of the plan.

(f) Participants who fail to meet the requirements in paragraph (a), without good cause under section 256J.57, shall be sanctioned or permanently disqualified under subdivision 6. Good cause may only be granted for that portion of the month for which the good cause reason applies. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification.

(g) If the noncompliance with an employment plan is due to the involuntary loss of employment, the participant is exempt from the hourly employment requirement under this subdivision for one month. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification. This exemption is available to one-parent assistance units two times in a 12-month period, and two-parent assistance units, two times per parent in a 12-month period.

(h) This subdivision expires on June 30, 2004.

Subd. 5. Accrual of certain exempt months. (a) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (7), from employment and training services requirements and who is no longer eligible for assistance under a hardship extension under subdivision 2, paragraph (a), clause (3), is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (7), from the employment and training services requirements.

(b) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 5.

Subd. 6. Sanctions for extended cases. (a) If one or both participants in an assistance unit receiving assistance under subdivision 3 or 4 are not in compliance with the employment and training service requirements in sections 256J.52 to 256J.55, the sanctions under this subdivision apply. For a first occurrence of noncompliance, an assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (d), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (d), clause (2). For a fourth occurrence of noncompliance, the assistance unit is disqualified from MFIP. If a participant is determined to be out of compliance, the participant may claim a good cause exception under section 256J.57, however, the participant may not claim an exemption under section 256J.56.

(b) If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

Subd. 7. Status of disqualified participants. (a) An assistance unit that is disqualified under subdivision 6, paragraph (a), may be approved for MFIP if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(b) An assistance unit that is disqualified under subdivision 6, paragraph (a), and that reapplies under paragraph (a) is subject to sanction under section 256J.46,

subdivision 1, paragraph (d), clause (1), for a first occurrence of noncompliance. A subsequent occurrence of noncompliance results in a permanent disqualification.

(c) If one participant in a two-parent assistance unit receiving assistance under a hardship extension under subdivision 3 or 4 is determined to be out of compliance with the employment and training services requirements under sections 256J.52 to 256J.55, the county shall give the assistance unit the option of disqualifying the noncompliant participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit for the purposes of meeting the work requirements under subdivision 4 and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a. An applicant who is disqualified from receiving assistance under this paragraph may reapply under paragraph (a). If a participant is disqualified from MFIP under this subdivision a second time, the participant is permanently disqualified from MFIP.

(d) Prior to a disqualification under this subdivision, a county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. If a face-to-face meeting is not conducted, the county agency must send the participant a notice of adverse action as provided in section 256J.31. During the face-to-face meeting, the county agency must:

(1) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (16), or services under a local intervention grant for self-sufficiency under section 256J.625;

(2) determine whether the participant qualifies for a good cause exception under section 256J.57;

(3) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(4) identify other resources that may be available to the participant to meet the needs of the family; and

(5) inform the participant of the right to appeal under section 256J.40.

Subd. 8. County extension request. A county may make a request to the commissioner of human services, and the commissioner may grant, an extension for a category of participants that are not extended under section 256J.425, provided the new category of participants is consistent with the existing extension policy in which an extension is provided to participants whose MFIP requirements conflict with other statutory requirements or obligations. By January 15 of each year, the commissioner must report to the chairs and ranking minority members of the senate and house committees having jurisdiction over health and human services the extensions that were granted under this section during the previous calendar year. The legislature must act in order for the extensions to continue. If the legislature fails to act by the end of the legislative session in which the extensions were reported, the extensions granted under this section during the previous calendar year expire on June 30 of that year.

History: *1Sp2001 c 9 art 10 s 28*

256J.43 [Repealed, 1Sp2001 c 9 art 10 s 67]

256J.44 [Repealed, 1Sp2001 c 9 art 10 s 67]

256J.45 ORIENTATION.

Subdivision 1. **County agency to provide orientation.** A county agency must provide a face-to-face orientation to each MFIP caregiver unless the caregiver is:

(1) a single parent, or one parent in a two-parent family, employed at least 35 hours per week; or

(2) a second parent in a two-parent family who is employed for 20 or more hours per week provided the first parent is employed at least 35 hours per week.

The county agency must inform caregivers who are not exempt under clause (1) or (2) 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.

[For text of subd 1a, see M.S.2000]

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

- (1) the necessity to obtain immediate employment;
- (2) the work incentives under MFIP, including the availability of the federal earned income tax credit and the Minnesota working family tax credit;
- (3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP, including a description of the range of work and training activities that are allowable under MFIP 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 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;
- (12) the work study programs available under the higher education system; and
- (13) effective October 1, 2001, information about the 60-month time limit exemption and waivers of regular employment and training requirements for family violence victims and referral information about shelters and programs for victims of family violence.

[For text of subd 3, see M.S.2000]

History: 1Sp2001 c 9 art 10 s 29,30

256J.46 SANCTIONS.

Subdivision 1. 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. Prior to the imposition of a sanction, a county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(b) A participant who fails to comply with an alternative employment plan must have the plan reviewed by a person trained in domestic violence and a job counselor or the county agency to determine if components of the alternative employment plan are

still appropriate. If the activities are no longer appropriate, the plan must be revised with a person trained in domestic violence and approved by a job counselor or the county agency. A participant who fails to comply with a plan that is determined not to need revision will lose their exemption and be required to comply with regular employment services activities.

(c) 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.55 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.

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

(1) For the first occurrence of noncompliance by a participant in an assistance unit, 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 by a participant in an assistance unit, or when each of the participants in a two-parent assistance unit have a first occurrence of noncompliance 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 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 the participant in a one-parent assistance unit returns to compliance. In a two-parent assistance unit, 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. If an assistance unit is sanctioned under this clause, the participant's case file must be reviewed as required under paragraph (e).

(e) When a sanction under paragraph (d), clause (2), is in effect, the county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must send the participant a written notice that includes the information required under clause (1).

(1) During the face-to-face meeting, the county agency must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (16), or services under a local intervention grant for self-sufficiency under section 256J.625;

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

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

(iv) determine whether the participant qualifies for an exemption from regular employment services requirements for victims of family violence under section 256J.52, subdivision 6;

(v) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(vi) identify other resources that may be available to the participant to meet the needs of the family; and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) 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 under section 256J.56, a good cause exception under section 256J.57, or an exemption for victims of family violence under section 256J.52, subdivision 6.

(3) 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.

Subd. 1a. [Repealed, 1Sp2001 c 9 art 10 s 67]

[For text of subd 2, see M.S.2000]

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 is considered to have a second occurrence of noncompliance and shall be sanctioned as provided in subdivision 1, paragraph (d), clause (2). Each subsequent occurrence of noncompliance shall be considered one additional occurrence and shall be subject to the applicable level of sanction under subdivision 1, paragraph (d), or section 256J.462. The requirement that the county conduct a review as specified in subdivision 1, paragraph (e), 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 subject to the applicable level of sanction under subdivision 1, paragraph (d), or section 256J.462.

The requirement that the county conduct a review as specified in subdivision 1, paragraph (e), 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 section 256J.462; or

(ii) has the sanction under subdivision 1, paragraph (d), or section 256J.462 removed upon completion of the review under subdivision 1, paragraph (c).

A participant remains subject to the applicable level of sanction under subdivision 1, paragraph (d), or section 256J.462 if the participant cooperates and is no longer subject to sanction under subdivision 2.

History: *1Sp2001 c 9 art 10 s 31,32*

256J.462 SANCTIONS; COUNTY OPTIONS.

Subdivision 1. **County sanction policy plan.** In addition to the sanctions under section 256J.46, a county agency may annually modify sanctions for noncompliant MFIP participants by implementing one of the sanction options under this section for a sixth or subsequent occurrence of noncompliance.

Subd. 2. **Procedure.** (a) If a county modifies sanctions for noncompliant participants, a county agency must develop and submit to the commissioner, by April 15, a proposed sanction policy plan that describes the sanctions imposed for each occurrence of noncompliance. A county agency must include the sanction policy plan as part of its local service unit plan under section 268.88.

(b) A county agency must send a written notice to MFIP participants at least 60 days before a county implements a modification of its sanction policy under this section. The county must also send a notice of adverse action prior to implementing a sanction under subdivision 3.

(c) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after the effective date of the sanctions implemented under this section shall be considered. If the participant is in 30 percent sanction in the month the sanction takes effect, that month counts as the first occurrence for purposes of applying the sanctions under this section, but the sanction shall remain at 30 percent for that month.

(d) If an assistance unit that is in sanction status moves to a county that has adopted more severe sanctions than the assistance unit's previous county of residence, the participant shall be subject to the level of sanction that was imposed in the previous county of residence for the first six months of residence in the new county or until the participant comes into compliance, whichever occurs earlier.

(e) If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

Subd. 3. **Sanction options.** A county agency may modify its sanction policy by implementing one of the following sanctions for a sixth or subsequent occurrence of noncompliance:

(a) The county agency may vendor pay the assistance unit's shelter or utility costs, or both costs, up to the amount of the cash portion of the MFIP grant for which the assistance unit is eligible. The residual amount of the grant after vendor payment, if any, shall be reduced to zero. The sanction must be in effect for a minimum of one month and shall be removed the month following the month in which the participant returns to compliance. In a two-parent assistance unit, the sanction must be in effect for a minimum of one month and shall be removed the month following the month in which both participants return to compliance. The vendor payment of shelter or utility costs, or both, shall be removed six months after the month in which the participant returns to compliance.

(b) The county agency may disqualify an assistance unit from receiving MFIP, both the cash and food portions. This disqualification must be in effect for one full month. Disqualification under this paragraph does not make a participant automatically ineligible for food stamps. The county shall determine eligibility for food stamps and assist the participant in applying for food stamps, if eligible.

Subd. 4. **Case review.** Before a sanction under this section is imposed, a county agency shall conduct the case review required under section 256J.46, subdivision 1, paragraph (e).

Subd. 5. **Eligibility after disqualification due to noncompliance.** In the sanction policy plan under subdivision 2, a county may propose restrictions on assistance units that reapply for MFIP after disqualification for noncompliance under subdivision 3, paragraph (b). Such restrictions may not include permanent disqualification for noncompliance. Any restrictions must be limited to the first six months of MFIP eligibility following reapplication, provided that the participant complies with work requirements for the entire six months. Such restrictions may include:

(1) requiring participants to comply with work requirements for a period not to exceed one month before the assistance unit could regain MFIP eligibility;

(2) requiring that reapplying assistance units remain in ten percent sanction for six months; and

(3) changing the policy for subsequent sanctions for noncompliance to shorten the time frame before disqualification.

Subd. 6. **Sanction policy review.** The commissioner may review a county's sanction policies and practices if the county has a high or low sanction rate as compared to other counties or a high sanction rate for certain hard-to-serve participants. The commissioner shall require a county agency to complete corrective actions to remedy identified agency errors or misapplications of policy and may suspend a county's authority to impose sanction options under this section until the corrective actions are taken.

History: *1Sp2001 c 9 art 10 s 33*

NOTE: This section, as added by Laws 2001, First Special Session chapter 9, article 10, section 33, is effective March 1, 2002. Laws 2001, First Special Session chapter 9, article 10, section 33, the effective date.

256J.48 EMERGENCY ASSISTANCE (EA).

[For text of subd 1, see M.S.2000]

Subd. 1a. **Processing emergency applications.** Within seven days of receiving the application, or sooner if the immediacy and severity of the situation warrants it, families must be notified in writing whether their application was approved, denied, or pending.

[For text of subds 2 to 4, see M.S.2000]

History: *1Sp2001 c 9 art 10 s 3-4*

256J.49 EMPLOYMENT AND TRAINING SERVICES; DEFINITIONS.

[For text of subd 1, see M.S.2000]

Subd. 1a. **Alternative employment plan.** "Alternative employment plan" means a plan that is based on an individualized assessment of need and is developed with a person trained in domestic violence and approved by the county or a job counselor. The plan may address safety, legal or emotional issues, and other demands on the family as a result of the family violence. The information in section 256J.515, clauses (1) to (8), must be included as part of the development of the alternative employment plan. The primary goal of an alternative employment plan is to ensure the safety of the caregiver and children. To the extent it is consistent with ensuring safety, an alternative employment plan shall also include activities that are designed to lead to self-sufficiency. An activity is inconsistent with ensuring safety if, in the opinion of a person trained in domestic violence, the activity would endanger the safety of the participant or children. An alternative employment plan may not automatically include a provision that requires a participant to obtain an order for protection or to attend counseling.

Subd. 2. **Family violence.** "Family violence" means:

- (1) physical acts that result, or threaten to result in, physical injury to an individual;
- (2) sexual abuse;
- (3) sexual activity involving a minor child;
- (4) being forced as the caregiver of a minor child to engage in nonconsensual sexual acts or activities;
- (5) threats of, or attempts at, physical or sexual abuse;
- (6) mental abuse; or
- (7) neglect or deprivation of medical care.

Claims of family violence must be documented by the applicant or participant providing a sworn statement, which is supported by collateral documentation. Collateral documentation may consist of any one of the following:

- (1) police, government agency, or court records;
- (2) a statement from a battered woman's shelter staff with knowledge of circumstances or credible evidence that supports the sworn statement;
- (3) a statement from a sexual assault or domestic violence advocate with knowledge of the circumstances or credible evidence that supports a sworn statement;
- (4) a statement from professionals from whom the applicant or recipient has sought assistance for the abuse; or
- (5) a sworn statement from any other individual with knowledge of circumstances or credible evidence that supports the sworn statement.

[For text of subds 3 to 10, see M.S.2000]

Subd. 11. [Repealed, 1Sp2001 c 9 art 10 s 67]

[For text of subd 12, see M.S.2000]

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

- (1) unsubsidized employment;
- (2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69;
- (3) work experience, including CWEP as specified in section 256J.67, and including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;
- (4) on-the-job training as specified in section 256J.66;
- (5) job search, either supervised or unsupervised;
- (6) job readiness assistance;
- (7) job clubs, including job search workshops;
- (8) job placement;
- (9) job development;
- (10) job-related counseling;
- (11) job coaching;
- (12) job retention services;
- (13) job-specific training or education;
- (14) job skills training directly related to employment;
- (15) the self-employment investment demonstration (SEID), as specified in section 256J.65;

(16) preemployment activities, based on availability and resources, such as volunteer work, literacy programs and related activities, citizenship classes, English as a second language (ESL) classes as limited by the provisions of section 256J.52, subdivisions 3, paragraph (d), and 5, paragraph (c), or participation in dislocated worker services, chemical dependency treatment, mental health services, peer group networks, displaced homemaker programs, strength-based resiliency training, parenting education, or other programs designed to help families reach their employment goals and enhance their ability to care for their children;

(17) community service programs;

(18) vocational educational training or educational programs that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

(19) apprenticeships;

(20) satisfactory attendance in general educational development diploma classes or an adult diploma program;

(21) satisfactory attendance at secondary school, if the participant has not received a high school diploma;

(22) adult basic education classes;

(23) internships;

(24) bilingual employment and training services;

(25) providing child care services to a participant who is working in a community service program; and

(26) activities included in an alternative employment plan that is developed under section 256J.52, subdivision 6.

History: *1Sp2001 c 9 art 10 s 35-37*

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 or within 30 days of receipt of a request for services from a caregiver who under section 256J.42 is no longer eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size. The request must be made within 12 months of the date the caregivers' MFIP case was closed.

[For text of subs 2 to 6, see M.S.2000]

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

(b) The plan must include a description of how projects funded under the local intervention grants for self-sufficiency in section 256J.625, subdivisions 2 and 3, operate in the local service unit, including:

(1) the target populations of hard-to-employ participants, working participants in need of job retention and wage advancement services, and caregivers who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP and whose income is below 120 percent of the federal poverty guidelines for a family of the same size, with a description of how individual participant needs will be met;

(2) services that will be provided which may include paid work experience, enhanced mental health services, outreach to sanctioned families and to caregivers who, within the last 12 months, have been determined under section 256J.42 to no

longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size, child care for social services, child care transition year set-aside, homeless and housing advocacy, and transportation;

(3) projected expenditures by activity;

(4) anticipated program outcomes including the anticipated impact the intervention efforts will have on performance measures under section 256J.751 and on reducing the number of MFIP participants expected to reach their 60-month time limit; and

(5) a description of services that are provided or will be provided to MFIP participants affected by chemical dependency, mental health issues, learning disabilities, or family violence.

Each plan must demonstrate how the county or tribe is working within its organization and with other organizations in the community to serve hard-to-employ populations, including how organizations in the community were engaged in planning for use of these funds, services other entities will provide under the plan, and whether multicounty or regional strategies are being implemented as part of this plan.

(c) Activities and expenditures in the plan must enhance or supplement MFIP activities without supplanting existing activities and expenditures. However, this paragraph does not require a county to maintain either:

(1) its current provision of child care assistance to MFIP families through the expenditure of county resources under chapter 256E for social services child care assistance if funds are appropriated by another law for an MFIP social services child care pool;

(2) its current provision of transition-year child care assistance through the expenditure of county resources if funds are appropriated by another law for this purpose; or

(3) its current provision of intensive ESL programs through the expenditure of county resources if funds are appropriated by another law for intensive ESL grants.

(d) The plan required under this subdivision must be approved before the local or county service unit is eligible to receive funds under section 256J.625, subdivisions 2 and 3.

[For text of subds 8 and 9, see M.S.2000]

Subd. 10. Required notification to victims of family violence. County agencies and their contractors must provide universal notification to all applicants and recipients of MFIP that:

(1) referrals to counseling and supportive services are available for victims of family violence;

(2) nonpermanent resident battered individuals married to United States citizens or permanent residents may be eligible to petition for permanent residency under the federal Violence Against Women Act, and that referrals to appropriate legal services are available;

(3) victims of family violence are exempt from the 60-month limit on assistance while the individual is complying with an approved safety plan or, after October 1, 2001, an alternative employment plan, as defined in section 256J.49, subdivision 1a; and

(4) victims of family violence may choose to have regular work requirements waived while the individual is complying with an alternative employment plan as defined in section 256J.49, subdivision 1a.

If an alternative plan is denied, the county or a job counselor must provide reasons why the plan is not approved and document how the denial of the plan does not interfere with the safety of the participant or children.

Notification must be in writing and orally at the time of application and recertification, when the individual is referred to the title IV-D child support agency, and at the beginning of any job training or work placement assistance program.

[For text of subd 11, see M.S.2000]

Subd. 12. **Access to persons trained in domestic violence.** In a county where there is no staff person who is trained in domestic violence, as that term is defined in section 256J.08, subdivision 67a, the county must work with the nearest organization that is designated as providing services to victims of domestic violence to develop a process, which ensures that domestic violence victims have access to a person trained in domestic violence.

History: *1Sp2001 c 9 art 10 s 38-41*

256J.515 OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that:

- (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;
- (7) explains the services that are available to support job search and work and education; and
- (8) provides referral information about shelters and programs for victims of family violence, the time limit exemption, and waivers of regular employment and training requirements for family violence victims.

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

Effective October 1, 2001, a participant who has an alternative employment plan under section 256J.52, subdivision 6, as defined in section 256J.49, subdivision 1a, or who is in the process of developing such a plan, is exempt from the requirement to attend the overview.

History: *1Sp2001 c 9 art 10 s 42*

256J.52 ASSESSMENTS; PLANS.

[For text of subd 1, see M.S.2000]

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

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

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

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

- (1) can be completed within 24 months; and
- (2) meets the criteria of section 256J.53, subdivisions 1, 2, 3, and 5.

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

[For text of subds 3 to 5a, see M.S.2000]

Subd. 6. Alternative employment plan and family violence waiver provisions. Participants who have a safety plan under section 256J.49, subdivision 11, prior to October 1, 2001, will have that plan converted to an alternative employment plan upon their plan renewal date. An alternative employment plan must be reviewed at the end of the first six months to determine if the activities contained in the alternative employment plan are still appropriate. It is the responsibility of the county or a job counselor to contact the participant and notify the participant that the plan is up for review and document whether the participant wishes to renew the plan. If the participant does not wish to renew the plan, or if the participant fails to respond after reasonable efforts to contact the participant are made by the county or a job counselor, the participant must participate in regular employment services activities. If the participant requests renewal of the plan or if there is a dispute over whether the plan is still appropriate, the participant must receive the assistance of a person trained in domestic violence. If the person trained in domestic violence recommends that the activities are still appropriate, the county or a job counselor must renew the alternative employment plan or provide written reasons why the plan is not approved and document how denial of the plan renewal does not interfere with the safety of the participant or children. If the person trained in domestic violence recommends that the activities are no longer appropriate, the plan must be revised with the assistance of a person trained in domestic violence. The county or a job counselor must approve the revised plan or provide written reasons why the plan is not approved and document how denial of the plan renewal does not interfere with the safety of the participant or children. After the first six months reviews may take place quarterly. During the time a participant is cooperating with the development or revision of an alternative employment plan, the participant is not subject to a sanction for noncompliance with regular employment services activities.

[For text of subds 7 to 9, see M.S.2000]

History: 1Sp2001 c 9 art 10 s 43,44

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

Subdivision 1. Length of program. In order for a post-secondary education or training program to be approved work activity as defined in section 256J.49, subdivision 13, clause (18), it must be a program lasting 24 months or less, and the participant must meet the requirements of subdivisions 2 and 3.

[For text of subds 2 and 3, see M.S.2000]

Subd. 4. [Repealed, 1Sp2001 c 9 art 10 s 67]

[For text of subd 5, see M.S.2000]

History: 1Sp2001 c 9 art 10 s 45

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

(a) An MFIP participant is exempt from the requirements of sections 256J.52 to 256J.55 if the participant belongs to any of the following groups:

- (1) participants who are age 60 or older;

(2) participants 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) participants whose presence in the home is required as a caregiver because of a professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household and the illness or incapacity is expected to continue for more than 30 days;

(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) participants 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. A personal or family crisis related to family violence, as determined by the county or a job counselor with the assistance of a person trained in domestic violence, should not result in an exemption, but should be addressed through the development or revision of an alternative employment plan under section 256J.52, subdivision 6; or

(7) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this exemption category are presumed to be prevented from obtaining or retaining employment.

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 participants 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 participants under section 256J.50, subdivision 5, do not apply to exempt participants who volunteer to participate.

History: *1Sp2001 c 9 art 10 s 46*

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

[For text of subd 1, see M.S.2000]

Subd. 2. **Notice of intent to sanction.** (a) When a participant fails without good cause to comply with the requirements of sections 256J.52 to 256J.55, the job counselor or the county agency must provide a notice of intent to sanction to the participant specifying the program requirements that were not complied with, informing the participant that the county agency will impose the sanctions specified in section 256J.46, and informing the participant of the opportunity to request a conciliation conference as specified in paragraph (b). The notice must also state that the participant's continuing noncompliance with the specified requirements will result in addition-

al sanctions under section 256J.46, without the need for additional notices or conciliation conferences under this subdivision. The notice, written in English, must include the department of human services language block, and must be sent to every applicable participant. If the participant does not request a conciliation conference within ten calendar days of the mailing of the notice of intent to sanction, the job counselor must notify the county agency that the assistance payment should be reduced. The county must then send a notice of adverse action to the participant informing the participant of the sanction that will be imposed, the reasons for the sanction, the effective date of the sanction, and the participant's right to have a fair hearing under section 256J.40.

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

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

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

History: *1Sp2001 c 9 art 10 s 47*

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

[For text of subd 1, see M.S.2000]

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; and

(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.

[For text of subds 4 to 8, see M.S.2000]

Subd. 9. **Continuation of certain services.** At the request of the participant, the county may continue to provide case management, counseling, or other support services to a participant:

- (a) who has achieved the employment goal; or
- (b) who under section 256J.42 is no longer eligible to receive MFIP.

These services may be provided for up to 12 months following termination of the participant's eligibility for MFIP.

History: *1Sp2001 c 9 art 10 s 48,49*

256J.625 LOCAL INTERVENTION GRANTS FOR SELF-SUFFICIENCY.

Subdivision 1. Establishment; guaranteed minimum allocation. (a) The commissioner shall make grants under this subdivision to assist county and tribal TANF programs to more effectively serve hard-to-employ MFIP participants and participants who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size. Funds appropriated for local intervention grants for self-sufficiency must be allocated first in amounts equal to the guaranteed minimum in paragraph (b), and second according to the provisions of subdivision 2. Any remaining funds must be allocated according to the formula in subdivision 3. Counties or tribes must have an approved local service unit plan under section 256J.50, subdivision 7, paragraph (b), in order to receive and expend funds under subdivisions 2 and 3.

(b) Each county or tribal program shall receive a guaranteed minimum annual allocation of \$25,000.

Subd. 2. Set-aside funds. (a) Of the funds appropriated for grants under this section, after the allocation in subdivision 1, paragraph (b), is made, 20 percent of the remaining funds each year shall be retained by the commissioner and awarded to counties or tribes whose approved plans demonstrate additional need based on their identification of hard-to-employ families, working participants in need of job retention and wage advancement services, and participants who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size, strong anticipated outcomes for families and an effective plan for monitoring performance, or, use of a multicounty, multi-entity or regional approach to serve hard-to-employ families, working participants in need of job retention and wage advancement services, and participants who, within the last 12 months, have been determined under section 256J.42 to no longer be eligible to receive MFIP but whose income is below 120 percent of the federal poverty guidelines for a family of the same size, who are identified as a target population to be served in the plan submitted under section 256J.50, subdivision 7, paragraph (b). In distributing funds under this paragraph, the commissioner must achieve a geographic balance. The commissioner may award funds under this paragraph to other public, private, or nonprofit entities to deliver services in a county or region where the entity or entities submit a plan that demonstrates a strong capability to fulfill the terms of the plan and where the plan shows an innovative or multi-entity approach.

(b) For fiscal year 2001 only, of the funds available under this subdivision the commissioner must allocate funding in the amounts specified in article 1, section 2, subdivision 7, for an intensive intervention transitional employment training project and for nontraditional career assistance and training programs. These allocations must occur before any set-aside funds are allocated under paragraph (a).

[For text of subds 2a and 3, see M.S.2000]

Subd. 4. Use of funds. (a) A county or tribal program may use funds allocated under this subdivision to provide services to MFIP participants who are hard-to-employ and their families. Services provided must be intended to reduce the number of MFIP participants who are expected to reach the 60-month time limit under section 256J.42. Counties, tribes, and other entities receiving funds under subdivision 2 or 3 must submit semiannual progress reports to the commissioner which detail program outcomes.

(b) Funds allocated under this section may not be used to provide benefits that are defined as "assistance" in Code of Federal Regulations, title 45, section 260.31, to an

assistance unit that is only receiving the food portion of MFIP benefits or under section 256J.42 is no longer eligible to receive MFIP.

(c) A county may use funds allocated under this section for that part of the match for federal access to jobs transportation funds that is TANF-eligible. A county may also use funds allocated under this section to enhance transportation choices for eligible recipients up to 150 percent of the federal poverty guidelines.

[For text of subd 5, see M.S.2000]

History: *1Sp2001 c 9 art 10 s 50-52*

256J.645 INDIAN TRIBE MFIP EMPLOYMENT SERVICES.

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

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

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

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

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

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

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

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

Subd. 3. **Funding.** If the commissioner and an Indian tribe are parties to an agreement under this subdivision, the agreement shall annually provide to the Indian tribe the funding allocated in section 256J.62, subdivisions 1 and 2a.

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

History: *1Sp2001 c 9 art 10 s 53*

256J.751 COUNTY PERFORMANCE MANAGEMENT.

Subdivision 1. **Quarterly county caseload report.** The commissioner shall report quarterly to each county on the county's performance on the following measures:

(1) number of cases receiving only the food portion of assistance;

(2) number of child-only cases;

(3) number of minor caregivers;

(4) number of cases that are exempt from the 60-month time limit by the exemption category under section 256J.42;

(5) number of participants who are exempt from employment and training services requirements by the exemption category under section 256J.56;

(6) number of assistance units receiving assistance under a hardship extension under section 256J.425;

(7) number of participants and number of months spent in each level of sanction under section 256J.46, subdivision 1;

(8) number of MFIP cases that have left assistance;

(9) federal participation requirements as specified in title 1 of Public Law Number 104-193;

(10) median placement wage rate; and

(11) of each county's total MFIP caseload less the number of cases in clauses (1) to (6):

(i) number of one-parent cases;

(ii) number of two-parent cases;

(iii) percent of one-parent cases that are working more than 20 hours per week;

(iv) percent of two-parent cases that are working more than 20 hours per week; and

(v) percent of cases that have received more than 36 months of assistance.

Subd. 2. **Quarterly comparison report.** The commissioner shall report quarterly to all counties on 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;

(5) median placement wage rate; and

(6) caseload by months of TANF assistance.

Subd. 3. **Annual report.** The commissioner must report to all counties and to the legislature on each county's annual performance on the measures required under subdivision 1 by racial and ethnic group and, to the extent consistent with state and federal law, must include each county's performance on:

(1) the number of out-of-wedlock births and births to teen mothers; and

(2) number of cases by racial and ethnic group.

The report must be completed by January 1, 2002, and January 1 of each year thereafter and must comply with sections 3.195 and 3.197.

Subd. 4. **Development of performance measures.** By January 1, 2002, the commissioner shall, in consultation with counties, develop measures for county performance in addition to those in subdivisions 1 and 2. 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;

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

(4) the appropriateness of services provided to minority groups.

Subd. 5. **Failure to meet federal performance standards.** (a) 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.

(b) 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: *1Sp2001 c 9 art 10 s 54*