

Minnesota Attorney General: Administrative Rules Proceedings

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441

Attorney General

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June 29, 1978

296-1288

In the Matter of the Proposed Temporary Rules of the Work Equity Program (WEP)

As we discussed, the following portions of the proposed rule have been disapproved for the following reasons:

1. D(1): The provision improperly grants unfettered discretion to the Commissioner to exclude or not exclude persons from registration. The provision must establish agency standards and policies upon which such discretion shall be exercised. E.g. "...or otherwise excluded from registration by the Commissioner of Public Welfare because of program or budgetary constraints."

2. D(4): This provision improperly grants unfettered agency discretion. The provision must establish agency standards or policies upon which the Commissioner may limit volunteer participation. E.g., "...because of program or budgetary constraints." Secondly, the use of the word "may" in the second sentence permits improper agency discretion. Certain volunteers with "barriers to employment" could be excluded under the rule while others with similar "barriers" could be admitted under the provision. The provision must establish agency policies upon which such a distinction could be made if the agency desires flexibility. The word "shall" must be used.

3. E(4) and (5): These provisions improperly grant unfettered agency discretion. The provision must establish agency standards or policies upon which the Commissioner may limit volunteer participation. E.g., ..."because of program or budgetary constraints."

4. F(3): The use of the word "should" is improper as it leaves unanswered whether the requirements are mandatory. The word must be changed to "shall".

5. H(5): The uses of the word "may" improperly gives the agency unfettered discretion. As we discussed, the first sentence relating to uncertified participants and appraisal-related services can retain the word "may" if that section only gives the public the discretion to request or not request such services. All other "mays" appear to give the agency, as opposed to the public, unbridled discretion and are therefore improper.

6. L: The use of the word "may" improperly grants the agency unfettered discretion. The agency must establish the standards upon which relocation assistance shall be awarded or denied.

7. M(2): The last paragraph improperly uses the word "may". The standards upon which such extension shall be granted must be established by rule.

8. M(6): The phrase "definition of appropriate work" misleadingly implies that such a definition exists. A definition should be established or the phrase should be re-written.

9. O(1)(e): The use of the word "may" improperly grants unfettered discretion to the agency. The standards upon which the discretion will be exercised must be established by rule.

10. O(2): The use of the word "may" is improper for the reason stated in paragraph 9 above.

11. P(3)(a): The citation in the last paragraph is incorrect.

12. P(4)(b): The use of the word "may" gives the hearing officer improper discretion.

Other matters which the agency may wish to consider but which are not disapproved as to form and legality are as follows:

(a) B(1): Adding the word "irreconcilable" between "any" and "differences" may more accurately reflect the agency's intention.

(b) B(4): The word "traditional" is somewhat vague and imprecise. "Required" or "permitted" seems more accurate.

(c) B(5): The use of the word "standard", a legal term of art, implies that certain standards of conduct are established by law. Since it is my understanding that such is not the case in this instance, the agency may wish to re-write this section to dispel any confusion.

(d) B(8): The reference to the word "procedures" should be clarified. If the procedures are not of the type required to be promulgated as a rule pursuant to Minn. Stat. 15.0412,

Subd. 3, then language such as "internal management" should proceed the word "procedure" to unequivocally establish the fact.

(e) C(17): The word "of" is missing from between "skills" and "a".

(f) I(1)(d): The agency may wish to include specific citations for the child care standards referenced in this provision.

(g) J(3): The agency may wish to reconsider the use of the phrase "...and other benefits..." For example, are retirement benefits intended to be included? See, for example, Chapter 720, 1978 Minnesota Session Law Service.

(h) P(4)(b): The last paragraph refers to "other interested parties", yet no procedure is established for identifying interested parties. The agency may wish to clarify this situation.

If you have any questions, please feel free to call me.

LES:mb

Attorney General

Beverly Jones Heydinger
Special Assistant
Attorney General

July 14, 1978

Lee E. Sheehy
Special Assistant
Attorney General

296-1288

Temporary Rule 63 - Work Equity

The above-captioned Temporary Rule, as amended and resubmitted, is approved as to form and legality. This office recommends that a copy of the Temporary Rule as adopted be filed with the Secretary of State.

LES:mb

cc: William G. Brown
Christine Luzzie

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : LEE SHEEHY
Special Assistant Attorney General
Department of Administration

DATE: July 13, 1978

FROM : CHRISTINE M. LUZZIE
Special Assistant
Attorney General

PHONE:

SUBJECT: Temporary Rule 63 - Work Equity

As we discussed in our telephone conversation of July 12, 1978, the new draft of Rule 63, sent to you by memo dated July 10, 1978, inadvertently failed to correct language in section E6, found at page 9. This section should read:

> 6. Food Stamp recipients exempt from WEP registration may voluntarily register with WEP, unless the Commissioner of Public Welfare limits participation of volunteers because of program or budgetary constraints. ~~WEP may exclude from participation individual volunteers whose barriers to employment preclude them from obtaining gainful employment during the existence of WEP.~~

In addition, in I 1d, at page 12, on the second line, the phrase "in Rule 2 and 3" should be underlined to denote that this is a change from the proposed rule.

If you have any questions, please call me.

CML/kd

RECEIVED
JUL 13 1978
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT of Public Welfare

TO : Lee Sheehy
Special Assistant Attorney General
Department of Administration

DATE: July 10, 1978

FROM : Beverly Jones Heydinger
Special Assistant Attorney General
Department of Public Welfare

PHONE: 6-8405

SUBJECT: Temporary Rule 63 - Work Equity

Attached please find a new draft of Rule 63 reflecting the changes contained in your memo of June 29, 1978. I hope we have corrected the problems, but if not, please let me know as soon as possible so the management board may be reconvened to consider additional changes.

Underlining is used to show changes from the proposed rule, therefore not every underlined part is a new change; some were in the last draft you reviewed.

If you have any questions, please call me at 6-8405.

RECEIVED
JUL 10 1978
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

BJH/rn

Attach.

Attorney General

Beverly Heydinger
William G. Brown
Christine Luzzie
Special Assistant
Attorneys General

June 29, 1978

296-1288

Lee E. Sheehy
Special Assistant
Attorney General

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LES:mb

#441 Dept of Public Welfare

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 6/22 ~~7/11~~ Temporary Rule X

Resubmitted and Received 7/11

DUE DATE 6/29 / 7/18

DUE: 7/16

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted _____
2. Rules as Proposed _____
3. Certificate of Board's Authorizing Resolution, where applicable _____
4. Order for Hearing _____
5. Notice of Hearing _____
   (i) Sufficiency _____
6. Secretary of State's List _____
7. Certificate of Acquisition of Secretary of State's List _____
8. Affidavit of Mailing _____
   (i) At least 30 days prior to hearing _____
9. Statement of Need and Evidence _____
10. Hearing Examiner's Report _____
11. Agency's Findings of Fact _____
12. Certificate of Board's Resolution Adopting Rules, where applicable _____
13. Order Adopting _____
14. Report of Chief Hearing Examiner _____
    (i) Finding of No Substantial Change _____
    (ii) Permission to Incorporate by Reference, where applicable _____
15. Certificate of Compliance with Rulemaking Procedures _____
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable _____
17. Petition by Public, where applicable _____.

① p. 1 B(1) add "irrevocable" before "difference"

② p. 2 B(4) Word "traditional" vague. "Permitted" or "required" seems more appropriate

#2 Chg to "equitable adm"

③ p. 2 B(5) "equit. stds for assist. & admin." Are those stds. set by rule?

~~④ p. 2 B(6) Confusing after semi-colon~~ Not incomprehensible

④ p. 2 B(6) Can funds be used to pay wages for indiv. at places of employment that permit employee to take time off to vote

limited to "transp. or similar act"

#2 ④ p. 2 (8) "procedures" discussed therein interf mgmt. procedures. Word "diverted" confusing

But the formula could still be used to determine WEP recapture

B(7) doesn't seem to refer to any formulae describing reimburs to WEP. The formula in B(7) only seems to describe money reimbursed to local welf agencies

⑤ p. 4 (17) word "of" missing

(6) p.4 (22) Grievance doesn't include dispute over assignment where participant refuses assignment. Its a "same actor"

(5) p.4 (23) "and decide" possible? What distinguishes "recommend" from "decisions"?

Recommend or final, depends on statute.

(8) p.5 (30) exempt from what? "Exempted" defined

(9) p.6 (50)

Add: see draft (10) p.7 (1) How is one "otherwise excluded from registration by CfPW"?

- added "for good cause".

(11) p.7 (2)(K) "Suitable" a dangerous std.

"child" modified by "or..." & "child" by statute. s (18)

(12) p.7 (2)(a+b) seem to vary statute. M.S. 256.736, Subd 3 (1) is "or", not "and"

@ because of budgetary & program constraints

(13) p.7 (4) Is "barriers of unemployment" a commonly understood term of art? NO

- See pg 9 (6) for same phrase

- "may" improper

(14) p.8 (E)(2) How about other exceptions as in D(2)? GA only - Fed regs govern here.

(15) p. 8 E (3) (c) "suitable" std. again

(15½) p. 9 (4) program & budgetary constraints

(16) p. 10 top of page "should" should be "shall"

? (17) p 11 (5) "may" → When "may" not?

criteria for exercise of discretion necessary.

(18) p. 11 O.K. as member of public being given dist I (1) (a): "may" When "may" not?

(19) p 12 stds. specified by other DPW Rules, (d) at top of page: child care stds. — Where specified — in other DPW Rules?

(20) p. 12 Employment Criteria
See p. 13 (J) ← ~~Permanent rules may wish to reference benefit req. of~~ ~~[illegible]~~ ~~programs. e.g., CETA~~

(21) p. 14 ~~(5) & (6): Careful — No criteria for non-recurring expenses~~
criteria is "req. for employment"

(22) p. 14 L "may" a problem

Doesn't affect rights of pl

(23) p. 15 M (1) - "may". Wouldn't "shall include one of the following:"

?2 (24) p. 15 M (2) underlined lang. Approved based on consideration of what?

Chg to G made

(25) p. 16 (6) first paragraph - Where is the "definition of appropriate work"?

~~(26) Define~~

(26) p. 17 (2) ~~How is~~ What criteria or stds are considered to make determinations?

(27) p. 19 (4) (b) What else "may" HE rule? Shld be <u>shall</u>

(28) p. 20 How are interested parties to be determined?

DPW 63 Administration of Work Equity Project

A. Introduction

1. This rule governs administration of the Work Equity Project (WEP) as authorized by Minn. Stat. §256.736 (amended, 1977) and §256D.04 (amended, 1977). WEP is a work and training demonstration project jointly administered by the Minnesota Department of Public Welfare (DPW), the Minnesota Department of Economic Security (DES), and the City of St. Paul, and funded through an initial grant of $6.8 million by the United States Department of Labor (DOL) through the Comprehensive Employment and Training Act (CETA) and the Work Incentive Program (WIN). The purpose of the project is to provide employment opportunities, training, and services in a uniform manner to applicants and recipients of General Assistance, Aid to Families with Dependent Children, and Food Stamps, and to provide a model for evaluation of certain national welfare reform proposals. The provisions of this rule are to be read in conjunction with Title IV of the Social Security Act, 42 U.S.C. §601 et seq. (amended, 1977); the Food Stamp Act of 1964, 1977, 7 U.S.C. §2011 et seq. (amended, 1977); the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. §801 et seq. (amended, 1977); Titles 7, 29, and 45 of the Code of Federal Regulations; Minn. Stat. Chaps. §256, §256D, and §268.10; and DPW 44, 55, and 202.

2. This rule is binding on DPW and DES all county welfare and human services boards (hereinafter called local welfare agencies), and applicants and recipients as defined and outlined in this rule.

3. The Commissioner of DPW and the Commissioner of DES shall issue handbooks and informational materials to local welfare agencies, to local offices of the Department of Economic Security and the Prime Sponsors, and to people who are referred to WEP, to implement this rule in an orderly and uniform manner.

B. Administration

1. WEP is a pilot project designed to extend the scope and services available through the WIN program, the General Assistance Work Program, and Food Stamp work registration. In those counties selected by the Commissioner of DPW for participation in WEP, this rule shall be read in conjunction with DPW 44, 55, and 202; any differences shall be resolved in favor of this rule. In those counties not selected for participation in WEP, provisions of DPW 44, 55 and 202 shall apply without change.

2. WEP shall combine the efforts and resources of DPW, DES, and the City of St. Paul to provide appropriate employment or training for designated public assistance applicants and recipients and shall operate in conjunction with the St. Paul and Minnesota Balance of State Prime Sponsors designated pursuant to CETA.

3. Agreements between, among, or within DPW, DES, St. Paul CETA Prime Sponsor and the Balance of State CETA Prime Sponsor shall specify the obligations that they have for the administration of WEP. A representative of each agency shall be named to a Management Board which shall meet regularly to coordinate implementation and operation of WEP. All parties to the agreements shall have copies of the agreements on file, which are public documents available for examination during business hours.

4. WEP shall provide all services traditional to WIN and shall increase the opportunities for training and jobs available through a work incentive program to additional numbers of public assistance recipients.

5. The Commissioner of DPW shall select the counties to participate in WEP, shall determine the date such participation shall begin and shall supervise WEP in the local welfare agencies in accordance with this Rule and with equitable standards for assistance and administration which shall be mandatory for all counties selected for participation in WEP.

6. No funds allocated to WEP shall be used for any political activity or to further the election or defeat of any candidate for public office; nor shall they be used to provide services, or for the employment or assignment of personnel in a manner supporting or resulting in the identification of programs conducted pursuant to the Social Security Act with:

a. Any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, or lobbying for any matter at public issue;

b. Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election;

c. Any voter registration activity.

7. The local welfare agencies shall be reimbursed for increased local expenditures resulting from operation of the Work Equity Project. DPW shall establish pre-WEP baseline data on county income maintenance, medical, social service, and administrative costs. Local welfare agencies will provide WEP with staff and other resources equivalent to the resources the agency would otherwise be required to allocate to other work and training programs and related services if the applicants and recipients had not been placed in WEP. WEP will reimburse counties for any additional costs incurred by the counties which are directly attributable to WEP, in a manner to be agreed upon between DPW and DES.

In order to determine the reimbursement formulae, counties shall provide necessary information to DPW and shall enter GA and Food Stamp information on the DPW case information system, as required by the Commissioner of DPW.

Payments to or from WEP and the local welfare agencies shall be made on a quarterly basis.

8. Income maintenance funds which are not expended by local welfare agencies as a result of a recipient's participation in WEP shall be diverted to WEP, in accordance with procedures to be established by DPW and DES. The reimbursement formulae, referred to in B. 7., above, shall be used to determine the amounts, if any, to be diverted to WEP.

Payments to or from WEP and the local welfare agencies shall be made on a quarterly basis.

9. WEP administration shall not deny any person his/her civil rights. The program shall give due regard to the privacy rights of applicants and/or recipients, in accordance with 45 CFR Park 205 and the Minnesota Data Privacy Act, Minn. Stat. §15.162 et seq. (amended, 1978). No disclosure shall be made of personally identifiable data from records or from applicants or recipients except as permitted by law.

10. Notwithstanding any provisions of this rule, administration of WEP is subject to changes in state or federal law. The Commissioner of DPW shall notify the local welfare agencies of changes affecting the participation of public assistance recipients in WEP. The Commissioner of DES shall notify the local offices of the Department of Economic Security and the Prime Sponsors of changes in WEP and related programs.

11. Operation of WEP is subject to approval by the U.S. Department of Health, Education, and Welfare for the participation of AFDC participants; the approval of the United States Department of Agriculture for the participation of Food Stamp recipients; and the approval of the entire project by the United States Department of Labor (DOL). Operation of WEP is also contingent upon sufficient funding from the DOL. The Prime Sponsors shall give prompt notice to each participant of the project's termination and shall make every reasonable effort to assist each

C. Definitions

1. AFDC (Aid to Families with Dependent Children): A program authorized by Title IV of the Social Security Act, 42 U.S.C. §601 et seq. (amended, 1977), to provide financial assistance and social services to needy families with dependent children.

2. Applicant: A person who requests AFDC, GA, or Food Stamps from the local welfare agency, whose eligibility has not yet been determined.

3. Appraisal: The interview of a WEP participant by WEP Center staff including support service staff to determine employability potential, the need for support services, and to initiate an employability plan.

4. Certification: A written notice by the support service staff that necessary support services have been arranged or are available to enable a WEP participant to accept employment, training, or services; or that no such services are needed and that the individual is at that time ready for employment or training.

5. Classroom Training (CT): Vocational or other institutional training, including basic or remedial education, conducted in a non-worksite setting.

6. Commissioner of Economic Security: The Commissioner of the Minnesota Department of Economic Security or his/her designee.

7. Commissioner of Public Welfare: The Commissioner of the Minnesota Department of Public Welfare or his/her designee.

8. Community Work Project (CWP): A subsidized work component that fulfills a public service and provides an individual an opportunity to develop skills and basic work habits helpful in securing unsubsidized employment.

9. Complaints: (See Grievance)

10. Component: A structured, regularly scheduled program activity for certified WEP participants.

11. Deregistration: Termination of an individual's WEP registration.

12. DES: The Minnesota Department of Economic Security.

13. DHEW: The United States Department of Health, Education, and Welfare.

14. DOL: The United States Department of Labor, specifically, its Employment and Training Administration.

15. DPW: The Minnesota Department of Public Welfare.

16. Employability Plan: A written plan for a WEP participant that sets forth that individual's occupational goal, and the employability and support services necessary for him/her to reach that goal.

17. Employability Services: Employment and training services provided by the WEP Center to improve the work skills a participant and aid him/her to find employment.

18. Exempt: An AFDC, GA, or FS applicant or recipient who is not required to register for employment or training under the Work Equity Project as a condition of eligibility for welfare benefits.

19. Food Stamp Program: A program authorized by the Federal Food Stamp Act of 1964, 1977, 7 U.S.C. §2011 et seq. (amended 1977), to provide assistance to needy families and individuals.

20. General Assistance (GA): A program authorized by Minn. Stat. Chap. 256D to provide financial assistance to needy families and individuals.

21. General Assistance Medical Care (GAMC): A program authorized by Minn. Stat. §Chap. 256D to provide assistance to families and individuals in need of medical care.

22. Grievance: A written complaint initiated by a WEP participant. Grievances may include, but are not limited to, disputes over assignments where the participant is not refusing the assignments; alleged discrimination; and complaints about eligibility for or amounts of WEP allowances.

23. Hearing Officer: The hearing officer designated by DES to hear and decide or make recommendations on issues relating to grievances and sanctionable issues involving WEP participants.

24. Incentive Payment: A cash payment to an individual, who is participating in a non-wage WEP component. The incentive payment is to be an inducement to the participant to engage intensively in WEP activities as preparation for entering employment; it does not compensate or reimburse a participant for any costs that are incurred in connection with WEP participation.

25. Income Maintenance Funds: Amounts of AFDC or GA to meet basic living costs of eligible individuals in accordance with established standards of need.

26. Income Maintenance Unit (IMU): The unit of the local welfare agency which determines individual eligibility for AFDC, GA, or Food Stamps.

27. Intensive Manpower Services (IMS): Structured employment-related services; including job development and placement services offered to WEP participants so they may more readily obtain unsubsidized employment.

28. Job Service (also known as State Employment Service): A program within the Department of Economic Security, established in accordance with the provisions of the Wagner Peyser Act, 29 U.S.C. §981 et seq. (amended, 1977).

29. Management Board: Representatives from the City of St. Paul CETA, Balance of State CETA, DES, DPW, and WEP responsible for the design and administration of WEP.

30. Mandatory: A person who is not exempt.

31. Medical Assistance (MA): A program authorized by Title XIX of the Social Security Act to provide assistance to needy families or individuals in need of medical care, implemented in Minnesota by Minn. Stat. Chap. 256B.

32. Medical Verification: A statement signed by a physician or licensed psychologist which attests to an individual's ability or inability to accept employment or participate in other WEP activity. Oral testimony presented in person by such physician or licensed or certified psychologist may also be accepted as medical verification.

33. Non-Wage Component: An activity, such as IMS, Employability Development Plan (EDP), and Classroom Training, wherein allowances and incentives are paid for suitable participation.

34. On-the-Job Training (OJT): Employment of a WEP participant during which he/she is provided with employment training at a work site under a contractual agreement between a public or private employer and the Prime Sponsor. The employer is reimbursed for the extraordinary costs of such training.

35. Participant: An AFDC, GA or Food Stamp applicant or recipient who has registered with WEP.

36. Prime Sponsor: A public agency (or private, non-profit corporation) which operates WEP within the jurisdiction(s) in which it is expressly authorized by the DOL to administer funds authorized pursuant to CETA Titles I and II.

37. Public Service Employment (PSE): Subsidized transitional employment with non-profit employers or public employers, funded by CETA.

38. Recipient: An individual who has been determined eligible to receive AFDC, GA or Food Stamps.

39. Referring Agency. The local welfare agency, or local Job Service office responsible for referring applicants and recipients to the WEP center.

40. Sixty-Day Counseling: Counseling and other services provided by the support service staff to certified WEP participants who have been determined to have refused to participate without good cause. Its purpose is to encourage such individuals to return to active WEP participation.

41. Subsidized Employment: Work in a job for which the individual's wages and benefits are directly federally subsidized.

42. Support Services: Those social services provided or arranged by support service staff necessary to enable an individual to engage in employment or other WEP activity.

43. Support Service Staff: Those counselors from local welfare agencies or WEP Center Offices who provide support services to WEP applicants or recipients.

44. Title XX Services: A program authorized by Title XX of the Social Security Act to provide social services to families and individuals in need.

45. Transfer: A period during which a participant is assigned to active participation in a program other than WEP as part of an approved WEP employability plan. Necessary employability and support services including incentive and transportation payments not provided under the assigned program shall be provided under WEP.

46. Unsubsidized Employment: Work in a job for which the wages and benefits are not subject to a direct federal subsidy for the individual.

47. Volunteer: An AFDC, GA, or Food Stamp applicant or recipient who, though exempt from WEP registration, volunteers for and registers for WEP.

48. Wage Component: An activity such as Public Service Employment (PSE), OJT and CWP, whereby a participant performs work for specified hours, and is paid wages and benefits.

49. Welfare Benefits: Those payments or services other than those provided in this rule that are available to applicants and recipients of AFDC, GA, or Food Stamps.

50. Welfare Appeals Referee: The hearing officer designated by the welfare agency to hear and decide or make recommendations on issues relating to exemption or non-exemption for WEP registration or any program-related AFDC, GA or Food Stamp benefit reductions, suspensions or terminations which result from deregistration from WEP.

51. WEP Center: A field office of a Prime Sponsor from which WEP services are administered.

52. WEP Center Staff: Prime Sponsor staff in a WEP Center, or satellite office thereof, part or all of whose time is compensated by WEP funds and staff from other agencies assigned to work in a WEP Center and performing WEP functions.

53. WIN: The Work Incentive Program for AFDC applicants and recipients, authorized by Title IV-C of the Social Security Act.

54. WIN Registrant: An AFDC applicant or recipient who has registered with the Work Incentive Program.

D. Participation of AFDC and GA Applicants and Recipients

1. All AFDC and GA applicants and recipients eligible for WEP shall be informed of its availability and shall register for WEP unless exempt or otherwise excluded from registration by the Commissioner of Public Welfare.

2. The following AFDC and GA applicants and recipients shall be exempt from WEP registration:

a. children under 16;

b. children age 16 through 18, and attending school full time;

c. persons who are ill;

d. persons who are incapacitated (AFDC recipients whose WEP exemption is based on incapacity shall be referred to the Division of Vocational Rehabilitation in the Department of Economic Security):

e. persons over age 65;

f. persons who live so far away from their WEP Center or placement that more than 2 hours per day (by reasonably available public or private transportation) would be required to travel to and from work or training (exclusive of time necessary for transporting children to or from child care), unless such commuting time is normal to the community;

g. persons whose presence in the home is needed because of the illness or incapacity of another person in the household;

h. AFDC caretaker of a child under age 6 or GA caretaker of a child under age 18 (only one such exemption is allowed per household);

i. the spouse of a WEP or WIN registrant;

j. persons receiving General Assistance who are working at least 30 hours per week, at a wage consistent with that paid in the community for similar work;

k. persons who are registered in WIN and are in a suitable employability development plan;

l. persons receiving General Assistance who have been referred to or applied for work training, work experience, or a similar program, if approved by the local agency and if the waiting period for acceptance into the program does not exceed 30 days.

3. All GA and AFDC recipients who are mandated to or volunteer to register with WEP shall be referred for registration to the local WEP office by the local welfare agency which shall ensure that transportation to and from such registration is available.

4. AFDC and GA recipients exempt from WEP registration may voluntarily register with WEP, unless the Commissioner of Public Welfare limits participation of volunteers. WEP may exclude from participation individual volunteers whose barriers to employment preclude them from obtaining gainful employment during the existence of WEP.

5. Treatment of Income for AFDC and GA WEP Participants.

a. WEP incentive payments of not more than $30 per week shall be disregarded in determining the grant amount for WEP participants.

b. Reimbursement for actual cost of training-related expenses shall be disregarded as income for WEP participants.

c. Wages paid in Work Equity community work projects shall be considered as earned income.

d. All other income shall be handled in accordance with DPW 44 and DPW 55.

e. Receipt of earned income by WEP participants shall not cause ineligibility for public assistance benefits (including Title XX services, Food Stamps and MA or GAMC), even though the household would be otherwise ineligible for a public assistance grant payment, until income from unsubsidized employment meets the need as computed in the existing applicable manner.

E. Participation of Food Stamp Recipients

1. Eligibility for the Food Stamp Program shall be determined by the local welfare agency according to applicable federal law. All Food Stamp applicants or recipients eligible for WEP shall be informed of the program's availability.

2. An individual receiving Food Stamps who is required to register with the Job Service in the Department of Economic Security shall be referred to WEP on a timely basis after 30 days of Job Service registration, unless WEP-exempt. An individual shall be considered WEP-exempt if he/she:

a. has gained employment of at least 30 hours per week; or

b. has been referred to and accepted in a work and training program sponsored by a public agency; or

c. has a job attachment as defined in E. 8. below.

WIN-exempt status shall be reviewed monthly thereafter by the Job Service and individuals who become non-exempt shall be referred to WEP on a timely basis.

3. Individuals referred to WEP shall be required to register with WEP and shall also:

a. Report to the local WEP office where he/she is registered, for an appraisal interview, upon reasonable request;

b. Supply additional information regarding employment status or availability for work, if requested;

c. Interview for, accept bona fide offers of, and/or continue in suitable work to which he/she is referred by the local WEP office.

4. Food Stamp recipients exempt from WEP registration may voluntarily register with WEP, unless excluded from registration by the Commissioner of Public Welfare, and shall be referred to the local WEP office by the local Job Service office.

5. Food Stamp recipients exempt from the Job Service registration may voluntarily register with WEP, unless excluded from registration by the Commissioner of Public Welfare, and shall be referred directly to the local WEP office by the local welfare agency.

6. Food Stamp recipients exempt from WEP registration may voluntarily register with WEP, unless the Commissioner of Public Welfare limits participation of volunteers. WEP may exclude from participation individual volunteers whose barriers to employment preclude them from obtaining gainful employment during the existence of WEP.

7. A person who becomes ineligible for Food Stamps because of excess income attributable to his/her mandatory participation in WEP may continue in WEP until placed in permanent unsubsidized employment.

8. An individual with a job attachment shall be defined for purposes of this section as one who is on strike; lock-out; seasonal layoff; temporary layoff; has a bona fide job prospect with a definite starting date not to be later than 45 days from the date of registration with the Job Service; or is a member in good standing of a union which provides to its members free placement service and exposure to full employment.

F. Exemption Determination Disputes

1. The referring agency shall inform all applicants and recipients of AFDC, GA, and Food Stamps of their rights to contest determination of WEP non-exempt status in accordance with the provisions of this Rule. If a dispute arises between an individual and the referring agency regarding a determination of non-exempt status, the referring agency determination is binding on the individual. If, however, the individual requests a hearing on the issue, as provided in this Rule, he/she shall be considered exempt until his/her status is determined.

2. If an individual contests a determination of non-exemption on the basis of incapacity or illness, the allowable period for receipt of medical verification of such status will be thirty (30) days from the date that the client is notified of the determination. If the individual is a WEP participant, and medical verification or other information is necessary and cannot be obtained within 30 days, the local welfare agency must notify WEP prior to the end of the initial 30-day period of any arrangements that have been made to obtain such information. An acceptable response can also be notification that the determination will be delayed, in which case WEP should not deregister the individual until and unless the referring office's determination necessitates deregistration.

3. If, after referral, WEP Center Staff believe an individual referred as "mandatory" should be exempt, WEP should register the individual and then state the reasons in writing to the referring office and request a review of the case.

The referring office should inform WEP in writing of its findings within 30 days of the request. The decision of the referring office is then binding on WEP.

If WEP receives no response from the referring office within 30 days of its request, it should contact the referring office to determine what action has been taken.

If no action has been taken, the individual should be deregistered as exempt at the end of the 30-day period. However, if an individual is deregistered and the referring office later determines that he/she is non-exempt, he/she shall be re-registered in order to ensure eligibility for welfare benefits.

G. Registration Procedures

WEP Center staff shall register all individuals referred by the respective IMU, Job Service or WIN offices within 3 working days of the day the individual appears for registration. Registration is not complete until all registration requirements are met. WEP Center staff shall:

1. Inform all participants about the WEP program and requirements;

2. Work History: Obtain from each applicant a complete work history, complete the WEP registration forms and provide each participant with written proof of registration;

3. Job Market Information: Provide all participants, at the time of registration, with job market information and referral to available employment. All appropriate job market information available to WEP, including the Job Service Job Bank, shall be used to provide this information and facilitate such referrals;

4. Registration: Notify the referring office, within 3 working days of registration, that registration has been completed.

H. Appraisal and Certification

1. Appraisal Sequence: All participants shall be appraised in the order in which they are registered. Notwithstanding the above, all AFDC-Unemployed Fathers must be appraised within 2 weeks of registration with WEP, and must be certified no later than 30 days after registration. All appraisals shall be completed prior to certification. Certification shall be completed within 30 days of registration.

2. Appraisal Interview: The appraisal interview shall be conducted by WEP Center staff, including support service staff, and is intended to assess the registrant's employability potential and need for supportive services. Whenever possible, individuals shall be appraised at the time of registration. An employability plan for each participant shall be initiated at the appraisal interview.

3. Employability Plan: The employability plan shall contain an employment and training services section and a support services section, and shall be designed to lead to a definite unsubsidized job goal attainable in the shortest time period consistent with the participant's skills, and needs, knowledge,

ability, support services needs, project resources, and job market opportunities. The employability plan shall be developed jointly by the participant and WEP staff including support service staff. Final approval of the employability plan rests with WEP staff.

4. Certification: Support service staff shall certify in writing that the necessary immediate and on-going support services have been provided or arranged, or that no such services are required for those individuals who have been selected for participation in WEP. Certification shall be completed within 30 days of registration. At any point during participation certification may be made for additional services.

5. Support Services: An uncertified participant may be provided pre-appraisal and appraisal services by the WEP support service staff. The participant must be certified before receiving WEP support services, listed in section "O" of this Rule. A WEP participant may be certified at any time during the registration period and additional certifications may be done, if necessary. After certification, a participant who is not employed may receive certified support services until successful completion of his/her EP. Upon entering employment (either unsubsidized or subsidized), WEP support services may be provided for up to 30 days after entering employment. These services may continue for a maximum of 90 days at the discretion of the support service staff. In an emergency such services may be provided for an additional 30 days beyond the 90 day maximum.

6. Benefits and Job Referral: Welfare benefits shall not be denied by reason of the individual's referral to a job, to WEP, or solely by reason of an individual's participation therein.

I. Appropriate Employment and Training Criteria

1. Standards for Employment and Training Assignments: Except as otherwise provided in this Rule, WEP participants shall accept assignment to employment or other WEP activity as determined appropriate by WEP Center staff or shall be subject to deregistration. The following standards must be met before participants shall be required to accept employment or training assignments, including OJT, PSE, classroom training and Community Work Projects:

a. Employability Plan: An employment or training assignment must be within the scope of an individual's employability plan. This plan may be modified jointly by the participant and WEP staff including support service staff. Approval of the employability plan rests with WEP Center staff. If the participant disagrees with the decision, she/he may initiate a grievance;

b. Performance Capability: The job or training assignment must be related to the capability of the individual to perform the task on a regular basis. Any claim of adverse effect on physical or mental health shall be verified by a physician or a licensed or certified psychologist, and shall attest to the individual's ability or inability to accept employment or participation in other WEP activity. Pending verification the participant shall be assigned to the EDP component as defined in M. 1. below.

c. Commuting Distance: The total daily commuting time from home to the assigned work or training site and return shall not normally exceed 2 hours, not

including time required to transport a child/children to and from a child care facility. If a longer commuting distance and time is normal to the community, the round trip commuting time shall not exceed the norm for that community;

d. Child Care Standards: Required child care shall meet the standards specified by the Department of Public Welfare and shall be available during the hours the individual is engaged in a WEP assignment plus any additional necessary commuting time;

e. Health and Safety Standards: The employment or training site to which the individual is assigned shall not be in violation of applicable federal, State and local health and safety laws, regulations and standards.

f. Non-Discrimination: No assignments shall be made which discriminate in terms of age, disability, sex, race, creed, color, national origin, or public assistance status. Employment and training assignments shall in no way contribute to discriminatory hiring practices;

g. Employability and Support Services: No individual shall be referred to employment or training unless employability and support services necessary for participation are available. The cessation or withdrawal of such necessary services while the individual is participating in an assignment shall constitute good cause for refusal to participate.

2. Other Employment Criteria: In addition to criteria in paragraph 1 of this section, appropriate employment criteria shall include the following:

a. Appropriate Employment: Appropriate employment may be temporary, permanent, full-time, part-time or seasonal, if such employment meets the other employment standards of this section;

b. Prevailing Wages: All participants in WEP employment components shall receive a wage which shall meet or exceed the statutory federal or State minimum wage, whichever is higher, and which is not less favorable than the wage normally paid for similar work by the employing agency or service.

c. Hours of Work: The daily and weekly hours of work shall not exceed those customary to the occupation; and

d. Exemption From Employment: No individual shall be required to accept employment if:

(1) The position offered is vacant due to a strike, lock-out, or other bona fide labor dispute;

(2) The individual would be required to work for an employer contrary to the conditions of his/her existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which she/he has membership may be deemed appropriate.

(3) The job offered would interrupt a program in progress under an approved WEP employability plan, or would impede return to his/her regular job. This does not, however, preclude temporary employment during the interval prior to an individual's return to his/her regular job.

(4) The individual would be required to join a union, or refrain from joining a bona fide labor union as a condition of being employed, unless union membership is a requirement of a collective bargaining agreement.

3. Other Training Criteria: In addition to criteria in paragraph 1 of this section, appropriate training criteria shall include the following:

a. The quality of the training must meet local employers' requirements so that individuals will be in a competitive position within the local labor market;

b. The training shall also be likely to lead to employment which will meet the appropriate employment criteria.

J. General Benefits for Program Participants

1. Worker's Compensation: Each participant in an on-the-job training or Community Work Project program under WEP shall be assured of worker's compensation at the same level and to the same extent as other employees of the employer who are similarly employed or engaged and are covered by a State or industry worker's compensation statute. Whether provided through the State's compensation agency or a private insurance carrier, this coverage includes medical and accident insurance as well as income maintenance insurance.

2. Insurance: Where a participant is employed or engaged in a Community Work Project, on-the-job training, or classroom training, where others similarly employed or engaged are not covered by an applicable worker's compensation statute, the participant shall be provided with medical and accident insurance coverage. Whether provided through the State's worker's compensation agency or a private insurance carrier, WEP shall provide such participants with medical and accident insurance coverage comparable to the medical and accident insurance provided under the applicable State worker's compensation statute. However, WEP shall not be required to provide these participants with the income maintenance insurance coverage in the statute.

3. Other Fringe Benefits: Each participant in an On-the-Job Training or Community Work Project program shall also be assured of health insurance, unemployment insurance (to the extent such benefits are allowable), coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed and to working conditions neither more nor less favorable than such other employees similarly employed. Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as Community Work Project participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the WEP Center staff will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

K. Allowances and Incentives for WEP Participants

1. Incentive Payments: Individuals shall receive incentive payments at a rate of $6 per day (maximum of $30 per week) for each day in which they participate

in a non-wage WEP component. No incentive pay shall be authorized for participation in the intake functions of registration, orientation, appraisal and initial employability planning, or while assigned exclusively to support services.

2. Transportation Expenses:

a. Will be paid to individuals for actual costs they incur because of their participation in non-salaried components such as classroom training, Intensive Manpower Service, or Employability Development Planning. Expenses are based on actual costs of public transportation or car pool payments, or 13¢ per mile for actual number of miles driven, not to exceed 100 miles per day (unless the participant can establish higher transportation costs that are both necessary and reasonable).

b. Shall also be authorized for individuals placed in employment, OJT, PSE, or CWP. Payments for transportation expenses shall be continued for no more than 4 weeks or until these individuals receive their first full paychecks, or grant adjustments reflecting new work-related expenses, whichever occurs first.

3. WEP Center staff will determine the amount of subsistence allowances, in addition to incentive and transportation payments, to be paid to individuals for separate maintenance when they are in training facilities beyond normal daily commuting distance from their homes. These allowances shall be paid for each calendar day within the training period, including holidays and weekends, during which individuals are participating in such training, and are residing away from home.

4. Transportation expenses in amounts equivalent to two one-way trips shall be paid to individuals enrolled at training facilities located beyond normal commuting distance. These payments are to cover the initial trip to the training facility and for the final trip home at the completion or other termination of such training. The rate of reimbursement shall be based on actual costs of public transportation or car pool payments, or 13¢ per mile for actual number of miles driven.

5. WEP Center staff will determine and authorize allowances for non-recurring expenses which are required for employment or training include, but are not limited to, payments for auto repairs, auto insurance, special clothing, tools and equipment.

6. Petty Cash: WEP Center may establish petty cash funds to meet participant's small cash needs incidental to training, transportation, or referral to employment which cannot be met by other procedures.

L. Relocation Assistance

WEP may assist a certified individual to relocate his/her place of residence when WEP staff determines such relocation is necessary in order to enable him/her to become permanently employed and self-supporting. Such assistance shall be given only to an individual who concurs with the relocation and who has a bona fide job offer at the place of relocation at a wage rate which meets full need, as determined by the state in which the individual relocates. Assistance under

this section shall not exceed the reasonable costs of transportation for the individual, dependents, and household belongings, plus such relocation allowance as WEP determines reasonable.

M. The WEP Components

1. Employability Development Planning (EDP): The EDP component may include:

a. Orientation to services available in WEP or through referral to other resources;

b. In-depth assessments of those individuals who have problems which must be resolved before they can participate in other WEP components or activities;

c. Special WEP support services, such as help with money management, marital or emotional problems, for individuals who need such services in order to participate in WEP;

d. Those services arranged or provided for by the support service staff for those individuals whose barriers to employment are great and cannot be removed by normal WEP services.

2. Intensive Manpower Services (IMS): The Intensive Manpower Services component provides employment services, which shall include vocational counseling, job development, exposure to labor market information, job placement, job-seeking skills training, and job finding clubs to assist the individual to obtain unsubsidized employment.

If unsubsidized employment is not available, the IMS component shall be used to develop opportunities for individuals in community work projects, on-the-job training, and CETA public service employment. Subsidized employment is intended to provide an individual a work-related experience until such time as she/he can be placed in an unsubsidized position.

3. Classroom Training (CT): Classroom training includes vocational or other institutional training, as well as basic or remedial education, conducted by a qualified instructor at a non-work site.

4. On-the-Job Training (OJT):

a. OJT is an employment opportunity which includes training. Under this component, a certified participant is hired by a private or public employer, who provides training subsidized under contract with WEP. Employers provide increased supervision and training for which they will be reimbursed by WEP for the extraordinary costs of such training and supervision.

b. An OJT participant is considered to be employed, insofar as employment affects AFDC, GA, or FS benefit determinations. However, an OJT participant shall remain an active participant, and shall not be deregistered from WEP.

5. Transfer: Certified individuals referred to and accepted by other eligible federal or state-funded employment or training programs, and who meet all eligibility requirements under those programs, shall be temporarily suspended

from WEP. Such individuals shall normally be compensated in accordance with and through the provisions of those programs. However, when such compensation is not available or would be disadvantageous to the individual, the participant may choose to accept WEP benefits instead. Notwithstanding such transfer, support and job services which are not provided under the alternative program, but which are necessary to permit the individual to continue in the program, will be provided or arranged for by the support service staff.

6. Community Work Projects (CWP's): CWP's provide participants with subsidized employment until they are able to move into other components or activities or into unsubsidized employment. CWP slots will be developed to meet the individual needs of the participants and shall meet the definition of appropriate work.

CWP's shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours, work, wages, or employment benefits. In addition, CWP's shall be used to support positions for public service needs which have not been met, or to provide new public services in a unit of State or local government, a public agency or institution, or a private nonprofit organization.

When developing a CWP position, the WEP staff must determine if there is a collective bargaining agreement between the employer and the employees, or their representatives. Where an agreement exists and is applicable to the establishment and the occupation, the CWP contract must not conflict with the agreement. A statement to this effect, signed by the employer will be made a part of or affixed to the WEP/CWP contract.

7. Public Service Employment (PSE): CETA PSE Title VI positions shall, to the extent possible, be available to WEP participants. Slots shall not be set aside for WEP participants by position or job; the Prime Sponsor shall accept referral of WEP participants for Title VI vacancies. When participants are transferred to CETA Title VI positions, efforts shall be made to place individuals in jobs where they will have an opportunity to retain those positions as unsubsidized employment.

N. Employee Status

A WEP participant shall not by virtue of registration in WEP be deemed an employee of any public agency, and shall not be subject to the provisions of laws relating to State or federal employees, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and State or Federal employee benefits.

O. Support Services

1. Support services available to WEP registrants for the purpose of facilitating employability plans and self-support goals shall include:

a. Day Care Service (children): Personal care during the day (for less than 24 hours) in the child's own home or in a nurturing and protective setting to substitute for or supplement the child rearing provided by the child's parents or caretaker, as well as integral but subordinate medical service.

Child care shall be suitable for the individual child, and the caretaker shall be involved in the selection of the child care facility if more than one facility is available. If only one facility is available, the caretaker shall accept it, unless the caretaker can show that it is unsuitable for the child. Such child care arrangements shall be maintained until the caretaker is able to make other satisfactory arrangements. Child care arrangements must comply with standards as set forth in 45 CFR 228.42.

b. Family Planning: Services provided to enable individuals to voluntarily limit family size or plan time intervals between children. These are available to participants on a voluntary basis.

c. Counseling Services: Professional services to assist individuals and families in coping with and resolving any personal or relationship concerns.

d. Health Services (employment related): Arranging and facilitating access to and use of physical and mental health resources, to identify any physical or mental limitations which would restrict vocational options.

For GA and AFDC recipients, this medical examination is a Medical Assistance or General Assistance Medical Care expenditure and is not to be paid for under WEP.

e. Vocational Rehabilitation Services: Special employment assistance for individuals who are disabled for social, economic, or mental or physical health reasons (including such things as surgery, psychiatric treatment, prosthetic devices, speech or hearing therapy, visual services, dental care, etc.) to correct or modify a physical or mental condition which inhibits employment.

Vocational rehabilitation services may be provided with WEP funds only when not available through the Division of Vocational Rehabilitation in the Department of Economic Security, and when there is reasonable expectation that the services will lead to unsubsidized employment.

2. The following support services may be arranged for or provided when determined necessary by the WEP Central staff to successful completion of an employability plan:

a. Homemaking Service: Providing substitute care in the absence or disability of the caretaker, personal care for ill or disabled individuals, and instruction on effective home management, self-care and social skill methods.

b. Housing Services: Assisting individuals to obtain, maintain, and improve housing, and/or to modify existing housing.

c. Legal Services: Arranging for assistance in resolving noncriminal legal matters and the protection of legal rights.

d. Money Management Services: Arranging and providing assistance in developing effective budgets and managing indebtedness.

e. Transportation Services: Arranging and providing travel and escort to and from community resources and facilities.

P. WEP Adjudication System

1. General: All Work Equity participants shall have available to them an appropriate system for appealing agency actions within the Project. The particular system used will depend on the conditions under which the participants are registered in WEP; i.e., whether they are applicants for or recipients of AFDC, GA, or Food Stamps; and whether they are mandatory participants or volunteers.

2. Disputes Involving WEP Registrations: A welfare appeals referee shall conduct welfare hearings pursuant to the procedures prescribed in 45 CFR 205.10, 7 CFR 271.1, and Minn. Stat. §256.045 (1976), in cases where applicants or participants contest the registration or exemption requirements, or any program-related AFDC, GA, or FS grant reductions, suspensions, or terminations which result from deregistration from WEP. These procedures are available to all AFDC, GA, or FS participants who are required to register with WEP as a condition of eligibility.

3. Issues to be Decided Under the WEP Adjudication System: Grievances and sanctionable actions shall be resolved through the WEP adjudication system. Written records of all disputes shall be maintained by the WEP Center.

a. Grievances are written complaints which do not involve the threat of WEP sanctions. Such complaints may arise over questions of actions by the WEP Center staff or work site staff including:

(1) Wages or allowances;

(2) Hours of work or training;

(3) Work or training assignments;

(4) Disciplinary action; and/or,

(5) Any disputes involving volunteers.

While adjudication is pending, the welfare grant amounts will be determined in relation to earnings available to the recipient.

Grievances shall be initially handled informally by the WEP Center Supervisor. Within 5 working days of receipt of written notice from the participant the matter will be reviewed and a decision issued. An individual who is not satisfied with the disposition of the grievance may request a hearing at the WEP Center. This hearing will be conducted according to the WEP adjudication process described in 4 G et. seq. below.

b. Grievances involving discrimination on the basis of race, religion, color, national origin, sex, or age shall be handled according to Equal Opportunity provisions established at 29 CFR 31, and 45 CFR 80, and to the extent applicable, in compliance with Title VI of the Civil Rights Act of 1964 and the regulations issued thereunder. This section is not intended to abridge the rights of WEP participants to seek redress for unlawful discrimination through other available administrative and judicial processes.

c. Sanctionable actions are those for which a participant may be deregistered from WEP for failure or refusal to participate without good cause. All sanctionable issues, if appealed, shall be processed through the WEP adjudication system, described in this rule. They include:

(1) Failure or refusal without good cause to attend scheduled WEP appraisals or other interviews;

(2) Failure or refusal without good cause to accept appropriate child care as may be provided for the purpose of enabling the individual to participate in WEP;

(3) Failure or refusal without good cause to accept offers of, or referrals to appropriate employment or training;

(4) Quitting an appropriate job without good cause, or being fired from an appropriate job for cause;

(5) Failure or refusal without good cause to accept assignment to WEP components or to otherwise participate in WEP.

4. Initial Concilation Efforts and WEP Hearing: If the WEP staff believes that a mandatory WEP participant has committed a sanctionable action, it shall make every effort toward an informal conciliatory resolution of the underlying reasons. The conciliation period shall not exceed 30 days, and may be terminated earlier if it appears no resolution is possible. When all such efforts are exhausted, WEP may issue a Notice of Intended Deregistration.

a. When WEP determines that all informal, conciliatory measures have been exhausted, the Notice of Intended Deregistration shall be issued to the participant. The Notice shall state that the participant has failed or refused to participate in required WEP activities without good cause, and is subject to deregistration. The Notice shall also inform the individual of his/her right to a fair hearing if the individual believes the proposed action is unwarranted. The Notice shall be accompanied by the forms required to file for a hearing and the instructions necessary to complete and file the forms. If the individual desires a hearing he must request the same within 10 days of the date of mailing of the Notice;

b. Such hearing will be held by a hearing officer of the Department of Economic Security in the manner prescribed by Minn. Stat. §268.10, Subd. 3 (1976); and if an AFDC registrant is involved, also in accordance with 29 CFR §56.66 - 56.68.

The hearing officer may rule:

(1) That the individual has failed or refused to participate without good cause in WEP and that appropriate deregistration shall be initiated.

(2) That good cause has been shown for failure or refusal to participate and the individual should be retained in the program.

(3) That the request for a hearing is dismissed because:

(a) It was filed untimely without good cause;

(b) It has been withdrawn in writing;

(c) The individual failed to appear at the hearing without good cause; or

(d) Reasonable cause exists to believe that the request for a hearing has been abandoned or repeated requests for rescheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing.

(4) That the participant was appropriately or inappropriately assigned to a WEP activity by the WEP staff; or

(5) Render such other rulings as are appropriate to the issues in question.

DES shall mail copies of the hearing officer's decision to the participant, the WEP Center and WEP Central, the local welfare agency, the Department of Public Welfare and other interested parties to the hearing. Copies to the participant and his/her representative, if any, shall be accompanied by the forms required to file an appeal from an adverse decision, and the instructions necessary to complete the forms. Upon receipt of the decision, the local welfare agency shall notify the participant of the sanctions that may be imposed by the county, and the individual's right to appeal.

c. If any party disagrees with the decision of the hearing officer and desires a review of said decision, he must, within 10 days of the date of the decision, request a review of the decision. If the county agency or WEP requests review, notice must be given to the registrant at the same time as the request for review is filed. A request for review by any party shall not stay implementation of the hearings officer's decision.

5. Appeal Process for AFDC Registrants:

a. If the issues decided by the hearing officer involve an AFDC participant, the party who disagrees with the decision of the hearing officer may file the request for review with the Commissioner of Economic Security.

b. A hearing shall be held before the Commissioner of Economic Security or his duly-authorized representative, in the manner prescribed by Minn. Stat. §268.10, Subd. 5 (1976), and in accordance with 29 CFR §56.64. The Department of Economic Security shall mail to all interested parties a notice of the filing of and a copy of the findings and the decisions of the Commissioner or his representative.

c. Any party may file an appeal from the decision of the Commissioner of Economic Security in either of two ways:

(1) With the National Review Panel of the U.S. Department of Labor, in accordance with the provisions of 29 CFR §56.70-75 and 45 CFR §224.70-75; or,

(2) With the Minnesota Supreme Court pursuant to Minn. Stat. §256.736, Subd. 4(4) (amended, 1977) and Minn. Stat. §268.10, Subd. 8 (1976).

6. Appeal Process for GA and Food Stamp Participants:

a. If the issues decided by the hearing officer involve a GA or Food Stamp participant, the party who disagrees with the decision of the hearing officer shall

file the request for review with the Department of Public Welfare. Such a hearing shall be held in the manner prescribed by Minn. Stat. §256.045, Subd. 2 or Subd. 3 (1976).

b. Subsequent appeals may be made pursuant to Minn. Stat. §256.045, 3 et. seq. (1976).

7. Post-determination Actions, Counseling: WEP benefits shall cease, protective or vendor payments shall be initiated, and a 60-day counseling period by WEP support service staff shall begin the fifth business day following:

a. The expiration of the prescribed time period for filing a request for a hearing and proposed deregistration from WEP, or the date on which the request for such hearing is withdrawn; or

b. The date of the DES hearing officer's decision that the registrant has failed or refused to participate in WEP without good cause; or

c. A decision by the appellate body, referred to in P. 5. or 6. supra, which reverses a decision favorable to a WEP registrant. Counseling shall be provided by support service staff for a period of up to 60 days, unless:

(1) The individual is not a certified WEP participant, or

(2) The individual has already received such a counseling period during the current registration, and is therefore not eligible for further counseling and is to be deregistered.

The purpose of the counseling period is to encourage the individual to participate in WEP. Upon completion of the 60-day counseling period, if the WEP support service staff determines that the individual has continued to refuse to participate without good cause, she/he will be deregistered and sanctions shall be initiated. Counseling may be terminated at any time during the 60-day period, when the WEP support services staff determines that counseling efforts are unsuccessful and the individual will not participate in WEP. The WEP support service staff shall notify WEP that 60-day counseling is unsuccessful, and WEP shall deregister the individual for failure or refusal to participate without good cause.

8. Post-Determination Actions: Sanctions

a. A voluntary participant shall not have his/her welfare benefits terminated, reduced, or suspended because of failure or refusal to participate in WEP. However, all WEP benefits shall be terminated when the individual is deregistered for failure to participate. The volunteer may subsequently participate in WEP according to the provisions of section P. 9.

b. The following sanctions apply to a mandatory WEP participant who has been deregistered:

(1) If the individual is the only dependent child in an AFDC family, assistance for the entire family is terminated;

(2) Any other individual shall have his/her portion of the GA or AFDC grant deleted. Assistance to the other family members will be provided through protective or vendor payments;

(3) Food Stamp benefits shall be terminated in accordance with procedures outlined in the Food Stamp Act.

9. Post-Determination Actions: Readmittance to WEP: If, during the 60-day counseling period, the WEP support service staff determines that a participant is progressing satisfactorily, she/he shall be reassigned to an active WEP component. If the 60-day counseling period is unsuccessful, as determined by the WEP support service staff, and an individual is deregistered from WEP for failure to participate without good cause, she/he must remain deregistered from WEP for 90 consecutive calendar days from the date the welfare grant was reduced or terminated. The individual must give evidence of willingness to participate before he/she may again register for WEP. The person's verbal agreement to cooperate is sufficient evidence of "willingness to participate". If an individual has failed to participate in WEP without good cause two or more times, she/he must remain deregistered for six months from the date the welfare grant was adjusted. WEP need not register any recipient whose prior failure to participate was the result of criminal or other activities which presented a hazard to WEP staff or to other WEP participants.

Q. Deregistration

1. All deregistrations shall be performed by WEP.

2. Deregistration is necessary when:

a. An individual is found to have failed or refused to participate in WEP without good cause;

b. An incorrect determination of non-exemption has been made;

c. An individual becomes exempt, and the local welfare agency informs WEP Center that she/he does not wish to volunteer;

d. An individual becomes ineligible for welfare benefits, except where she/he is participating in a WEP component or is employed and receiving WEP-funded support services.

3. The local welfare agency shall notify the WEP Center of any change which will affect a welfare recipients welfare or exemption status in such a way as to warrant deregistration.

4. Volunteers who withdraw from WEP shall be deregistered without penalty.

5. Volunteers who are found to have refused to participate after receiving a Notice of Intended Deregistration, or who have requested a hearing on the matter and have received an adverse decision, shall be deregistered as exempt.

6. Persons who volunteer but for whom no suitable employment or training is available shall be deregistered as exempt.

R. Severability

The provisions of this rule shall be severable and if any phrase, clause, sentence or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability thereof to any person or circumstances shall not be affected thereby.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT of Public Welfare

Office Memorandum

TO : Lee Sheehy
Special Assistant Attorney General
Department of Administration

DATE: June 21, 1978

FROM : Edward J. Dirkswager, Jr.
Commissioner of Public Welfare

PHONE:

SUBJECT:

Accompanying this letter please find DPW Proposed Temporary Rule 63 - Work Equity Project, promulgated pursuant to the authority granted in Minn. Stat. 256D.04 (amended, 1977) which states:

> In addition to any other duties imposed by law, the commissioner shall: ... (a) Issue emergency rules necessary to implement the work equity program and promulgate all rules pursuant to chapter 15 necessary to carry out the program so that its demonstrational project may be administered uniformly throughout participating counties. Rules shall be furnished immediately to all local agencies and other interested persons.

The proposed temporary rule and "Request for Public Comment" were published in the State Register on May 15, 1978, pursuant to Minn. Stat. §15.0412, subd. 5 (amended, 1977). The agency received comments during the 20-day comment period from the following:

1. Kenneth W. Ebel, Social Service Supervisor, Sherburne County Social Services

2. Don Sykora, Director, Benton County Social Services
Don Strei, Director, Sherburne County Social Services
P.S. Serrano, Director, Stearns County Social Services

3. Buddy B. Kinsey, Director, Wright County Human Services Agency

4. Marv McNeff, Supervisor, CETA/CSA Fiscal, Department of Economic Security

5. Gary Dodge, Assistant to the Commissioner, Department of Economic Security

6. Paula Erdmann, Tri-County Action Programs, St. Cloud

Included with this letter are copies of each letter received and a memorandum containing the suggested rule changes and this agency's rationale for accepting or rejecting the proposed changes. The changes accepted are included in a new draft of the rule, also submitted at this time.

Work Equity will be jointly administered by this agency and the Department of Economic Security. Both agencies had input to the rule and have made a full review of each draft. We submit the temporary rule at this time for your approval.

Enc.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF DPW TEMPORARY RULE 63 ADMINISTRATION OF WORK EQUITY PROJECT

SUBMISSION OF TEMPORARY RULE TO THE ATTORNEY GENERAL

The Department of Public Welfare hereby submits the final proposed Temporary Rule 63, Administration of Work Equity Project, with revisions as noted below. The temporary and permanent rule processes were begun simultaneously with publication of the proposed rule in the State Register on May 15, 1978. The comment period on the temporary rule closed on June 5th, 1978; all comments received are included herein, and are discussed individually below:

1. Kenneth W. Ebel (6-1-78) suggests three changes, all of which are accepted by this Department:

a) In section "a" of his letter, Mr. Ebel suggests that "an AFDC Unemployed Father who is registered with WEP shall be exempted from the 100 hour-per-month employment limitation".

Since it has been intended throughout the development of the Work Equity Project (WEP) design that AFDC-Unemployed Fathers would be exempted from the 100 hour employment limitation while participating in WEP, and the United States Department of Health, Education, and Welfare has given conditional approval of this programmatic change, the language suggested has been incorporated as Section D.5.f. in the rule being submitted.

b) Mr. Ebel is correct in his analysis that WIN regulations set forth in 45 CFR Part 224 require the availability of WIN services to AFDC volunteers. WEP substitutes for WIN in the areas in which it will operate, as provided in the State's approved 1978 WIN Plan and its subsequent revision, and must thus also be available to AFDC volunteers while it operates. Section D.4 has been appropriately corrected.

c) In this section, Mr. Ebel suggests that participation in the Intensive Manpower Services component be limited to three weeks, unless extended periods are approved by the WEP Center Supervisor.

The policy here suggested was agreed to by the WEP staffs in the Departments of Economic Security and the Department of Public Welfare in April, 1978, in order to prevent the possibility of this component becoming simply a "holding" component. The suggestion is now incorporated in Section M.2.

2. Sykora, Strei, Serrano (6-5-78): The comments made in this letter have not been incorporated per se in the rule for the following reasons:

- Changes suggested for Section B.5 and B.7 are contrary to public policy. The suggestions are: (1) that each county welfare board be given the choice of whether or not its county will participate in WEP; and (2) that DPW shall in effect indemnify WEP if its funds prove insufficient to hold the counties "harmless" from increased costs. Minn. Stat. Ch. 256.D. gives authority to the Commissioner of Public Welfare to determine which counties shall participate, rather than granting that authority to county welfare boards. The DPW-DES interagency agreement on WEP specifies that WEP shall hold both DPW and the counties harmless from increased costs; this policy was reiterated by DES Commissioner Michael C. O'Donnell in this memo of 6-9-78, and substantial monies have been set aside from the WEP budget for this purpose.

- B.8: Determination of hold harmless formulae is being negotiated between DES, DPW, and the counties; the technical aspects of such are not appropriately considered in this rule, as was proposed in this letter.

- C.5: The recommendation is to prohibit classroom training unless specific time frames and immediate employment goals are established. The policy recommended would unduly limit the opportunities and flexibility for WEP participants. For example, such training might include remedial education which would be obviously beneficial even though it may not directly lead to employment.

- C.43: The letter poses a question on how local welfare agencies can provide support staff as necessary. The WEP design and budget anticipate that necessary additional support staff will be hired or funded by WEP.

- D.2: The rule as written provides that 16-18 year old GA and AFDC recipients are exempt from WEP registration if attending school full time. This policy is consistent with federal and state AFDC regulations and statutes, wherein no qualification is placed on the type of schooling. The letter suggests that the exemption be limited to high school students; that change would be unacceptable for AFDC recipients and will not be imposed on 18 year old GA recipients, in order to create as uniform criteria as possible. The remaining exemption changes discussed in the letter are not possible, because of federal and/or state statutes and regulations.

-D.3: The letter expresses concern over the lack of proximity of WEP Center Staff to some welfare recipients. WEP will provide some itinerant office hours. However, since some recipients will still

have difficulty in obtaining transportation to and from the WEP sites, the rule will continue to require that local welfare agencies provide transportation as necessary.

3. Bud Kinsey (6-5-78): Most of Mr. Kinsey's comments are essentially the same as above and will therefore not be discussed separately. However, he also suggested that E. 1 and 2 be clarified as to agency responsibility for referrals. To satisfy this, Section E. 2 has been modified to read " . . . shall be referred to WEP on a timely basis after 30 days of Job Service registration, by the Job Service Office . . ." .

4. Marv McNeff (6-5-78): The comments in Mr. McNeff's letter were discussed with him by Special Assistant Attorney General William Brown (assigned to DES) and Mr. McNeff agreed that his concerns are adequately addressed by the stipulation in Section A that CETA regulations will be complied with. These comments have therefore not been incorporated into the rule.

5. Gary Dodge (6-2-78): Comments offered herein are primarily directed to typographical errors, and have thus been incorporated in the rule where appropriate.

6. Paula Erdmann (6-2-78): Ms. Erdmann's suggestions have not been incorporated in the Rule for the following reasons:

- -Suggestion to change the specified mileage reimbursement of 13¢/mile to equal that of State employees was not taken, because of DPW-44 which states that AFDC recipients will receive 13¢/mile reimbursement. A different reimbursement rate would be administratively difficult and complex in determining income for various recipient populations.
- -H. 5: Child care services will be available throughout the person's employment, as suggested, although funding for such may shift from one source to another.
- -I. 1 and M. 1 b and O. 1 c: Ms. Erdmann recommends that the participant have input to the determination of "appropriate" work and level of counseling. This is provided for in the Rule in the joint decision making process between the staff and participant. Grievances with such decisions may go through adjudication.
- -P.: Ms. Erdmann requested that the Rule require that advocates be available to clients with grievances, in order to aid their use of the complex adjudication system. Although it is not feasible at this time to consider this suggestion as a policy, it will be considered in the permanent rule process.

Edward J. Dirkswager, Jr.
Commissioner of Public Welfare

June 1, 1978

Gail Olson, Supervisor
Work Equity Program
Department of Public Welfare
4th Floor Centennial Building
St. Paul, Minnesota 55155

COPY

Dear Ms. Olson:

I am writing in response to DPW's proposed Rule 63. It appears to me that several changes must be made in the rule in order to operate the Work Equity Program as described in various presentations and summaries of the Department of Economic Security and Public Welfare. I would suggest that the following additions or corrections be made:

a) To conform with the U.S. Department of HEW's waiver of one AFDC regulation include: "an AFDC unemployed father who is registered with WEP shall be exempted from the 100 hour-per-month employment limitation."

b) In Section D.4, the second sentence should be changed to read: "WEP may exclude from participation individual G.A. volunteers. . ." This appears to be necessary, because by federal statute, AFDC recipients in WIN areas are allowed to voluntarily participate in WIN (and thus WEP).

c) In Section M.2, add the following sentence: "Participation in IMS shall be limited to three weeks; additional three weeks period may be authorized if approved by the WEP center staff supervisor." The purpose of this would be to limit the time that a person could get "lost" in this component, and so its services would, in fact, be intensive.

Thank you for your consideration of these comments.

Sincerely,

Kenneth W. Ebel
Social Service Supervisor

KWE/wg
Donald B. Strei
Director



STEARNS COUNTY SOCIAL SERVICE CENTER

P. S. SERRANO, DIRECTOR

700 ST. GERMAIN
BOX 1107
ST. CLOUD, MN 56301
TEL. 251-3272

June 5, 1978



Gail Olson
W.E. P.
Department of Public Welfare
Centennial Office Building
St. Paul, Minnesota

Re: Rule DPW 63 W.E.P.

Dear Ms. Olson:

Please add our comments to the information on the emergency rules that will govern the W.E.P. operation.

B-5 Please add: Counties shall have the opportunity to participate or not participate at the option of the County Welfare Board or to withdraw 90 days after written notice.

B-7 Add

The DPW shall guarantee hold harmless for counties who participate if W.E.P. funds prove insufficient.

B-8 Clarification as to the formula before final enactment of the DPW rule.

C-5 (M-3) Classroom training: No classroom training shall be arranged without specific time frames and employment as the immediate goal of the training.

C-43 How can local agencies assure support staff if they are to maintain W.I.N. etc. during the same time WEP is operating?

D-2-1 (Exemptions)

B. Children, age 16 through 18 if attending high school full time.
C. Persons over 60
H. AFDC and GA caretaker of a child under age 6.
I. The spouse of a WEP or WIN registrant if there are children in the home under six. Both are required to apply if no children in the home.

D-3 All GA and AFDC recipients who are mandated to volunteer to register with WEP shall be referred for registration to the local WEP office by the local welfare agency.

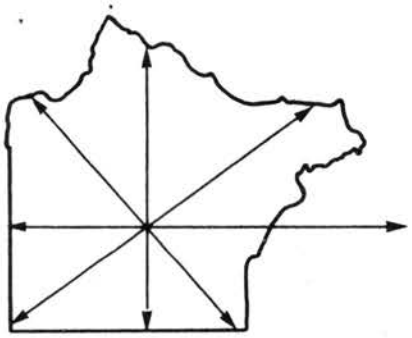
The WEP Office shall provide local sites for the convenience of registrants.

We feel that we also need the opportunity to have input in the final rule in addition to the above comments for the emergency rule.

Very truly yours,

Benton, Sherburne and Stearns Counties
Social Service Departments

Don Sykora, Director
Don Strei, Director
P.S. Serrano, Director



WRIGHT COUNTY
HUMAN SERVICES AGENCY
COURTHOUSE BUFFALO, MINNESOTA 55313 PHONE 682-3900
BUDDY KINSEY
DIRECTOR

June 5, 1978

Gail Olson, Supervisor
Work Equity Project
Department of Public Welfare
Centennial Office Building
St. Paul, Minnesota 55155

Dear Ms. Olson:

Enclosed please find Wright County's comments and questions related to temporary Rule 63, Administration of the Work Equity Project.

Your consideration in reviewing the comments and clarifying the issues in the Rule is appreciated.

If you have any questions, please feel free to contact me.

Sincerely,

Buddy R. Kinsey by gmd

Buddy R. Kinsey
Director

6-16-78

BRK/JMD:ag

Enclosure

Comments on Proposed Rule 63
Administration of Work Equity Project

In reviewing the rule, generally the rule would be clearer and more understandable if statements of intent were included and clearer statements of responsibility for implementation were included. It is difficult to identify what the responsibilities of the various involved agencies are within the rule as written. Without the responsibilities defined the effect on our agency and resources is not easily determined.

Specific comments are as follows:

B1 - The rule indicates that it will be read in conjunction with DPW 44, 55 and 202. The rule does not address how differences will be resolved. Will Rule 63 take precedence over the other rules?

B7-8 - We would suggest that the formula for determining the hold harmless clause be incorporated into the rule. It is not clear how the counties will not be held responsible for additional costs either in the form of grants or support services.

C-5 and M-3 - Classroom training. The rule is not explicit on how long classroom training can or will last. If the intent is that there be no limit on length of classroom training, the rules should indicate. No limit appears to be the intent in paper on "Work Equity/WIN Variances."

C42 and C43. It is not clear from this definition who has responsibility for support services. This needs to be clarified. According to paper entitled, "Work Equity Demonstration Project", the Work Equity Project offers support services which is interpreted to mean that WEP staff will provide, not social service agencies. Is that the intent? I.1.g indicates no one will be referred unless support and employability services are available. We do not know to what extent the local agency is responsible for the support services.

D3. The responsibility of the welfare department to provide transportation for registration should be deleted. This puts an excessive burden on the local agency if we have to transport people to St. Cloud. There has been no commitment to establishing a local WEP office.

D4 Limiting participation of volunteers could be interpreted to be a discriminatory action if implemented.

D5a The WEP incentive payment is more clearly defined under K.1. Technically, it seems this could be organized for more clarity in the rule.

D5e and E7 seem to be directly contradictory to each other. What is the intent?

E1 & 2 Participation of Food Stamp Recipients. It is not clear as to how Food Stamp recipients as applicants will be informed. It is not clear whose responsibility it will be to inform Food Stamp clients, plus it also says recipients eligibile for WEP will be informed. This is contradictory to the intent of voluntary registrants.

E-2 is unclear as to whose responsibility it will be to refer Food Stamp recipients. According to "Work Equity Demonstration Project" paper, the referral will be made by DES. This is not stated in the rule.

K2. The Transportation expenses section is not clear as to whose responsiblity it will be to provide transportation.

K5 & 6. Is there any plan to place limits on the amount that will be authorized for non-recurring expenses and petty cash needs?

JMD:ag
(06/05/78)

ADMIN 1090 (REV. 4/77)

STATE OF MINNESOTA

DEPARTMENT Economic Security

Office Memorandum

TO : Gail Olson
Work Equity Supervisor
Department of Public Welfare

DATE: June 2, 1978

FROM : Gary Dodge
Assistant to the Commissioner

PHONE: 296-1826

SUBJECT: Suggestions for Changing the Work Equity Rules Published in the State Register 2-(45)

The following will be indexed by page number and will be mixed between type-O, uniform logical style, and some word changes.

Page 2015. C.28 - 'Job Service" should have both words capitalized.

Page 2017. D.5. - The periods at the end of each of the sub-five items should have a semi-colon instead of the period after them, for A, B C, D.

E.2.C. - The 'WIN Exempt' reference should be 'WEP exempt'.

Page 2018. E.7. - Should this item have a time limit on how long a food stamp recipient can remain in this over-income status?

F.3. - The discussion in the first and second paragraphs use the word 'should'twice. Is this the correct word or would a better word be 'will'?

The last paragraph in Item F.3. is not very clear. The logic is there but it is difficult to track what the actions are that need to be taken.

Page 2019. H.3. - The fifth line has an 'and' that should be struck right before the word 'needs'.

I.1. - Each of the sub-items in this artical should have a semi-colon instead of a period after them. This is for items B, E, F.

Page 2020. I.2 - The Item 2.B should have a semi-colon after it. Item 2.C has an 'and' after the subpoint, this has not been standard practice in the rest of this rule. I think it should be struck.

Page 2021. K-5. - After the word 'training' in line 3 an insertion of the word 'a' should be inserted before 'WEP Center'.

L. - On line 8 is the notion of "full need". This needs more discription either with a means test or some other more objective discriptor than how it is indicated there.

Page 2022. M.4.A. - This subpoint should have a semi-colon after it.

N. - The treatment of the word Federal has been uncapitalized so that when that is used on line 6 there should be a lower case 'f' for federal.

O.1.A. - The words service on line 6 should be a plural with an 's' at the end of it. In the second paragraph of O.1.A. the paragraph should have a semi-colon. This also occurs in B, C, D.

Page 2023. O.1.E. - The word 'things' in the 4th line should be changed to 'services'.

O.2. - The word 'central' on line 2 should be changed to 'center'.

O.2. - The sub-items in this artical should all have semi-colons. That is A, B, C, D.

P.3.A.5 - Line 2 under 'five' should have the typo corrected where it says 'in relation to earnings'.

Page 2024. P.3.A. - This should have a semi-colon as should sub-B.

P.3.B. - Line 4, the word 'at' should be changed to 'by'.

P.4.A. - The second column at the top, line 2, with reference to 'he' should have a he/she reference. This occurs again at the bottom of the page in C, second line from the bottom, where it should be he/she.

P.4.B. - At the end of section B, near the bottom of the page, the period should be changed to semi-colon.

Page 2025. The paragraph at the top of the page, line 5, the word 'hearings' should be made singular to read 'hearing officers'.

P.5. - Items A and B should have semi-colons. Item B should have a his/her reference on line 7.

6.A. - This should have a semi-colon ending.

P.7. - First line, the title should have an insertion of an 'and' after 'actions', and the comma should be struck.

Section P.7, line 3, the word 'initiated' is unclear in the reference to WEP benefits ceasing and vendor payments being initiated. It appears to me that there are no vendor payments that can be initiated but rather that they will be ceased also.

The one area that is uncovered by the rule is what are the rights and actions available to recipients when the work equity project terminates. We should have some fail-safe actions that are specified in the rule.

GD:dp
cc: Jil Rivera, Work Equity Project Coordinator

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Economic Security CETA/CSA Fiscal

Office Memorandum

TO : Gail Olson
Work Equity Project
MN Department of Public Welfare

DATE: 6/5/78

FROM : Marv McNeff, Supervisor
CETA/CSA Audit Section Marv McNeff

PHONE: 6069

Marv McNeff - signed on June 16, 1978

SUBJECT: Comments on Proposed Temporary Rule DPW63 Governing the Work Equity Project as Published in the May 15, 1978 MN State Register

There are a number of areas which the proposed rule does not address which I believe should be included to adequately protect the interests of the U.S. Dept. of Labor and the MN Dept. of Economic Security. Therefore, I recommend that the following language be included in the Sections of the rule as indicated:

State Register page number:	Section number:	Language to be added:
2012-3	A.1	Insert after the first paragraph:

Specific CETA Regulations which apply:

The following specific regulations govern the administration of the WEP.
title 29-Labor
subtitle A-Office of the Secretary of Labor
part 97-Special Federal Programs and Responsibilities under the Comprehensive Employment and Training Act
subpart D-Special target groups and youth programs, as published in the March 12, 1976, Federal Register (pages 10774 thru 10789) and the June 14, 1977 Federal Register (pages 30367 and 30368).

Audit Requirements

Audits of CETA Title III

Funds awarded under U.S. Dept. of Labor Grant Number 27-7064-37 shall be conducted at least once every two years from the date of the award of the initial WEP planning grant in accordance with the provisions of Section 97.348 of the March 12, 1976 Federal Register (page 10782). Audits shall be conducted in accordance with the provisions of the "Contract Close out Audit Guide", issued by the U.S. Dept. of Labor Office of the Associate Assistant Secretary for Program Review and Audit, and dated March, 1974.

The standards for grantee financial management systems specified in Section 97.348 of the March 12, 1976 Federal Register (page 10782) shall be imposed by DES on any subgrantees or contractors awarded CETA funds for the purposes of the WEP program.

2014 B. Insert after paragraph number 11:

12. Financial records which shall be maintained at the public or private employer's site when the employer is providing employment training to a WEP participant under a contractual agreement with the Prime Sponsor:

Maintenance of Accounting Records to Segregate Receipts and Disbursements by Source of Funds

1. The subgrantee shall establish, maintain and retain for the required period of time receipt and disbursement accounts which identify, on a time period and cumulative basis, receipts and disbursements by funding source (one column for each separate source - one column for CETA receipts and disbursements, a second column for non-CETA (State appropriated) receipts and disbursements).
2. The subgrantee shall establish, maintain and retain for the required period of time a cash receipt journal which segregates receipts from each source of funds. (One cash receipts journal will provide adequate accountability for all funds received by the entity, provided that the journal pages have a separate column for each source of funds).
3. The subgrantee shall establish, maintain and retain for the required period of time, a cash payment journal or equivalent accounting record which contains separate columns to record cash disbursements from each CETA source of funds, and each non-CETA (state appropriated) source of funds. The objective of this requirement is to ensure that all CETA and non-CETA disbursements are segregated by source of funds.
4. The subgrantee shall establish, maintain and retain for the required period of time, payroll registers or equivalent payroll records which clearly indicate:

a. The source of funds (CETA or state-appropriated) for each person covered on the payroll register for each individual pay period of the program. The objective of this requirement is to require records to be established and maintained at that level of detail (including subsidiary payroll registers or worksheets) which will enable an auditor to determine, on a person by person basis, the source of funds used to pay each person on the payroll for all individual payroll periods.

b. In the event that an individual is paid from both CETA and State-appropriated funds during a particular pay period, or series of pay periods, the payroll records for such individuals shall be established in such a fashion that the amount paid to the individual from each CETA and non-CETA source of funds involved during each pay period can be readily determined by an auditor.

13. Where support services are authorized at a WEP Center, center staff shall use an invoice form approved by DES and provide documentation to support the invoice as specified by supplementary program instructions.

14. To provide for maximum auditability of the WEP, in all situations where WEP staff must or may make determinations, such determinations shall be documented in writing on standard forms designed for the purpose by DES and such forms shall be maintained in the WEP participant's file. Determinations referenced here include, but are not limited to, those indicated in these regulations on:

page number	section number/ subsection number	type of determination
2019	H.5.	Certification to receive WEP support services for up to 30 days after entering employment.
	H.5.	Receiving WEP support services more than 30 days but no more than 90 days.
	H.5.	Receiving WEP support services for 30 days beyond the 90 day maximum.
2020	I.2.b.	Prevailing wage.
2020	J.3.	Finding that work is the same or similar to that of a person regularly employed.
2021	K.3.	Payments to participants.
2022	M.6.	a) with respect to unmet public service needs b) with respect to new public services c) with respect to no displacement of currently employed
2022	O.1.	with respect to support services
2023	O.2.a. through e.	with respect to: a) home making service b) housing service c) legal services d) money management services e) transportation services

I believe that the above proposed language will provide minimum protection for the interest of DES and the U.S. Dept. of Labor. After the program has been operational for six months, I recommend a further review of record-keeping requirements and practices as they exist at that point, with the possibility of making further recommendations based on the results of that review.

MRM:wc

cc: Ron Putz

Oral comments from Paula Erdmann, Tri-County Action Programs, Box 1205, St. Cloud, Minnesota, 55316 (6-2-78)

Ms. Erdmann made the following comments by phone:

- Mileage reimbursement to WEP participants should be equivalent to that paid state employees.

- H.5: Child care services should be available throughout the person's employment.

- I.1: Participant should have a strong voice in determining what "appropriate" work is.

- M.1.b: Any "in-depth" assessment should be voluntary.

- O.1.c: Counseling services should be voluntary.

- P: Because the adjudication system is complex, the program should provide advocacy services to those participants with grievances.