

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

Subdivision 1. **MFIP assistance unit.** An MFIP assistance unit is either a group of individuals with at least one minor child who live together whose needs, assets, and income are considered together and who receive MFIP assistance, or a pregnant woman and her spouse who receive MFIP assistance.

Individuals identified in subdivision 2 must be included in the MFIP assistance unit. Individuals identified in subdivision 3 are ineligible to receive MFIP. Individuals identified in subdivision 4 may be included in the assistance unit at their option. Individuals not included in the assistance unit who are identified in section 256J.37, subdivisions 1 to 2, must have their income and assets considered when determining eligibility and benefits for an MFIP assistance unit. All assistance unit members, whether mandatory or elective, who live together and for whom one caregiver or two caregivers apply must be included in a single assistance unit.

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

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

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

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;
- (4) children receiving ongoing monthly adoption assistance payments under chapter 259A; and
- (5) individuals disqualified from the work participation cash benefit program until that disqualification ends.

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

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

(b) Any minor child not related as a sibling, stepsibling, or adopted sibling to the minor child in the unit, but for whom there is an eligible caregiver may elect to be in the unit.

(c) A foster care provider of a minor child who is receiving federal, state, or local foster care maintenance payments may elect to receive MFIP if the provider meets the definition of caregiver under section 256J.08, subdivision 11. If the provider chooses to receive MFIP, the spouse of the provider must also be included in the assistance unit with the provider. The provider and spouse are eligible for assistance even if the only minor child living in the provider's home is receiving foster care maintenance payments.

(d) The adult caregiver or caregivers of a minor parent are eligible to be a separate assistance unit from the minor parent and the minor parent's child when:

- (1) the adult caregiver or caregivers have no other minor children in the household;
- (2) the minor parent and the minor parent's child are living together with the adult caregiver or caregivers; and
- (3) the minor parent and the minor parent's child receive MFIP, or would be eligible to receive MFIP, if they were not receiving SSI benefits.

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. The amount of the transitional standard is published annually by the Department of Human Services.

[See Note.]

Subd. 5a. **Food portion of MFIP transitional standard.** The commissioner shall adjust the food portion of the MFIP transitional standard as needed to reflect adjustments to the Supplemental Nutrition Assistance Program. The commissioner shall publish the transitional standard including a breakdown of the cash and food portions for an assistance unit of sizes one to ten in the State Register whenever an adjustment is made.

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;

(5) the child is the mother's first child subsequent to a pregnancy that did not result in a live birth; or

(6) 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. If there is earned income in the assistance unit, earned income is subtracted from the family wage level to determine the amount of the assistance payment, as specified in section 256J.21. 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.

[See Note.]

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 at the time of the adjustment. 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 whenever a Supplemental Nutrition Assistance Program adjustment is reflected in the food portion of the MFIP transitional standard as required under subdivision 5a.

History: 1997 c 85 art 1 s 14; 1998 c 407 art 6 s 44-51; 1999 c 245 art 6 s 23-28; 1Sp2001 c 9 art 10 s 14-16,66; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 1 s 35-39,106; 2004 c 288 art 4 s 34; 2005 c 98 art 1 s 13; 2008 c 361 art 4 s 2; 2009 c 79 art 2 s 13; 2010 c 301 art 1 s 4-7; 1Sp2010 c 1 art 18 s 3; 2012 c 216 art 1 s 5; art 8 s 2; 2013 c 108 art 3 s 27,28,48; 2013 c 125 art 1 s 49

NOTE: The amendment to subdivision 5 by Laws 2013, chapter 108, article 3, section 27, is effective January 1, 2015. Laws 2013, chapter 108, article 3, section 27, the effective date.

NOTE: The amendment to subdivision 7 by Laws 2013, chapter 108, article 3, section 28, is effective October 1, 2014, or upon approval from the United States Department of Agriculture, whichever is later. Laws 2013, chapter 108, article 3, section 28, the effective date.

NOTE: This section was also repealed by Laws 2013, chapter 108, article 3, section 48, paragraph (a), effective January 1, 2015. Laws 2013, chapter 108, article 3, section 48, paragraph (a), the effective date. In preparing the conference committee report that contained the amendments to and repealer of this section, a reference to subdivision 6 was inadvertently omitted from the repealer. The conflict will be addressed in the 2014 legislative session.