

CHAPTER 256J

MINNESOTA FAMILY INVESTMENT PROGRAM

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256J.01 ESTABLISHING MINNESOTA FAMILY INVESTMENT PROGRAM.

[For text of subs 1 to 4, see M.S.2002]

Subd. 5. **Compliance system.** The commissioner shall administer a compliance system for the state's temporary assistance for needy families (TANF) program, the food stamp or food support program, general assistance, medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, preadmission screening, child support program, and alternative care grants under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanction and fiscal disallowances for noncompliance with federal regulations and state statutes.

History: *1Sp2003 c 14 art 1 s 8,106*

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

[For text of subd 1, see M.S.2002]

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

- (1) financial assistance to or on behalf of any minor child who is a resident of this state under section 256J.12;
- (2) the health care and human services training and retention program under chapter 116L, for costs associated with families with children with incomes below 200 percent of the federal poverty guidelines;

- (3) the pathways program under section 116L.04, subdivision 1a;
- (4) welfare to work transportation authorized under Public Law 105-178;
- (5) reimbursements for the federal share of child support collections passed through to the custodial parent;
- (6) reimbursements for the working family credit under section 290.0671;
- (7) program administration under this chapter;
- (8) the diversionary work program under section 256J.95;
- (9) the MFIP consolidated fund under section 256J.626; and
- (10) the Minnesota Department of Health consolidated fund under Laws 2001, First Special Session chapter 9, article 17, section 3, subdivision 2.

Subd. 3. [Repealed, 1Sp2003 c 14 art 1 s 107]

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

[For text of subd 5, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 9; art 11 s 11

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 MFIP 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: 1Sp2003 c 14 art 1 s 10

256J.08 DEFINITIONS.

[For text of subs 1 to 11, see M.S.2002]

Subd. 11a. **Child only case.** "Child only case" means a case that would be part of the child only TANF program under section 256J.88.

[For text of subs 12 to 24a, see M.S.2002]

Subd. 24b. **Diversionary work program or DWP.** "Diversionary work program" or "DWP" has the meaning given in section 256J.95.

[For text of subs 25 to 27, see M.S.2002]

Subd. 28. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subd 28a, see M.S.2002]

Subd. 28b. **Employable.** "Employable" means a person is capable of performing existing positions in the local labor market, regardless of the current availability of openings for those positions.

[For text of subs 29 to 34, see M.S.2002]

Subd. 34a. **Family violence.** (a) "Family violence" means the following, if committed against a family or household member by a family or household member:

- (1) physical harm, bodily injury, or assault;
- (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
- (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344,

609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

(b) For the purposes of family violence, "family or household member" means:

- (1) spouses and former spouses;
- (2) parents and children;
- (3) persons related by blood;
- (4) persons who are residing together or who have resided together in the past;
- (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
- (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at anytime; and
- (7) persons involved in a current or past significant romantic or sexual relationship.

Subd. 34b. **Family violence waiver.** "Family violence waiver" means a waiver of the 60-month time limit for victims of family violence who meet the criteria in section 256J.545 and are complying with an employment plan in section 256J.521, subdivision 3.

Subd. 35. **Family wage level.** "Family wage level" means 110 percent of the transitional standard as specified in section 256J.24, subdivision 7.

[For text of subds 36 to 38, see M.S.2002]

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

[For text of subds 40 to 51a, see M.S.2002]

Subd. 51b. **Learning disabled.** "Learning disabled," for purposes of an extension to the 60-month time limit under section 256J.425, subdivision 3, clause (3), means the person has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. 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.

[For text of subds 52 to 64, see M.S.2002]

Subd. 65. **Participant.** "Participant" means a person who is currently receiving cash assistance or the food portion available through MFIP. A person who fails to withdraw or access electronically any portion of the person's cash and food assistance payment by the end of the payment month, who makes a written request for closure before the first of a payment month and repays cash and food assistance electronically issued for that payment month within that payment month, or who returns any uncashed assistance check and food coupons and withdraws from the program is not a participant. A person who withdraws a cash or food assistance payment by electronic transfer or receives and cashes an MFIP assistance check or food coupons and is subsequently determined to be ineligible for assistance for that period of time is a participant, regardless whether that assistance is repaid. The term "participant" includes the caregiver relative and the minor child whose needs are included in the assistance payment. A person in an assistance unit who does not receive a cash and food assistance payment because the case has been suspended from MFIP is a participant. A person who receives cash payments under the diversionary work program under section 256J.95 is a participant.

Subd. 65a. **Participation requirements of TANF.** "Participation requirements of TANF" means activities and hourly requirements allowed under title IV-A of the federal Social Security Act.

[For text of subds 66 to 69, see M.S.2002]

Subd. 70. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subds 71 to 73, see M.S.2002]

Subd. 73a. **Qualified professional.** (a) For physical illness, injury, or incapacity, a “qualified professional” means a licensed physician, a physician’s assistant, a nurse practitioner, or a licensed chiropractor.

(b) For mental retardation and intelligence testing, a “qualified professional” means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.

(c) For learning disabilities, a “qualified professional” means a licensed psychologist or school psychologist with experience determining learning disabilities.

(d) For mental health, a “qualified professional” means a licensed physician or a qualified mental health professional. A “qualified mental health professional” means:

(1) for children, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master’s degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master’s supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) for adults, in psychiatric nursing, a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification organization or who has a master’s degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master’s supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in clinical social work, a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master’s degree in social work from an accredited college or university, with at least 4,000 hours of post-master’s supervised experience in the delivery of clinical services in the treatment of mental illness;

(4) in psychology, an individual licensed by the Board of Psychology under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;

(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry; and

(6) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of post-master’s supervised experience in the delivery of clinical services in the treatment of mental illness.

[For text of subds 74 to 81, see M.S.2002]

Subd. 82. **Sanction.** “Sanction” means the reduction of a family’s assistance payment by a specified percentage of the MFIP standard of need because: a nonexempt participant fails to comply with the requirements of sections 256J.515 to 256J.57; a parental caregiver fails without good cause to cooperate with the child support enforcement requirements; or a participant fails to comply with other requirements of this chapter.

[For text of subs 82a to 84, see M.S.2002]

Subd. 84a. **SSI recipient.** "SSI recipient" means a person who receives at least \$1 in SSI benefits, or who is not receiving an SSI benefit due to recoupment or a one-month suspension by the Social Security Administration due to excess income.

Subd. 85. **Transitional standard.** "Transitional standard" means the basic standard for a family without earned income and is a combination of the cash portion and food portion as specified in section 256J.24, subdivision 5.

[For text of subs 86 to 89, see M.S.2002]

Subd. 90. **Severe forms of trafficking in persons.** "Severe forms of trafficking in persons" means: (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act has not attained 18 years of age; or (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

History: 2003 c 130 s 12; 1Sp2003 c 14 art 1 s 11-24

256J.09 APPLYING FOR ASSISTANCE.

[For text of subd 1, see M.S.2002]

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 any 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.515 to 256J.57;

(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 assessment under section 256J.521.

(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 another program that is not partially funded through the federal temporary assistance to needy families block grant under Title I of Public Law 104-193, including the expedited issuance of food stamps under section 256J.28, subdivision 1. If the applicant appears eligible for another program, including any program funded by the MFIP consolidated fund, the county must make a referral to the appropriate program.

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 without a high school diploma or its equivalent and explain to the applicant the assessment procedures and employment plan requirements under section 256J.54;

(2) explain to the applicant the eligibility criteria in section 256J.545 for the family violence waiver, and what an applicant should do to develop an 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 assessment under section 256J.521;

(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 subs 4 to 7, see M.S.2002]

Subd. 8. **Additional applications.** Until a county agency issues notice of approval or denial, additional applications submitted by an applicant are void. However, an application for monthly assistance or other benefits funded under section 256J.626 and an application for emergency general assistance may exist concurrently. More than one application for monthly assistance or emergency general assistance may exist concurrently when the county agency decisions on one or more earlier applications have been appealed to the commissioner, and the applicant asserts that a change in circumstances has occurred that would allow eligibility. A county agency must require additional application forms or supplemental forms as prescribed by the commissioner when a payee's name changes, or when a caregiver requests the addition of another person to the assistance unit.

[For text of subd 9, see M.S.2002]

Subd. 10. **Applicants who do not meet eligibility requirements for MFIP or the diversionary work program.** When an applicant is not eligible for MFIP or the diversionary work program under section 256J.95 because the applicant does not meet eligibility requirements, the county agency must determine whether the applicant is eligible for food stamps, food support, or health care programs. The county must also inform applicants about resources available through the county or other agencies to meet short-term emergency needs.

History: 1Sp2003 c 14 art 1 s 25-30, 106

256J.11 CITIZENSHIP.

[For text of subd 1, see M.S.2002]

Subd. 2. **Noncitizens; food portion.** State dollars shall fund the food portion of a noncitizen's MFIP benefits when federal food stamp dollars cannot be used to fund those benefits. The assistance provided under this subdivision, which is designated as a supplement to replace lost benefits under the federal food stamp program, must be disregarded as income in all programs that do not count food stamps or food support as income where the commissioner has the authority to make the income disregard determination for the program.

[For text of subd 3, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 106

256J.14 ELIGIBILITY FOR PARENTING OR PREGNANT MINORS.

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

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

(i) a natural or adoptive parent;

(ii) a legal guardian according to appointment or acceptance under section 260C.325, 525.615, or 525.6165, and related laws;

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

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

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

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

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

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

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

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

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

(c) The county agency shall inform minor applicants both orally and in writing about the eligibility requirements, their rights and obligations under the MFIP program, and any other applicable orientation information. The county must advise the minor of the possible exemptions under section 256J.54, subdivision 5, and specifically ask whether one or more of these exemptions is applicable. If the minor alleges one or more of these exemptions, then the county must assist the minor in obtaining the necessary verifications to determine whether or not these exemptions apply.

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

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

(f) Regardless of living arrangement, MFIP must be paid, when possible, in the form of a protective payment on behalf of the minor parent and minor child according to section 256J.39, subdivisions 2 to 4.

History: *1Sp2003 c 14 art 1 s 31*

256J.20 PROPERTY LIMITATIONS.

[For text of subds 1 and 2, see M.S.2002]

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 payments for the current month's or short-term emergency needs under section 256J.626, subdivision 2;
- (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: 1Sp2003 c 14 art 1 s 32

256J.21 INCOME LIMITATIONS.

Subdivision 1. Income inclusions. To determine MFIP eligibility, the county agency must evaluate income received by members of an assistance unit, or by other persons whose income is considered available to the assistance unit, and only count income that is available to the member of the assistance unit. Income is available if the individual has legal access to the income. All payments, unless specifically excluded in subdivision 2, must be counted as income. The county agency shall verify the income of all MFIP recipients and applicants.

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 Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(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) payments for short-term emergency needs under section 256J.626, subdivision 2;

(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 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, except as described in section 256J.37, subdivision 3b;

(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 economic stability;
- (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 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 Laws 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.2002]

History: 1Sp2003 c 14 art 1 s 33,34

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

[For text of subds 1 and 2, see M.S.2002]

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

(1) individuals who are recipients of Supplemental Security Income or Minnesota supplemental aid;

(2) individuals disqualified from the food stamp or food support program or MFIP, until the disqualification ends;

(3) children on whose behalf federal, state or local foster care payments are made, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; and

(4) children receiving ongoing monthly adoption assistance payments under section 259.67.

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

[For text of subd 4, see M.S.2002]

Subd. 5. MFIP transitional standard. The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, 2002.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	\$370:	\$250	\$120
2	\$658:	\$437	\$221
3	\$844:	\$532	\$312
4	\$998:	\$621	\$377
5	\$1,135:	\$697	\$438
6	\$1,296:	\$773	\$523
7	\$1,414:	\$850	\$564
8	\$1,558:	\$916	\$642
9	\$1,700:	\$980	\$720
10	\$1,836:	\$1,035	\$801
over 10	add \$136:	\$53	\$83

per additional member.

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food portions.

[For text of subd 5a, see M.S.2002]

Subd. 6. Family cap. (a) MFIP assistance units shall not receive an increase in the cash portion of the transitional standard as a result of the birth of a child, unless one of the conditions under paragraph (b) is met. The child shall be considered a member of

the assistance unit according to subdivisions 1 to 3, but shall be excluded in determining family size for purposes of determining the amount of the cash portion of the transitional standard under subdivision 5. The child shall be included in determining family size for purposes of determining the food portion of the transitional standard. The transitional standard under this subdivision shall be the total of the cash and food portions as specified in this paragraph. The family wage level under this subdivision shall be based on the family size used to determine the food portion of the transitional standard.

(b) A child shall be included in determining family size for purposes of determining the amount of the cash portion of the MFIP transitional standard when at least one of the following conditions is met:

(1) for families receiving MFIP assistance on July 1, 2003, the child is born to the adult parent before May 1, 2004;

(2) for families who apply for the diversionary work program under section 256J.95 or MFIP assistance on or after July 1, 2003, the child is born to the adult parent within ten months of the date the family is eligible for assistance;

(3) the child was conceived as a result of a sexual assault or incest, provided that the incident has been reported to a law enforcement agency;

(4) the child's mother is a minor caregiver as defined in section 256J.08, subdivision 59, and the child, or multiple children, are the mother's first birth; or

(5) any child previously excluded in determining family size under paragraph (a) shall be included if the adult parent or parents have not received benefits from the diversionary work program under section 256J.95 or MFIP assistance in the previous ten months. An adult parent or parents who reapply and have received benefits from the diversionary work program or MFIP assistance in the past ten months shall be under the ten-month grace period of their previous application under clause (2).

(c) Income and resources of a child excluded under this subdivision, except child support received or distributed on behalf of this child, must be considered using the same policies as for other children when determining the grant amount of the assistance unit.

(d) The caregiver must assign support and cooperate with the child support enforcement agency to establish paternity and collect child support on behalf of the excluded child. Failure to cooperate results in the sanction specified in section 256J.46, subdivisions 2 and 2a. Current support paid on behalf of the excluded child shall be distributed according to section 256.741, subdivision 15.

(e) County agencies must inform applicants of the provisions under this subdivision at the time of each application and at recertification.

(f) Children excluded under this provision shall be deemed MFIP recipients for purposes of child care under chapter 119B.

Subd. 7. Family wage level. The family wage level is 110 percent of the transitional standard under subdivision 5 or 6, when applicable, and is the standard used when there is earned income in the assistance unit. As specified in section 256J.21, earned income is subtracted from the family wage level to determine the amount of the assistance payment. The assistance payment may not exceed the transitional standard under subdivision 5 or 6, or the shared household standard under subdivision 9, whichever is applicable, for the assistance unit.

Subd. 8. [Repealed, 1Sp2003 c 14 art 1 s 107]

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 or food support, 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 115 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 or food support cost-of-living adjustment is reflected in the food portion of MFIP transitional standard as required under subdivision 5a.

History: *1Sp2003 c 14 art 1 s 35-39,106*

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 or food support. 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 food support or participants receiving only food stamps or food support, who have been convicted of a drug offense that occurred after July 1, 1997, may, if otherwise eligible, receive food stamps or food support 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 or food support shall be reduced by an amount equal to 30 percent of the applicable food stamp or food support 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 or food support. 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 subs 2 to 4, see M.S.2002]

History: *1Sp2003 c 14 art 1 s 106*

256J.29 INELIGIBILITY FOR STATE-FUNDED PROGRAMS.

Beginning July 1, 2007, legal noncitizens ineligible for federally funded cash or food benefits due to 1996 changes in federal law and subsequent relevant enactments, who are eligible for state-funded MFIP cash or food assistance, will be ineligible for state-funded MFIP under this chapter.

History: *1997 c 203 art 9 s 21; 1998 c 407 art 6 s 111; 2000 c 488 art 10 s 28; 1Sp2001 c 9 art 10 s 62; 1Sp2003 c 14 art 1 s 105*

256J.30 APPLICANT AND PARTICIPANT REQUIREMENTS AND RESPONSIBILITIES.

[For text of subs 1 to 8, see M.S.2002]

Subd. 9. **Changes that must be reported.** A caregiver must report the changes or anticipated changes specified in clauses (1) to (16) within ten days of the date they occur, at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or within eight calendar days of a reporting period as in subdivision 5 or 6, whichever occurs first. A caregiver must report other changes at the time of the periodic recertification of eligibility under section 256J.32, subdivision 6, or at the end

of a reporting period under subdivision 5 or 6, as applicable. A caregiver must make these reports in writing to the county agency. When a county agency could have reduced or terminated assistance for one or more payment months if a delay in reporting a change specified under clauses (1) to (15) had not occurred, the county agency must determine whether a timely notice under section 256J.31, subdivision 4, could have been issued on the day that the change occurred. When a timely notice could have been issued, each month's overpayment subsequent to that notice must be considered a client error overpayment under section 256J.38. Calculation of overpayments for late reporting under clause (16) is specified in section 256J.09, subdivision 9. Changes in circumstances which must be reported within ten days must also be reported on the MFIP household report form for the reporting period in which those changes occurred. Within ten days, a caregiver must report:

- (1) a change in initial employment;
- (2) a change in initial receipt of unearned income;
- (3) a recurring change in unearned income;
- (4) a nonrecurring change of unearned income that exceeds \$30;
- (5) the receipt of a lump sum;
- (6) an increase in assets that may cause the assistance unit to exceed asset limits;
- (7) a change in the physical or mental status of an incapacitated member of the assistance unit if the physical or mental status is the basis of exemption from an MFIP employment services program under section 256J.56, or as the basis for reducing the hourly participation requirements under section 256J.55, subdivision 1, or the type of activities included in an employment plan under section 256J.521, subdivision 2;
- (8) a change in employment status;
- (9) information affecting an exception under section 256J.24, subdivision 9;
- (10) the marriage or divorce of an assistance unit member;
- (11) the death of a parent, minor child, or financially responsible person;
- (12) a change in address or living quarters of the assistance unit;
- (13) the sale, purchase, or other transfer of property;
- (14) a change in school attendance of a caregiver under age 20 or an employed child;
- (15) filing a lawsuit, a workers' compensation claim, or a monetary claim against a third party; and
- (16) a change in household composition, including births, returns to and departures from the home of assistance unit members and financially responsible persons, or a change in the custody of a minor child.

Subd. 10. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subs 11 and 12, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 40

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

[For text of subd 1, see M.S.2002]

Subd. 2. **Documentation.** The applicant or participant must document the information required under subdivisions 4 to 6 or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so. The county agency may accept an affidavit only for factors specified under subdivision 8.

[For text of subd 3, see M.S.2002]

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) burial accounts;
- (18) school attendance, if related to eligibility;
- (19) residence;
- (20) a claim of family violence if used as a basis to qualify for the family violence waiver;
- (21) disability if used as the basis for an exemption from employment and training services requirements under section 256J.56 or as the basis for reducing the hourly participation requirements under section 256J.55, subdivision 1, or the type of activity included in an employment plan under section 256J.521, subdivision 2; and
- (22) information needed to establish an exception under section 256J.24, subdivision 9.

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

[For text of subds 6 to 7a, see M.S.2002]

Subd. 8. **Affidavit.** The county agency may accept an affidavit from the applicant or recipient as sufficient documentation at the time of application or recertification only for the following factors:

- (1) a claim of family violence if used as a basis to qualify for the family violence waiver;
- (2) information needed to establish an exception under section 256J.24, subdivision 9;
- (3) relationship of a minor child to caregivers in the assistance unit; and
- (4) citizenship status from a noncitizen who reports to be, or is identified as, a victim of severe forms of trafficking in persons, if the noncitizen reports that the noncitizen's immigration documents are being held by an individual or group of individuals against the noncitizen's will. The noncitizen must follow up with the Office of Refugee Resettlement (ORR) to pursue certification. If verification that certification is being pursued is not received within 30 days, the MFIP case must be closed and the agency shall pursue overpayments. The ORR documents certifying the noncitizen's

status as a victim of severe forms of trafficking in persons, or the reason for the delay in processing, must be received within 90 days, or the MFIP case must be closed and the agency shall pursue overpayments.

History: *1Sp2003 c 14 art 1 s 41-44*

256J.37 TREATMENT OF INCOME AND LUMP SUMS.

[For text of subs 1 to 3, see M.S.2002]

Subd. 3a. Rental subsidies; unearned income. (a) Effective July 1, 2003, the county agency shall count \$50 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$50. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment; or

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

Subd. 3b. Treatment of supplemental security income. Effective July 1, 2003, the county shall reduce the cash portion of the MFIP grant by \$125 per SSI recipient who resides in the household, and who would otherwise be included in the MFIP assistance unit under section 256J.24, subdivision 2, but is excluded solely due to the SSI recipient status under section 256J.24, subdivision 3, paragraph (a), clause (1). If the SSI recipient receives less than \$125 of SSI, only the amount received shall be used in calculating the MFIP cash assistance payment. This provision does not apply to relative caregivers who could elect to be included in the MFIP assistance unit under section 256J.24, subdivision 4, unless the caregiver's children or stepchildren are included in the MFIP assistance unit.

[For text of subs 4 to 8, see M.S.2002]

Subd. 9. Unearned income. 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.

[For text of subd 10, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 45-47

256J.38 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.

[For text of subds 1 and 2, see M.S.2002]

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

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

[For text of subds 5 to 9, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 48,49

256J.39 PAYMENT PROVISIONS; VENDOR PAYMENTS.

[For text of subd 1, see M.S.2002]

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.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 subs 3 and 4, see M.S.2002]

History: *1Sp2003 c 14 art 1 s 106*

256J.40 FAIR HEARINGS.

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

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

Except for benefits issued under section 256J.95, a county agency must not reduce, suspend, or terminate payment when an aggrieved participant requests a fair hearing prior to the effective date of the adverse action or within ten days of the mailing of the notice of adverse action, whichever is later, unless the participant requests in writing not to receive continued assistance pending a hearing decision. An appeal request cannot extend benefits for the diversionary work program under section 256J.95 beyond the four-month time limit. Assistance issued pending a fair hearing is subject to recovery under section 256J.38 when as a result of the fair hearing decision the participant is determined ineligible for assistance or the amount of the assistance received. A county agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the participant change and are not related to the issue on appeal. The commissioner's order is binding on a county agency. No additional notice is required to enforce the commissioner's order.

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

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

History: *1Sp2003 c 14 art 1 s 50*

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

[For text of subs 1 and 3, see M.S.2002]

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, an alternative employment plan, or an employment plan under section 256J.521, subdivision 3, does not count toward the 60-month limitation on assistance.

Subd. 5. **Exemption for certain families.** (a) Any cash assistance received by an assistance unit does not count toward the 60-month limit on assistance during a month in which the caregiver is age 60 or older, including months during which the caregiver was exempt under section 256J.56, paragraph (a), clause (1).

(b) From July 1, 1997, until the date MFIP is operative in the caregiver's county of financial responsibility, any cash assistance received by a caregiver who is complying with Minnesota Statutes 1996, section 256.73, subdivision 5a, and Minnesota Statutes 1998, section 256.736, if applicable, does not count toward the 60-month limit on assistance. Thereafter, any cash assistance received by a minor caregiver who is complying with the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards the 60-month limit on assistance.

(c) Any diversionary assistance or emergency assistance received prior to July 1, 2003, does not count toward the 60-month limit.

(d) Any cash assistance received by an 18- or 19-year-old caregiver who is complying with an employment plan that includes an education option under section 256J.54 does not count toward the 60-month limit.

(e) Payments provided to meet short-term emergency needs under section 256J.626 and diversionary work program benefits provided under section 256J.95 do not count toward the 60-month time limit.

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 by the county 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: 1Sp2003 c 14 art 1 s 51-53

256J.425 HARDSHIP EXTENSIONS.

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

(b) If one participant in a two-parent assistance unit is determined to be ineligible for a hardship extension, the county shall give the assistance unit the option of disqualifying the ineligible participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

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. More frequent reviews shall be required if eligibility for an extension is based on a condition that is subject to change in less than six months.

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

(1) participants who are suffering from an illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment. These participants must follow the treatment recommendations of the qualified professional certifying the illness, injury, or incapacity;

(2) participants whose presence in the home is required as a caregiver because of the illness, injury, or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and 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 (f), 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, is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit 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. The determination of IQ level must be made by a qualified professional. In the case of a non-English-speaking person: (A) the determination must be made by a qualified professional with experience conducting culturally

appropriate assessments, whenever possible; (B) the county may accept reports that identify an IQ range as opposed to a specific score; (C) these reports must include a statement of confidence in the results;

(3) a person who is determined by a qualified professional to be learning disabled, and the disability severely limits the person's ability to obtain, perform, or maintain suitable employment. For purposes of the initial approval of a learning disability extension, the determination must have been made or confirmed within the previous 12 months. In the case of a non-English-speaking person: (i) the determination must be made by a qualified professional with experience conducting culturally appropriate assessments, whenever possible; and (ii) these reports must include a statement of confidence in the results. If a rehabilitation plan for a participant extended as learning disabled 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.521; or

(4) a person who has been granted a family violence waiver, and who is complying with an employment plan under section 256J.521, subdivision 3.

Subd. 4. **Employed participants.** (a) An assistance unit subject to the time limit under section 256J.42, subdivision 1, is eligible to receive assistance under a hardship extension if the participant who reached the time limit 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;

(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; or

(3) an assistance unit in which a participant is participating in employment for fewer hours than those specified in clause (1), and the participant submits verification from a qualified professional, in a form acceptable to the commissioner, stating that the number of hours the participant may work is limited due to illness or disability, as long as the participant is participating in employment for at least the number of hours specified by the qualified professional. The participant must be following the treatment recommendations of the qualified professional providing the verification. The commissioner shall develop a form to be completed and signed by the qualified professional, documenting the diagnosis and any additional information necessary to document the functional limitations of the participant that limit work hours. If the participant is part of a two-parent assistance unit, the other parent must be treated as a one-parent assistance unit for purposes of meeting the work requirements under this subdivision.

(b) 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 (2);

(4) an apprenticeship under section 256J.49, subdivision 13, clause (1);

(5) supported work under section 256J.49, subdivision 13, clause (2);

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

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

(c) 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.

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

(e) To be eligible for a hardship extension for employed participants under this subdivision, a participant must be in compliance for at least ten out of the 12 months immediately preceding the participant's 61st month on assistance.

(f) The employment plan developed under section 256J.521, subdivision 2, 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.

(g) 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.

(h) 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 a participant two times in a 12-month period.

[For text of subds 4a and 5, see M.S.2002]

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.521 to 256J.57, 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 (c), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), 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 reappplies under paragraph (a) is subject to sanction under section 256J.46, subdivision 1, paragraph (c), 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.521 to 256J.57, 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 (9);
- (2) determine whether the participant qualifies for a good cause exception under section 256J.57;
- (3) inform the participant of the family violence waiver criteria and make appropriate referrals if the waiver is requested;
- (4) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;
- (5) identify other resources that may be available to the participant to meet the needs of the family; and
- (6) inform the participant of the right to appeal under section 256J.40.

[For text of subd 8, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 54-60

256J.45 ORIENTATION.

[For text of subs 1 and 1a, see M.S.2002]

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 availability of all health care programs, including transitional medical assistance;
- (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.53;
- (12) the work study programs available under the higher education system; and
- (13) information about the 60-month time limit exemptions under the family violence waiver and referral information about shelters and programs for victims of family violence.

[For text of subd 3, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 61

256J.46 SANCTIONS.

Subdivision 1. **Participants not complying with program requirements.** (a) A participant who fails without good cause under section 256J.57 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 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 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.515 to 256J.57 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. If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

(c) 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, third, fourth, fifth, or sixth occurrence of noncompliance by a participant in an assistance unit, 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 to determine if the employment plan is still appropriate.

(d) For a seventh occurrence of noncompliance by a participant in an assistance unit, or when the participants in a two-parent assistance unit have a total of seven occurrences of noncompliance, the county agency shall close the MFIP assistance unit's financial assistance case, both the cash and food portions. The case must remain closed for a minimum of one full month. Closure under this paragraph does not make a participant automatically ineligible for food support, if otherwise eligible. Before the case is closed, 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 (9);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether the participant qualifies for an exemption under section 256J.56 or the work activities in the employment plan are appropriate based on the criteria in section 256J.521, subdivision 2 or 3;

(iv) determine whether the participant qualifies for the family violence waiver;

(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 or service can explain the noncompliance, the county must work with the participant to provide the identified activity.

(3) The grant must be restored to the full amount for which the assistance unit is eligible 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 family violence waiver, or for a good cause exemption under section 256.741, subdivision 10, or 256J.57.

(e) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after July 1, 2003, shall be considered. If the participant is in 30 percent sanction in the month this section 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.

(f) An assistance unit whose case is closed under paragraph (d) or (g), may reapply for MFIP and shall be eligible if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(g) An assistance unit whose case has been closed for noncompliance, that reapplies under paragraph (f), is subject to sanction under paragraph (c), clause (2), for a first occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result in case closure under paragraph (d).

Subd. 2. Sanctions for refusal to cooperate with support requirements. The grant of an MFIP caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, shall be subject to sanction as specified in this subdivision and subdivision 1. For a first occurrence of noncooperation, the assistance unit's grant must be reduced by 30 percent of the applicable MFIP standard of need. Subsequent occurrences of noncooperation shall be subject to sanction under subdivision 1, paragraphs (c), clause (2), and (d). The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective the first month following the month in which a required notice is given. A sanction must not be imposed when a caregiver comes into compliance with the requirements under section 256.741 prior to the effective date of the sanction. The sanction shall be removed in the month following the month that the caregiver cooperates with the support requirements. Each month that an MFIP caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance for the purpose of applying sanctions under subdivision 1, paragraphs (c), clause (2), and (d).

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.

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 (c), 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. The requirement that the county conduct a review as specified in subdivision 1, paragraph (d), 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 30 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.

The requirement that the county conduct a review as specified in subdivision 1, paragraph (d), 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 for noncompliance with section 256J.45 or sections 256J.515 to 256J.57; or

(ii) has the sanction for noncompliance with section 256J.45 or sections 256J.515 to 256J.57 removed upon completion of the review under subdivision 1, paragraph (e).

A participant remains subject to the applicable level of sanction under subdivision 1 if the participant cooperates and is no longer subject to sanction under subdivision 2.

History: *1Sp2003 c 14 art 1 s 62-64,106*

256J.462 [Repealed, 1Sp2003 c 14 art 1 s 107]

256J.47 [Repealed, 1Sp2003 c 14 art 1 s 107]

256J.48 [Repealed, 1Sp2003 c 14 art 1 s 107]

256J.49 EMPLOYMENT AND TRAINING SERVICES; DEFINITIONS.

[For text of subd 1, see M.S.2002]

Subd. 1a. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 2. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subd 3, see M.S.2002]

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

(1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and 268.871, subdivision 1, or is approved under section 256J.51 and is included in the county service agreement submitted under section 256J.626, subdivision 4;

(2) a public, private, or nonprofit agency that is not certified by the commissioner under clause (1), but with which a county has contracted to provide employment and

training services and which is included in the county's service agreement submitted under section 256J.626, subdivision 4; or

(3) a county agency, if the county has opted to provide employment and training services and the county has indicated that fact in the service agreement submitted under section 256J.626, subdivision 4.

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

Subd. 5. Employment plan. "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a timetable for the completion of each step. The plan should also identify any subsequent steps that support long-term economic stability. For participants who request and qualify for a family violence waiver, an employment plan must be developed by the job counselor and the participant, and in consultation with a person trained in domestic violence and follow the employment plan provisions in section 256J.521, subdivision 3.

Subd. 6. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 6a. Functional work literacy. "Functional work literacy" means an intensive English as a second language program that is work focused and offers at least 20 hours of class time per week.

Subd. 7. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subd 8, see M.S.2002]

Subd. 9. Participant. "Participant" means a recipient of MFIP assistance who participates or is required to participate in employment and training services under sections 256J.515 to 256J.57 and 256J.95.

[For text of subs 10 and 12, see M.S.2002]

Subd. 12a. Supported work. "Supported work" means a subsidized or unsubsidized work experience placement with a public or private sector employer, which may include services such as individualized supervision and job coaching to support the participant on the job.

Subd. 13. Work activity. "Work activity" means any activity in a participant's approved employment plan that leads to employment. For purposes of the MFIP program, this includes activities that meet the definition of work activity under the participation requirements of TANF. Work activity includes:

(1) unsubsidized employment, including work study and paid apprenticeships or internships;

(2) subsidized private sector or public sector employment, including grant diversion as specified in section 256J.69, on-the-job training as specified in section 256J.66, the self-employment investment demonstration program (SEID) as specified in section 256J.65, paid work experience, and supported work when a wage subsidy is provided;

(3) unpaid work experience, including community service, volunteer work, the community work experience program as specified in section 256J.67, unpaid apprenticeships or internships, and supported work when a wage subsidy is not provided;

(4) job search including job readiness assistance, job clubs, job placement, job-related counseling, and job retention services;

(5) job readiness education, including English as a second language (ESL) or functional work literacy classes as limited by the provisions of section 256J.531, subdivision 2, general educational development (GED) course work, high school completion, and adult basic education as limited by the provisions of section 256J.531, subdivision 1;

(6) job skills training directly related to employment, including education and training that can reasonably be expected to lead to employment, as limited by the provisions of section 256J.53;

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

(8) activities included in the employment plan that is developed under section 256J.521, subdivision 3; and

(9) preemployment activities including chemical and mental health assessments, treatment, and services; learning disabilities services; child protective services; family stabilization services; or other programs designed to enhance employability.

History: *1Sp2003 c 14 art 1 s 65-70*

256J.50 COUNTY DUTIES.

Subdivision 1. **Employment and training services component of MFIP.** (a) Each county must develop and provide an employment and training services component 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 is determined eligible for MFIP, or within ten days when the caregiver participated in the diversionary work program under section 256J.95 within the past 12 months.

Subd. 2. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 3. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 3a. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subd 4, see M.S.2002]

Subd. 5. [Repealed, 1Sp2003 c 14 art 1 s 107]

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

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

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

Subd. 7. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subd 8, see M.S.2002]

Subd. 9. **Exception; financial hardship.** Notwithstanding subdivision 8, a county that explains in the service agreement required under section 256J.626, subdivision 4, that the provision of alternative employment and training service providers would result in financial hardship for the county is not required to make available more than one employment and training provider.

Subd. 10. **Required notification to victims of family violence.** (a) 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 if they are complying with an employment plan under section 256J.521, subdivision 3; and

(4) victims of family violence may choose to have regular work requirements waived while the individual is complying with an employment plan under section 256J.521, subdivision 3.

(b) If an employment plan under section 256J.521, subdivision 3, 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 subs 11 and 12, see M.S.2002]

History: *1Sp2003 c 14 art 1 s 71-73,106*

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

Subdivision 1. **Provider application.** An employment and training service provider that is not included in a county's service agreement under section 256J.626, subdivision 4, because the county has demonstrated financial hardship under section 256J.50, subdivision 9, may appeal its exclusion to the commissioner of economic security under this section.

Subd. 2. **Appeal; alternate approval.** (a) An employment and training service provider that is not included by a county agency in the service agreement under section 256J.626, subdivision 4, and that meets the criteria in paragraph (b), may appeal its exclusion to the commissioner of economic security, and may request alternative approval by the commissioner of economic security to provide services in the county.

(b) An employment and training services provider that is requesting alternative approval must demonstrate to the commissioner that the provider meets the standards specified in section 268.871, subdivision 1, paragraph (b), except that the provider's past experience may be in services and programs similar to those specified in section 268.871, subdivision 1, paragraph (b).

Subd. 3. **Commissioner's review.** (a) The commissioner must act on a request for alternative approval under this section within 30 days of the receipt of the request. If after reviewing the provider's request, and the county's service agreement submitted under section 256J.626, subdivision 4, the commissioner determines that the provider meets the criteria under subdivision 2, paragraph (b), and that approval of the provider would not cause financial hardship to the county, the county must submit a revised service agreement under subdivision 4 that includes the approved provider.

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

Subd. 4. **Revised service agreement required.** The commissioner of economic security must notify the county agency when the commissioner grants an alternative approval to an employment and training service provider under subdivision 2. Upon receipt of the notice, the county agency must submit a revised service agreement under section 256J.626, subdivision 4, that includes the approved provider. The county has 90 days from the receipt of the commissioner's notice to submit the revised service agreement.

[For text of subd 5, see M.S.2002]

History: *1Sp2003 c 14 art 1 s 74-77.*

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.

History: *1Sp2003 c 14 art 1 s 106*

256J.52 [Repealed, 1Sp2003 c 14 art 1 s 107]**256J.521 ASSESSMENT; EMPLOYMENT PLANS.**

Subdivision 1. **Assessments.** (a) For purposes of MFIP employment services, assessment is a continuing process of gathering information related to employability for the purpose of identifying both participant's strengths and strategies for coping with issues that interfere with employment. The job counselor must use information from the assessment process to develop and update the employment plan under subdivision 2.

(b) The scope of assessment must cover at least the following areas:

(1) basic information about the participant's ability to obtain and retain employment, including: a review of the participant's education level; interests, skills, and abilities; prior employment or work experience; transferable work skills; child care and transportation needs;

(2) identification of personal and family circumstances that impact the participant's ability to obtain and retain employment, including: any special needs of the children, the level of English proficiency, family violence issues, and any involvement with social services or the legal system;

(3) the results of a mental and chemical health screening tool designed by the commissioner and results of the brief screening tool for special learning needs. Screening tools for mental and chemical health and special learning needs must be approved by the commissioner and may only be administered by job counselors or county staff trained in using such screening tools. The commissioner shall work with county agencies to develop protocols for referrals and follow-up actions after screens are administered to participants, including guidance on how employment plans may be modified based upon outcomes of certain screens. Participants must be told of the purpose of the screens and how the information will be used to assist the participant in identifying and overcoming barriers to employment. Screening for mental and chemical health and special learning needs must be completed by participants who are unable to find suitable employment after six weeks of job search under subdivision 2, paragraph (b), and participants who are determined to have barriers to employment under subdivision 2, paragraph (d). Failure to complete the screens will result in sanction under section 256J.46; and

(4) a comprehensive review of participation and progress for participants who have received MFIP assistance and have not worked in unsubsidized employment during the past 12 months. The purpose of the review is to determine the need for additional services and supports, including placement in subsidized employment or unpaid work experience under section 256J.49, subdivision 13.

(c) Information gathered during a caregiver's participation in the diversionary work program under section 256J.95 must be incorporated into the assessment process.

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

Subd. 2. Employment plan; contents. (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

- (1) unsubsidized employment;
- (2) job search;
- (3) subsidized employment or unpaid work experience;
- (4) unsubsidized employment and job readiness education or job skills training;
- (5) unsubsidized employment or unpaid work experience and activities related to a family violence waiver or preemployment needs; and
- (6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined to possess sufficient skills such that the participant is likely to succeed in obtaining unsubsidized employment must job search at least 30 hours per week for up to six weeks and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49, subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Beginning July 1, 2004, activities and hourly requirements in the employment plan may be adjusted as necessary to accommodate the personal and family circumstances of participants identified under section 256J.561, subdivision 2, paragraph (d). Participants who no longer meet the provisions of section 256J.561, subdivision 2, paragraph (d), must meet with the job counselor within ten days of the determination to revise the employment plan.

(d) Participants who are determined to have barriers to obtaining or retaining employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(e) The job counselor and the participant must sign the employment plan to indicate agreement on the contents. Failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised.

Subd. 3. Employment plan; family violence waiver. (a) A participant who requests and qualifies for a family violence waiver shall develop or revise the employment plan as specified in this subdivision with a job counselor or county, and a person trained in domestic violence. The revised or new employment plan must be approved by the county or the job counselor. The plan may address safety, legal, or emotional issues, and other demands on the family as a result of the family violence. Information in section 256J.515, clauses (1) to (8), must be included as part of the development of the plan.

(b) The primary goal of an employment plan developed under this subdivision is to ensure the safety of the caregiver and children. To the extent it is consistent with ensuring safety, the plan shall also include activities that are designed to lead to economic stability. 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. A plan under this subdivision may not automatically include a provision that requires a participant to obtain an order for protection or to attend counseling.

(c) If at any time there is a disagreement over whether the activities in the plan are appropriate or the participant is not complying with activities in the plan under this subdivision, the participant must receive the assistance of a person trained in domestic violence to help resolve the disagreement or noncompliance with the county or job counselor. If the person trained in domestic violence recommends that the activities are still appropriate, the county or a job counselor must approve the activities in the plan or provide written reasons why activities in the plan are not approved and document how denial of the activities does not endanger the safety of the participant or children.

Subd. 4. Self-employment. (a) Self-employment activities may be included in an employment plan contingent on the development of a business plan which establishes a timetable and earning goals that will result in the participant exiting MFIP assistance. Business plans must be developed with assistance from an individual or organization with expertise in small business as approved by the job counselor.

(b) Participants with an approved plan that includes self-employment must meet the participation requirements in section 256J.55, subdivision 1. Only hours where the participant earns at least minimum wage shall be counted toward the requirement. Additional activities and hours necessary to meet the participation requirements in section 256J.55, subdivision 1, must be included in the employment plan.

(c) Employment plans which include self-employment activities must be reviewed every three months. Participants who fail, without good cause, to make satisfactory progress as established in the business plan must revise the employment plan to replace the self-employment with other approved work activities.

(d) The requirements of this subdivision may be waived for participants who are enrolled in the self-employment investment demonstration program (SEID) under section 256J.65, and who make satisfactory progress as determined by the job counselor and the SEID provider.

Subd. 5. **Transition from the diversionary work program.** Participants who become eligible for MFIP assistance after completing the diversionary work program under section 256J.95 must comply with all requirements of subdivisions 1 and 2. Participants who become eligible for MFIP assistance after being determined unable to benefit from the diversionary work program must comply with the requirements of subdivisions 1 and 2, with the exception of subdivision 2, paragraph (b).

Subd. 6. **Loss of employment.** Participants who are laid off, quit with good cause, or are terminated from employment through no fault of their own must meet with the job counselor within ten working days to ascertain the reason for the job loss and to revise the employment plan as necessary to address the problem.

History: 1Sp2003 c 14 art 1 s 78

256J.53 POSTSECONDARY EDUCATION; LIMITATIONS ON APPROVAL, JOB SEARCH REQUIREMENT.

Subdivision 1. **Length of program.** In order for a postsecondary education or training program to be an approved work activity as defined in section 256J.49, subdivision 13, clause (6), it must be a program lasting 24 months or less, and the participant must meet the requirements of subdivisions 2, 3, and 5.

Subd. 2. **Approval of postsecondary education or training.** (a) In order for a postsecondary education or training program to be an approved activity in an employment plan, the participant must be working in unsubsidized employment at least 20 hours per week.

(b) Participants seeking approval of a postsecondary education or training plan must provide documentation that:

- (1) the employment goal can only be met with the additional education or training;
- (2) there are suitable employment opportunities that require the specific education or training in the area in which the participant resides or is willing to reside;
- (3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;
- (4) the participant can meet the requirements for admission into the program; and
- (5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

(c) The hourly unsubsidized employment requirement may be reduced for intensive education or training programs lasting 12 weeks or less when full-time attendance is required.

(d) Participants with an approved employment plan in place on July 1, 2003, which includes more than 12 months of postsecondary education or training shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b), and subdivisions 3 and 5 are met.

[For text of subd 3, see M.S.2002]

Subd. 5. **Requirements after postsecondary education or training.** Upon completion of an approved education or training program, a participant who does not meet the participation requirements in section 256J.55, subdivision 1, through unsubsidized employment must participate in job search. If, after six weeks of job search, the participant does not find a full-time job consistent with the employment goal, the participant must accept any offer of full-time suitable employment, or meet with the job counselor to revise the employment plan to include additional work activities necessary to meet hourly requirements.

History: 1Sp2003 c 14 art 1 s 79-81

256J.531 BASIC EDUCATION; ENGLISH AS A SECOND LANGUAGE.

Subdivision 1. **Approval of adult basic education.** With the exception of classes related to obtaining a general educational development credential (GED), a participant must have reading or mathematics proficiency below a ninth grade level in order for adult basic education classes to be an approved work activity. The employment plan must also specify that the participant fulfill no more than one-half of the participation requirements in section 256J.55, subdivision 1, through attending adult basic education or general educational development classes.

Subd. 2. **Approval of English as a second language.** In order for English as a second language (ESL) classes to be an approved work activity in an employment plan, a participant must be below a spoken language proficiency level of SPL6 or its equivalent, as measured by a nationally recognized test. In approving ESL as a work activity, the job counselor must give preference to enrollment in a functional work literacy program, if one is available, over a regular ESL program. A participant may not be approved for more than a combined total of 24 months of ESL classes while participating in the diversionary work program and the employment and training services component of MFIP. The employment plan must also specify that the participant fulfill no more than one-half of the participation requirements in section 256J.55, subdivision 1, through attending ESL classes. For participants enrolled in functional work literacy classes, no more than two-thirds of the participation requirements in section 256J.55, subdivision 1, may be met through attending functional work literacy classes.

History: 1Sp2003 c 14 art 1 s 82

256J.54 MINOR PARENTS; EMPLOYMENT PLAN.

Subdivision 1. **Assessment of educational progress and needs.** (a) The county agency must document the educational level of each MFIP caregiver who is under the age of 20 and determine if the caregiver has obtained a high school diploma or its equivalent. If the caregiver has not obtained a high school diploma or its equivalent, the county agency must complete an individual assessment for the caregiver unless the caregiver is exempt from the requirement to attend school under subdivision 5 or has chosen to have an employment plan under section 256J.521, subdivision 2, as allowed in paragraph (b). The assessment must be performed as soon as possible but within 30 days of determining MFIP eligibility for the caregiver. The assessment must provide an initial examination of the caregiver's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills, and work experience. In the case of a caregiver under the age of 18, the assessment must also consider the results of either the caregiver's or the caregiver's minor child's child and teen checkup under Minnesota Rules, parts 9505.0275 and 9505.1693 to 9505.1748, if available, and the effect of a child's development and educational needs on the caregiver's ability to participate in the program. The county agency must advise the caregiver that the caregiver's first goal must be to complete an appropriate education option if one is identified for the caregiver through the assessment and, in consultation with educational agencies, must review the various school completion options with the caregiver and assist in selecting the most appropriate option.

(b) The county agency must give a caregiver, who is age 18 or 19 and has not obtained a high school diploma or its equivalent, the option to choose an employment plan with an education option under subdivision 3 or an employment plan 5 under section 256J.521, subdivision 2.

Subd. 2. **Responsibility for assessment and employment plan.** For caregivers who are under age 18 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19 without a high school diploma or its equivalent who choose to have an employment plan with an education option under subdivision 3, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor

or, at county option, by the social services agency under section 257.33. Upon reaching age 18 or 19 a caregiver who received social services under section 257.33 and is without a high school diploma or its equivalent has the option to choose whether to continue receiving services under the caregiver's plan from the social services agency or to utilize an MFIP employment and training service provider. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 124D.331.

Subd. 3. Education option developed. If the job counselor or county social services agency identifies an appropriate education option for a minor caregiver without a high school diploma or its equivalent, or a caregiver age 18 or 19 without a high school diploma or its equivalent who chooses an employment plan with an education option, the job counselor or agency must develop an employment plan which reflects the identified option. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the caregiver will take part in, including child care and supportive services, the consequences to the caregiver for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employment plan must, to the extent possible, reflect the preferences of the caregiver.

[For text of subd 4, see M.S.2002]

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

- (1) transportation services needed to enable the caregiver to attend school are not available;
- (2) appropriate child care services needed to enable the caregiver to attend school are not available;
- (3) the caregiver is ill or incapacitated seriously enough to prevent attendance at school; or
- (4) the caregiver is needed in the home because of the illness or incapacity of another member of the household. This includes a caregiver of a child who is younger than six weeks of age.

(b) The caregiver must be enrolled in a secondary school and meeting the school's attendance requirements. The county, social service agency, or job counselor must verify at least once per quarter that the caregiver is meeting the school's attendance requirements. An enrolled caregiver is considered to be meeting the attendance requirements when the school is not in regular session, including during holiday and summer breaks.

History: *1Sp2003 c 14 art 1 s 83-86*

256J.545 FAMILY VIOLENCE WAIVER CRITERIA.

(a) In order to qualify for a family violence waiver, an individual must provide documentation of past or current family violence which may prevent the individual from participating in certain employment activities. A claim of family violence must be documented by the applicant or participant providing a sworn statement which is supported by collateral documentation.

(b) Collateral documentation may consist of:

- (1) police, government agency, or court records;
- (2) a statement from a battered women's shelter staff with knowledge of the 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 the 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.

History: *1Sp2003 c 14 art 1 s 87*

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

Subdivision 1. **Participation requirements.** (a) All caregivers must participate in employment services under sections 256J.515 to 256J.57 concurrent with receipt of MFIP assistance.

(b) Until July 1, 2004, participants who meet the requirements of section 256J.56 are exempt from participation requirements.

(c) Participants under paragraph (a) must develop and comply with an employment plan under section 256J.521 or section 256J.54 in the case of a participant under the age of 20 who has not obtained a high school diploma or its equivalent.

(d) With the exception of participants under the age of 20 who must meet the education requirements of section 256J.54, all participants must meet the hourly participation requirements of TANF or the hourly requirements listed in clauses (1) to (3), whichever is higher.

(1) In single-parent families with no children under six years of age, the job counselor and the caregiver must develop an employment plan that includes 30 to 35 hours per week of work activities.

(2) In single-parent families with a child under six years of age, the job counselor and the caregiver must develop an employment plan that includes 20 to 35 hours per week of work activities.

(3) In two-parent families, the job counselor and the caregivers must develop employment plans which result in a combined total of at least 55 hours per week of work activities.

(e) Failure to participate in employment services, including the requirement to develop and comply with an employment plan, including hourly requirements, without good cause under section 256J.57, shall result in the imposition of a sanction under section 256J.46.

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

[For text of subs 3 and 4, see M.S.2002]

Subd. 5. [Repealed, 1Sp2003 c 14 art 1 s 107]

History: *1Sp2003 c 14 art 1 s 88,89*

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

(a) An MFIP participant is exempt from the requirements of sections 256J.515 to 256J.57 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 permanent or temporary illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and 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 the illness, injury, or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue for more than 30 days;

(4) women who are pregnant, if the pregnancy has resulted in an incapacity that prevents the woman from obtaining or retaining employment, and the incapacity has been certified by a qualified professional;

(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 certification from a qualified professional, 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 employment plan under section 256J.521, subdivision 3; 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 (f), 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.55, subdivision 1, do not apply to exempt participants who volunteer to participate.

(c) This section expires on June 30, 2004.

History: 1Sp2003 c 14 art 1 s 90

256J.561 UNIVERSAL PARTICIPATION REQUIRED.

Subdivision 1. **Implementation of universal participation requirements.** (a) All caregivers whose applications were received July 1, 2004, or after, are immediately subject to the requirements in subdivision 2.

(b) For all MFIP participants who were exempt from participating in employment services under section 256J.56 as of June 30, 2004, between July 1, 2004, and June 30, 2005, the county, as part of the participant's recertification under section 256J.32, subdivision 6, shall determine whether a new employment plan is required to meet the requirements in subdivision 2. Counties shall notify each participant who is in need of an employment plan that the participant must meet with a job counselor within ten days to develop an employment plan. Until a participant's employment plan is developed, the participant shall be considered in compliance with the participation requirements in this section if the participant continues to meet the criteria for an exemption under section 256J.56 as in effect on June 30, 2004, and is cooperating in the development of the new plan.

Subd. 2. **Participation requirements.** (a) All MFIP caregivers, except caregivers who meet the criteria in subdivision 3, must participate in employment services. Except as specified in paragraphs (b) to (d), the employment plan must meet the requirements

of section 256J.521, subdivision 2, contain allowable work activities, as defined in section 256J.49, subdivision 13, and, include at a minimum, the number of participation hours required under section 256J.55, subdivision 1.

(b) Minor caregivers and caregivers who are less than age 20 who have not completed high school or obtained a GED are required to comply with section 256J.54.

(c) A participant who has a family violence waiver shall develop and comply with an employment plan under section 256J.521, subdivision 3.

(d) As specified in section 256J.521, subdivision 2, paragraph (c), a participant who meets any one of the following criteria may work with the job counselor to develop an employment plan that contains less than the number of participation hours under section 256J.55, subdivision 1. Employment plans for participants covered under this paragraph must be tailored to recognize the special circumstances of caregivers and families including limitations due to illness or disability and caregiving needs:

(1) a participant who is age 60 or older;

(2) a participant who has been diagnosed by a qualified professional as suffering from an illness or incapacity that is expected to last for 30 days or more, including a pregnant participant who is determined to be unable to obtain or retain employment due to the pregnancy; or

(3) a participant who is determined by a qualified professional as being needed in the home to care for an ill or incapacitated family member, including 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 (f), 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).

(e) For participants covered under paragraphs (c) and (d), the county shall review the participant's employment services status every three months to determine whether conditions have changed. When it is determined that the participant's status is no longer covered under paragraph (c) or (d), the county shall notify the participant that a new or revised employment plan is needed. The participant and job counselor shall meet within ten days of the determination to revise the employment plan.

Subd. 3. Child under 12 weeks of age. (a) A participant who has a natural born child who is less than 12 weeks of age who meets the criteria in clauses (1) and (2) is not required to participate in employment services until the child reaches 12 weeks of age. To be eligible for this provision, the following conditions must be met:

(1) the child must have been born within ten months of the caregiver's application for the diversionary work program or MFIP; and

(2) the assistance unit must not have already used this provision or the previously allowed child under age one exemption. However, an assistance unit that has an approved child under age one exemption at the time this provision becomes effective may continue to use that exemption until the child reaches one year of age.

(b) The provision in paragraph (a) ends the first full month after the child reaches 12 weeks of age. This provision is available only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this provision. The participant and job counselor must meet within ten days after the child reaches 12 weeks of age to revise the participant's employment plan.

History: *1Sp2003 c 14 art 1 s 91*

NOTE: This section, as added by Laws 2003, First Special Session chapter 14, article 1, section 91, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 1, section 91, the effective date.

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

Subdivision 1. **Good cause for failure to comply.** The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good

cause for failing to comply with the requirements of sections 256J.515 to 256J.57. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the employment plan;
- (5) the parental caregiver is unable to secure necessary transportation;
- (6) the parental caregiver is in an emergency situation that prevents compliance with the employment plan;
- (7) the schedule of compliance with the employment plan conflicts with judicial proceedings;
- (8) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;
- (9) the parental caregiver is already participating in acceptable work activities;
- (10) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;
- (11) activities identified in the employment plan are not available;
- (12) the parental caregiver is willing to accept suitable employment, but suitable employment is not available; or
- (13) the parental caregiver documents other verifiable impediments to compliance with the employment plan beyond the parental caregiver's control.

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

Subd. 2. Notice of intent to sanction. (a) When a participant fails without good cause to comply with the requirements of sections 256J.515 to 256J.57, the job counselor or the county agency must provide a notice of intent to sanction to the participant specifying the program requirements that were not complied with, informing the participant that the county agency will impose the sanctions specified in section 256J.46, and informing the participant of the opportunity to request a conciliation conference as specified in paragraph (b). The notice must also state that the participant's continuing noncompliance with the specified requirements will result in additional sanctions under section 256J.46, without the need for additional notices or conciliation conferences under this subdivision. 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: *1Sp2003 c 14 art 1 s 92*

256J.62 UNIVERSAL PARTICIPATION IN EMPLOYMENT SERVICES.

Subd. 1. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 2a. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 4. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 6. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 7. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 8. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 9. **Continuation of certain services.** Only if services were approved as part of an employment plan prior to June 30, 2003, at the request of the participant, the county may continue to provide case management, counseling, or other support services to a participant:

(1) who has achieved the employment goal; or

(2) who under section 256J.42 is no longer eligible to receive MFIP but whose income is below 115 percent of the federal poverty guidelines for a family of the same size.

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

History: *1Sp2003 c 14 art 1 s 93*

256J.625 [Repealed, 1Sp2003 c 14 art 1 s 107]

256J.626 MFIP CONSOLIDATED FUND.

Subdivision 1. **Consolidated fund.** The consolidated fund is established to support counties and tribes in meeting their duties under this chapter. Counties and tribes must use funds from the consolidated fund to develop programs and services that are designed to improve participant outcomes as measured in section 256J.751, subdivision 2. Counties may use the funds for any allowable expenditures under subdivision 2. Tribes may use the funds for any allowable expenditures under subdivision 2, except those in clauses (1) and (6).

Subd. 2. **Allowable expenditures.** (a) The commissioner must restrict expenditures under the consolidated fund to benefits and services allowed under title IV-A of the federal Social Security Act. Allowable expenditures under the consolidated fund may include, but are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31, for families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a. Payments under this subdivision are not considered TANF cash assistance and are not counted towards the 60-month time limit;

(2) transportation needed, to obtain or retain employment or to participate in other approved work activities;

(3) direct and administrative costs of staff to deliver employment services for MFIP or the diversionary work program, to administer financial assistance, and to provide specialized services intended to assist hard-to-employ participants to transition to work;

(4) costs of education and training including functional work literacy and English as a second language;

(5) cost of work supports including tools, clothing, boots, and other work-related expenses;

(6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);

(7) services to parenting and pregnant teens;

(8) supported work;

(9) wage subsidies;

(10) child care needed for MFIP or diversionary work program participants to participate in social services;

(11) child care to ensure that families leaving MFIP or diversionary work program will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program; and

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP or DWP assistance, but do not live in the same household as the child, obtain or retain employment.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's reimbursement under this section. The commissioner shall define administrative costs for purposes of this subdivision.

Subd. 3. Eligibility for services. Families with a minor child, a pregnant woman, or a noncustodial parent of a minor child receiving assistance, with incomes below 200 percent of the federal poverty guideline for a family of the applicable size, are eligible for services funded under the consolidated fund. Counties and tribes must give priority to families currently receiving MFIP or diversionary work program, and families at risk of receiving MFIP or diversionary work program.

Subd. 4. County and tribal biennial service agreements. (a) Effective January 1, 2004, and each two-year period thereafter, each county and tribe must have in place an approved biennial service agreement related to the services and programs in this chapter. In counties with a city of the first class with a population over 300,000, the county must consider a service agreement that includes a jointly developed plan for the delivery of employment services with the city. Counties may collaborate to develop multicounty, multitribal, or regional service agreements.

(b) The service agreements will be completed in a form prescribed by the commissioner. The agreement must include:

(1) a statement of the needs of the service population and strengths and resources in the community;

(2) numerical goals for participant outcomes measures to be accomplished during the biennial period. The commissioner may identify outcomes from section 256J.751, subdivision 2, as core outcomes for all counties and tribes;

(3) strategies the county or tribe will pursue to achieve the outcome targets. Strategies must include specification of how funds under this section will be used and may include community partnerships that will be established or strengthened; and

(4) other items prescribed by the commissioner in consultation with counties and tribes.

(c) The commissioner shall provide each county and tribe with information needed to complete an agreement, including: (1) information on MFIP cases in the county or tribe; (2) comparisons with the rest of the state; (3) baseline performance on outcome measures; and (4) promising program practices.

(d) The service agreement must be submitted to the commissioner by October 15, 2003, and October 15 of each second year thereafter. The county or tribe must allow a period of not less than 30 days prior to the submission of the agreement to solicit comments from the public on the contents of the agreement.

(e) The commissioner must, within 60 days of receiving each county or tribal service agreement, inform the county or tribe if the service agreement is approved. If the service agreement is not approved, the commissioner must inform the county or tribe of any revisions needed prior to approval.

(f) The service agreement in this subdivision supersedes the plan requirements of section 268.88.

Subd. 5. Innovation projects. Beginning January 1, 2005, no more than \$3,000,000 of the funds annually appropriated to the commissioner for use in the consolidated fund shall be available to the commissioner for projects testing innovative approaches to improving outcomes for MFIP participants, and persons at risk of receiving MFIP as detailed in subdivision 3. Projects shall be targeted to geographic areas with poor outcomes as specified in section 256J.751, subdivision 5, or to subgroups within the MFIP case load who are experiencing poor outcomes.

Subd. 6. Base allocation to counties and tribes. (a) For purposes of this section, the following terms have the meanings given them:

(1) "2002 historic spending base" means the commissioner's determination of the sum of the reimbursement related to fiscal year 2002 of county or tribal agency expenditures for the base programs listed in clause (4), items (i) through (iv), and earnings related to calendar year 2002 in the base program listed in clause (4), item (v), and the amount of spending in fiscal year 2002 in the base program listed in clause (4), item (vi), issued to or on behalf of persons residing in the county or tribal service delivery area.

(2) "Initial allocation" means the amount potentially available to each county or tribe based on the formula in paragraphs (b) through (d).

(3) "Final allocation" means the amount available to each county or tribe based on the formula in paragraphs (b) through (d), after adjustment by subdivision 7.

(4) "Base programs" means the:

(i) MFIP employment and training services under Minnesota Statutes 2002, section 256J.62, subdivision 1, in effect June 30, 2002;

(ii) bilingual employment and training services to refugees under Minnesota Statutes 2002, section 256J.62, subdivision 6, in effect June 30, 2002;

(iii) work literacy language programs under Minnesota Statutes 2002, section 256J.62, subdivision 7, in effect June 30, 2002;

(iv) supported work program authorized in Laws 2001, First Special Session chapter 9, article 17, section 2, in effect June 30, 2002;

(v) administrative aid program under section 256J.76 in effect December 31, 2002; and

(vi) emergency assistance program under Minnesota Statutes 2002, section 256J.48, in effect June 30, 2002.

(b)(1) Beginning July 1, 2003, the commissioner shall determine the initial allocation of funds available under this section according to clause (2).

(2) All of the funds available for the period beginning July 1, 2003, and ending December 31, 2004, shall be allocated to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base.

(c) For calendar year 2005, the commissioner shall determine the initial allocation of funds to be made available under this section in proportion to the county or tribe's initial allocation for the period of July 1, 2003, to December 31, 2004.

(d) The formula under this subdivision sunsets December 31, 2005.

(e) Before November 30, 2003, a county or tribe may ask for a review of the commissioner's determination of the historic base spending when the county or tribe believes the 2002 information was inaccurate or incomplete. By January 1, 2004, the commissioner must adjust that county's or tribe's base when the commissioner has determined that inaccurate or incomplete information was used to develop that base.

The commissioner shall adjust each county's or tribe's initial allocation under paragraph (c) and final allocation under subdivision 7 to reflect the base change.

(f) Effective January 1, 2005, counties and tribes will have their final allocations adjusted based on the performance provisions of subdivision 7.

Subd. 7. Performance base funds. (a) Each county and tribe will be allocated 95 percent of their initial calendar year 2005 allocation. Counties and tribes will be allocated additional funds based on performance as follows:

(1) a county or tribe that achieves a 50 percent rate or higher on the MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(2) a county or tribe that performs above the top of its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year will receive an additional allocation equal to five percent of its initial allocation; or

(3) a county or tribe that performs within its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year, or above the top of its range of expected performance in one measurement and within its expected range of performance in the other measurement, will receive an additional allocation equal to 2.5 percent of its initial allocation.

(b) Funds remaining unallocated after the performance-based allocations in paragraph (a) are available to the commissioner for innovation projects under subdivision 5.

(c)(1) If available funds are insufficient to meet county and tribal allocations under paragraph (a), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.

(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph (a), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph (a).

Subd. 8. Reporting requirement and reimbursement. (a) The commissioner shall specify requirements for reporting according to section 256.01, subdivision 2, clause (17). Each county or tribe shall be reimbursed for eligible expenditures up to the limit of its allocation and subject to availability of funds.

(b) Reimbursements for county administrative-related expenditures determined through the income maintenance random moment time study shall be reimbursed at a rate of 50 percent of eligible expenditures.

(c) The commissioner of human services shall review county and tribal agency expenditures of the MFIP consolidated fund as appropriate and may reallocate unencumbered or unexpended money appropriated under this section to those county and tribal agencies that can demonstrate a need for additional money.

Subd. 9. Report. The commissioner shall, in consultation with counties and tribes:

(1) determine how performance-based allocations under subdivision 7, paragraph (a), clauses (2) and (3), will be allocated to groupings of counties and tribes when groupings are used to measure expected performance ranges for the self-support index under section 256J.751, subdivision 2, clause (7); and

(2) determine how performance-based allocations under subdivision 7, paragraph (a), clauses (2) and (3), will be allocated to tribes.

The commissioner shall report to the legislature on the formulas developed in clauses (1) and (2) by January 1, 2004.

History: *1Sp2003 c 14 art 1 s 94,106*

256J.645 INDIAN TRIBE MFIP EMPLOYMENT SERVICES.

[For text of subds 1 and 2, see M.S.2002]

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.626.

[For text of subd 4, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 95

256J.655 [Repealed, 1Sp2003 c 14 art 1 s 107]

256J.66 ON-THE-JOB TRAINING.

[For text of subd 1, see M.S.2002]

Subd. 2. **Training and placement.** (a) County agencies shall limit the length of training based on the complexity of the job and the caregiver's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in an on-the-job training position must be compatible with the participant's assessment and employment plan under section 256J.521.

History: 1Sp2003 c 14 art 1 s 96

256J.69 GRANT DIVERSION.

[For text of subd 1, see M.S.2002]

Subd. 2. **Training and placement.** (a) County agencies shall limit the length of training to nine months. Placement in a grant diversion training position with an employer is for the purpose of training and employment with the same employer who has agreed to retain the person upon satisfactory completion of training.

(b) Placement of any participant in a grant diversion subsidized training position must be compatible with the assessment and employment plan or employability development plan established for the recipient under section 256J.521.

History: 1Sp2003 c 14 art 1 s 97

256J.74 RELATIONSHIP TO OTHER PROGRAMS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. [Repealed, 1Sp2003 c 14 art 1 s 107]

[For text of subds 4 and 5, see M.S.2002]

256J.75 COUNTY OF FINANCIAL RESPONSIBILITY POLICIES.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Responsibility for incorrect assistance payments.** A county of residence, when different from the county of financial responsibility, will be charged by the commissioner for the value of incorrect assistance payments paid to or on behalf of a person who was not eligible to receive that amount. Incorrect payments include payments to an ineligible person or family resulting from decisions, failures to act, miscalculations, or overdue recertification. However, financial responsibility does not accrue for a county when the recertification is overdue at the time the referral is received by the county of residence or when the county of financial responsibility does not act on the recommendation of the county of residence.

[For text of subd 4, see M.S.2002]

History: 1Sp2003 c 14 art 1 s 98

256J.751. COUNTY PERFORMANCE MANAGEMENT.

Subdivision 1. **Monthly county caseload report.** The commissioner shall report monthly to each county the following caseload information:

- (1) total number of cases receiving MFIP, and subtotals of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;
- (2) total number of child only assistance cases;
- (3) total number of eligible adults and children receiving an MFIP grant, and subtotals for cases with one eligible parent, two eligible parents, an eligible caregiver who is not a parent, and child only cases;
- (4) number of cases with an exemption from the 60-month time limit based on a family violence waiver;
- (5) number of MFIP cases with work hours, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;
- (6) number of employed MFIP cases, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;
- (7) average monthly gross earnings, and averages for subgroups of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;
- (8) number of employed cases receiving only the food portion of assistance;
- (9) number of parents or caregivers exempt from work activity requirements, with subtotals for each exemption type; and
- (10) number of cases with a sanction, with subtotals by level of sanction for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent.

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 104-193;
- (5) median placement wage rate;
- (6) caseload by months of TANF assistance;
- (7) percent of MFIP cases off cash assistance or working 30 or more hours per week at one-year, two-year, and three-year follow-up points from a baseline quarter. This measure is called the self-support index. Twice annually, the commissioner shall report an expected range of performance for each county, county grouping, and tribe on the self-support index. The expected range shall be derived by a statistical methodology developed by the commissioner in consultation with the counties and tribes. The statistical methodology shall control differences across counties in economic conditions and demographics of the MFIP case load; and
- (8) the MFIP work participation rate, defined as the participation requirements specified in title 1 of Public Law 104-193 applied to all MFIP cases except child only cases and cases exempt under section 256J.56.

Subd. 3. [Repealed, 1Sp2003 c 14 art 1 s 107]

Subd. 4. [Repealed, 1Sp2003 c 14 art 1 s 107]

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 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 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 Education as necessary to achieve the purpose of this paragraph.

(c) For state performance measures, a low-performing county is one that:

(1) performs below the bottom of their expected range for the measure in subdivision 2, clause (7), in both measurements during the year; or

(2) performs below 40 percent for the measure in subdivision 2, clause (8), as averaged across the four quarterly measurements for the year, or the ten counties with the lowest rates if more than ten are below 40 percent.

(d) Low-performing counties under paragraph (c) must engage in corrective action planning as defined by the commissioner. The commissioner may coordinate technical assistance as specified in paragraph (b) for low-performing counties under paragraph (c).

History: 2003 c 130 s 12; 1Sp2003 c 14 art 1 s 99-101

256J.76 [Repealed, 1Sp2003 c 14 art 1 s 107]

256J.95 DIVERSIONARY WORK PROGRAM.

Subdivision 1. **Establishing a diversionary work program (DWP).** (a) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, establishes block grants to states for temporary assistance for needy families (TANF). TANF provisions allow states to use TANF dollars for nonrecurrent, short-term diversionary benefits. The diversionary work program established on July 1, 2003, is Minnesota's TANF program to provide short-term diversionary benefits to eligible recipients of the diversionary work program.

(b) The goal of the diversionary work program is to provide short-term, necessary services and supports to families which will lead to unsubsidized employment, increase economic stability, and reduce the risk of those families needing longer term assistance, under the Minnesota family investment program (MFIP).

(c) When a family unit meets the eligibility criteria in this section, the family must receive a diversionary work program grant and is not eligible for MFIP.

(d) A family unit is eligible for the diversionary work program for a maximum of four months only once in a 12-month period. The 12-month period begins at the date of application or the date eligibility is met, whichever is later. During the four-month period, family maintenance needs as defined in subdivision 2, shall be vendor paid, up to the cash portion of the MFIP standard of need for the same size household. To the extent there is a balance available between the amount paid for family maintenance needs and the cash portion of the transitional standard, a personal needs allowance of up to \$70 per DWP recipient in the family unit shall be issued. The personal needs allowance payment plus the family maintenance needs shall not exceed the cash portion of the MFIP standard of need. Counties may provide supportive and other allowable services funded by the MFIP consolidated fund under section 256J.626 to eligible participants during the four-month diversionary period.

Subd. 2. **Definitions.** The terms used in this section have the following meanings.

(a) "Diversionary Work Program (DWP)" means the program established under this section.

(b) "Employment plan" means a plan developed by the job counselor and the participant which identifies the participant's most direct path to unsubsidized employment, lists the specific steps that the caregiver will take on that path, and includes a

timetable for the completion of each step. For participants who request and qualify for a family violence waiver in section 256J.521, subdivision 3, an employment plan must be developed by the job counselor, the participant, and a person trained in domestic violence and follow the employment plan provisions in section 256J.521, subdivision 3. Employment plans under this section shall be written for a period of time not to exceed four months.

(c) "Employment services" means programs, activities, and services in this section that are designed to assist participants in obtaining and retaining employment.

(d) "Family maintenance needs" means current housing costs including rent; manufactured home lot rental costs, or monthly principal, interest, insurance premiums, and property taxes due for mortgages or contracts for deed; association fees required for homeownership; utility costs for current month expenses of gas and electric, garbage, water and sewer; and a flat rate of \$35 for telephone services.

(e) "Family unit" means a group of people applying for or receiving DWP benefits together. For the purposes of determining eligibility for this program, the unit includes the relationships in section 256J.24, subdivisions 2 and 4.

(f) "Minnesota family investment program (MFIP)" means the assistance program as defined in section 256J.08, subdivision 57.

(g) "Personal needs allowance" means an allowance of up to \$70 per month per DWP unit member to pay for expenses such as household products and personal products.

(h) "Work activities" means allowable work activities as defined in section 256J.49, subdivision 13.

Subd. 3. Eligibility for diversionary work program. (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

(1) child only cases;

(2) a single-parent family unit that includes a child under 12 weeks of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;

(3) a minor parent without a high school diploma or its equivalent;

(4) a caregiver 18 or 19 years of age without a high school diploma or its equivalent who chooses to have an employment plan with an education option;

(5) a caregiver age 60 or over;

(6) family units with a parent who received DWP benefits within a 12-month period as defined in subdivision 1, paragraph (d); and

(7) family units with a parent who received MFIP within the past 12 months.

(b) A two-parent family must participate in DWP unless both parents meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6) or (7).

Subd. 4. Cooperation with program requirements. (a) To be eligible for DWP, an applicant must comply with the requirements of paragraphs (b) to (d).

(b) Applicants and participants must cooperate with the requirements of the child support enforcement program but will not be charged a fee under section 518.551, subdivision 7.

(c) The applicant must provide each member of the family unit's social security number to the county agency. This requirement is satisfied when each member of the family unit cooperates with the procedures for verification of numbers, issuance of duplicate cards, and issuance of new numbers which have been established jointly between the Social Security Administration and the commissioner.

(d) Before DWP benefits can be issued to a family unit, the caregiver must, in conjunction with a job counselor, develop and sign an employment plan. In two-parent family units, both parents must develop and sign employment plans before benefits can be issued. Food support and health care benefits are not contingent on the requirement for a signed employment plan.

Subd. 5. Submitting application form. The eligibility date for the diversionary work program begins with the date the signed combined application form (CAF) is received by the county agency or the date diversionary work program eligibility criteria are met, whichever is later. The county agency must inform the applicant that any delay in submitting the application will reduce the benefits paid for the month of application. The county agency must inform a person that an application may be submitted before the person has an interview appointment. Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The applicant may withdraw the application at any time prior to approval by giving written or oral notice to the county agency. The county agency must follow the notice requirements in section 256J.09, subdivision 3, when issuing a notice confirming the withdrawal.

Subd. 6. Initial screening of applications. Upon receipt of the application, the county agency must determine if the applicant may be eligible for other benefits as required in sections 256J.09, subdivision 3a, and 256J.28, subdivisions 1 and 5. The county must also follow the provisions in section 256J.09, subdivision 3b, clause (2).

Subd. 7. Program and processing standards. (a) The interview to determine financial eligibility for the diversionary work program must be conducted within five working days of the receipt of the cash application form. During the intake interview, the financial worker must discuss:

(1) the goals, requirements, and services of the diversionary work program;

(2) the availability of child care assistance. If child care is needed, the worker must obtain a completed application for child care from the applicant before the interview is terminated. The same day the application for child care is received, the application must be forwarded to the appropriate child care worker. For purposes of eligibility for child care assistance under chapter 119B, DWP participants shall be eligible for the same benefits as MFIP recipients; and

(3) if the applicant has not requested food support and health care assistance on the application, the county agency shall, during the interview process, talk with the applicant about the availability of these benefits.

(b) The county shall follow section 256J.74, subdivision 2, paragraph (b), clauses (1) and (2), when an applicant or a recipient of DWP has a person who is a member of more than one assistance unit in a given payment month.

(c) If within 30 days the county agency cannot determine eligibility for the diversionary work program, the county must deny the application and inform the applicant of the decision according to the notice provisions in section 256J.31. A family unit is eligible for a fair hearing under section 256J.40.

Subd. 8. Verification requirements. (a) A county agency must only require verification of information necessary to determine DWP eligibility and the amount of the payment. The applicant or participant must document the information required or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so.

(b) A county agency must not request information about an applicant or participant that is not a matter of public record from a source other than county agencies, the Department of Human Services, or the United States Department of Health and Human Services without the person's prior written consent. An applicant's signature on an application form constitutes consent for contact with the sources specified on the application. A county agency may use a single consent form to contact a group of

similar sources, but the sources to be contacted must be identified by the county agency prior to requesting an applicant's consent.

(c) Factors to be verified shall follow section 256J.32, subdivision 4. Except for personal needs, family maintenance needs must be verified before the expense can be allowed in the calculation of the DWP grant.

Subd. 9. Property and income limitations. The asset limits and exclusions in section 256J.20 apply to applicants and recipients of DWP. All payments, unless excluded in section 256J.21, must be counted as income to determine eligibility for the diversionary work program. The county shall treat income as outlined in section 256J.37, except for subdivision 3a. The initial income test and the disregards in section 256J.21, subdivision 3, shall be followed for determining eligibility for the diversionary work program.

Subd. 10. Diversionary work program grant. (a) The amount of cash benefits that a family unit is eligible for under the diversionary work program is based on the number of persons in the family unit, the family maintenance needs, personal needs allowance, and countable income. The county agency shall evaluate the income of the family unit that is requesting payments under the diversionary work program. Countable income means gross earned and unearned income not excluded or disregarded under MFIP. The same disregards for earned income that are allowed under MFIP are allowed for the diversionary work program.

(b) The DWP grant is based on the family maintenance needs for which the DWP family unit is responsible plus a personal needs allowance. Housing and utilities, except for telephone service, shall be vendor paid. Unless otherwise stated in this section, actual housing and utility expenses shall be used when determining the amount of the DWP grant.

(c) The maximum monthly benefit amount available under the diversionary work program is the difference between the family unit's needs under paragraph (b) and the family unit's countable income not to exceed the cash portion of the MFIP standard of need as defined in section 256J.08, subdivision 55a, for the family unit's size.

(d) Once the county has determined a grant amount, the DWP grant amount will not be decreased if the determination is based on the best information available at the time of approval and shall not be decreased because of any additional income to the family unit. The grant must be increased if a participant later verifies an increase in family maintenance needs or family unit size. The minimum cash benefit amount, if income and asset tests are met, is \$10. Benefits of \$10 shall not be vendor paid.

(e) When all criteria are met, including the development of an employment plan as described in subdivision 14 and eligibility exists for the month of application, the amount of benefits for the diversionary work program retroactive to the date of application is as specified in section 256J.35, paragraph (a).

(f) Any month during the four-month DWP period that a person receives a DWP benefit directly or through a vendor payment made on the person's behalf, that person is ineligible for MFIP or any other TANF cash assistance program except for benefits defined in section 256J.626, subdivision 2, clause (1).

If during the four-month period a family unit that receives DWP benefits moves to a county that has not established a diversionary work program, the family unit may be eligible for MFIP the month following the last month of the issuance of the DWP benefit.

Subd. 11. Universal participation required. (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, paragraph (c), that may contain alternate activities and reduced hours.

(c) A participant who has a family violence waiver shall be allowed to develop an employment plan under section 256J.521, subdivision 3.

(d) One parent in a two-parent family unit that has a natural born child under 12 weeks of age is not required to have an employment plan until the child reaches 12 weeks of age unless the family unit has already used the exclusion under section 256J.561, subdivision 2, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 weeks of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet within ten working days after the child reaches 12 weeks of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 weeks of age that has already used the exclusion in section 256J.561 or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize the caregiving needs of the parent.

Subd. 12. **Conversion or referral to MFIP.** (a) If at any time during the DWP application process or during the four-month DWP eligibility period, it is determined that a participant is unlikely to benefit from the diversionary work program, the county shall convert or refer the participant to MFIP as specified in paragraph (d). Participants who are determined to be unlikely to benefit from the diversionary work program must develop and sign an employment plan. Participants who meet any one of the criteria in paragraph (b) shall be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

(b) A participant who:

(1) has been determined by a qualified professional as being unable to obtain or retain employment due to an illness, injury, or incapacity that is expected to last at least 60 days;

(2) is required in the home as a caregiver because of the illness, injury, or incapacity, of a family member, or a relative in the household, or a foster child, and the illness, injury, or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue more than 60 days;

(3) is determined by a qualified professional as being needed in the home to care for a child meeting the special medical criteria in section 256J.425, subdivision 2, clause (3);

(4) is pregnant and is determined by a qualified professional as being unable to obtain or retain employment due to the pregnancy; or

(5) has applied for SSI or RSDI.

(c) In a two-parent family unit, both parents must be determined to be unlikely to benefit from the diversionary work program before the family unit can be converted or referred to MFIP.

(d) A participant who is determined to be unlikely to benefit from the diversionary work program shall be converted to MFIP and, if the determination was made within 30 days of the initial application for benefits, no additional application form is required. A participant who is determined to be unlikely to benefit from the diversionary work program shall be referred to MFIP and, if the determination is made more than 30 days after the initial application, the participant must submit a program change request form. The county agency shall process the program change request form by the first of the following month to ensure that no gap in benefits is due to delayed action by the county agency. In processing the program change request form, the county must follow section 256J.32, subdivision 1, except that the county agency shall not require additional verification of the information in the case file from the DWP application unless the information in the case file is inaccurate, questionable, or no longer current.

(e) The county shall not request a combined application form for a participant who has exhausted the four months of the diversionary work program, has continued need for cash and food assistance, and has completed, signed, and submitted a program change request form within 30 days of the fourth month of the diversionary work program. The county must process the program change request according to section 256J.32, subdivision 1, except that the county agency shall not require additional verification of information in the case file unless the information is inaccurate, questionable, or no longer current. When a participant does not request MFIP within 30 days of the diversionary work program benefits being exhausted, a new combined application form must be completed for any subsequent request for MFIP.

Subd. 13. Immediate referral to employment services. Within one working day of determination that the applicant is eligible for the diversionary work program, but before benefits are issued to or on behalf of the family unit, the county shall refer all caregivers to employment services. The referral to the DWP employment services must be in writing and must contain the following information:

- (1) notification that, as part of the application process, applicants are required to develop an employment plan or the DWP application will be denied;
- (2) the employment services provider name and phone number;
- (3) the date, time, and location of the scheduled employment services interview;
- (4) the immediate availability of supportive services, including, but not limited to, child care, transportation, and other work-related aid; and
- (5) the rights, responsibilities, and obligations of participants in the program, including, but not limited to, the grounds for good cause, the consequences of refusing or failing to participate fully with program requirements, and the appeal process.

Subd. 14. Employment plan; DWP benefits. As soon as possible, but no later than ten working days of being notified that a participant is financially eligible for the diversionary work program, the employment services provider shall provide the participant with an opportunity to meet to develop an initial employment plan. Once the initial employment plan has been developed and signed by the participant and the job counselor, the employment services provider shall notify the county within one working day that the employment plan has been signed. The county shall issue DWP benefits within one working day after receiving notice that the employment plan has been signed.

Subd. 15. Limitations on certain work activities. (a) Except as specified in paragraphs (b) to (d), employment activities listed in section 256J.49, subdivision 13, are allowable under the diversionary work program.

(b) Work activities under section 256J.49, subdivision 13, clause (5), shall be allowable only when in combination with approved work activities under section 256J.49, subdivision 13, clauses (1) to (4), and shall be limited to no more than one-half of the hours required in the employment plan.

(c) In order for an English as a second language (ESL) class to be an approved work activity, a participant must:

- (1) be below a spoken language proficiency level of SPL6 or its equivalent, as measured by a nationally recognized test; and
- (2) not have been enrolled in ESL for more than 24 months while previously participating in MFIP or DWP. A participant who has been enrolled in ESL for 20 or more months may be approved for ESL until the participant has received 24 total months.

(d) Work activities under section 256J.49, subdivision 13, clause (6), shall be allowable only when the training or education program will be completed within the four-month DWP period. Training or education programs that will not be completed within the four-month DWP period shall not be approved.

Subd. 16. Failure to comply with requirements. A family unit that includes a participant who fails to comply with DWP employment service or child support enforcement requirements, without good cause as defined in sections 256.741 and

256J.57, shall be disqualified from the diversionary work program. The county shall provide written notice as specified in section 256J.31 to the participant prior to disqualifying the family unit due to noncompliance with employment service or child support. The disqualification does not apply to food support or health care benefits.

Subd. 17. Good cause for not complying with requirements. A participant who fails to comply with the requirements of the diversionary work program may claim good cause for reasons listed in sections 256.741 and 256J.57, subdivision 1, clauses (1) to (13). The county shall not impose a disqualification if good cause exists.

Subd. 18. Reinstatement following disqualification. A participant who has been disqualified from the diversionary work program due to noncompliance with employment services may regain eligibility for the diversionary work program by complying with program requirements. A participant who has been disqualified from the diversionary work program due to noncooperation with child support enforcement requirements may regain eligibility by complying with child support requirements under section 256.741. Once a participant has been reinstated, the county shall issue prorated benefits for the remaining portion of the month. A family unit that has been disqualified from the diversionary work program due to noncompliance shall not be eligible for MFIP or any other TANF cash program during the period of time the participant remains noncompliant. In a two-parent family, both parents must be in compliance before the family unit can regain eligibility for benefits.

Subd. 19. Recovery of overpayments. When an overpayment or an ATM error is determined, the overpayment shall be recouped or recovered as specified in section 256J.38.

Subd. 20. Implementation of DWP. Counties may establish a diversionary work program according to this section any time on or after July 1, 2003. Prior to establishing a diversionary work program, the county must notify the commissioner. All counties must implement the provisions of this section no later than July 1, 2004.

History: *1Sp2003 c 14 art 1 s 102*