

Minnesota Attorney General: Administrative Rules Proceedings

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Department of Public Welfare

Adopted

12 MCAR 2.044 Aid to families with dependent children

A. Introduction.

1. This rule shall govern administration of the Aid to Families with Dependent Children (AFDC) program in Minnesota. The provisions of this rule are to be read in conjunction with Title IV-A of the Federal Social Security Act, Title 45 of the Code of Federal Regulations, Minn. Stat. ch. 256, and other rules of the Department of Public Welfare pertaining to public assistance and the administration of Minnesota's state and local welfare departments. ("Local welfare department" or "agency" includes the county welfare department of those multi county welfare agencies established under Minn. Stat §393.01 (1974) or Minn. Stat. ch 402). The Commissioner of Public Welfare may issue instructions, bulletins, and manuals to the local welfare agencies to clarify the provisions of this rule (DPW 44 takes precedence over such documents) and may prescribe forms and procedures to be used in administration of this program. In order to assist others in interpretation of 12 M.C.A.R. 2.044, the Department of Public Welfare has issued, informally, an AFDC Policy Manual. The material in the Manual is not an official rule and does not have the force and effect of law.

2. The commissioner shall cooperate with the federal government and its public welfare agencies in any reasonable matter that will be necessary to qualify for AFDC. Notwithstanding any provisions of this rule, administration of the AFDC program shall be subject to changes in federal or state law. The commissioner shall notify the local welfare agencies of such changes as they occur.

3. The AFDC program shall be administered to provide qualifying needy families with the resources necessary to sustain a reasonable subsistence compatible with decency and health, according to this rule. The AFDC program shall not be administered to deny applicants and recipients their individual and civil rights, nor to obtain or disclose information regarding them except as provided by DPW rules.

4. The commissioner shall supervise the AFDC program on a state wide basis in accordance with equitable standards for assistance and administration which shall be mandatory upon all political subdivisions.

~~5. DPW Rule 44 (12 MCAR 2.044) incorporates federal state laws, rules and regulations pertaining to the Aid to Families with Dependent Children Program in a summarized form. Interpretation of its content shall be considered in conjunction with the state AFDC Policy Manual which details the state plan of operation.~~

B. Applications for assistance.

1. Any person may apply for AFDC to the local welfare agency in the county in which he/she resides, and the local agency shall promptly advise him/her of the program's eligibility requirements. The local agency shall provide an application form immediately upon receipt of a written or oral request for assistance. The local agency shall require a written application signed under a penalty of perjury, on a form prescribed by the state agency, by applicant himself/herself or his authorized representative, whom he/she has specified in writing, or, where the applicant is incompetent or incapacitated, by someone acting responsibly for him/her. ~~An applicant may be assisted, if he/she so desires, by an individual(s) of his/her choice whom he/she has specified in writing (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them.~~ If the application is for AFDC-Foster

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Care (FC), it shall be signed in accordance with this section, except that the agency, or its designee, may also sign in lieu of the applicant, his/her authorized representative or someone acting responsibly for him/her. (See H. 3. below.)

2. As soon as possible, but not later than 45 days from the date of request for assistance, the local agency shall determine the applicant's eligibility for assistance. All eligibility conditions must be met within this 45-day limit. Assistance may be issued before the eligibility process is completed, but if the applicant is found ineligible, no federal or state financial participation may be claimed for this assistance.

3. The applicant must be notified in writing that his/her application has been approved or denied, unless the applicant dies or cannot be located. If the application is denied, the recipient must be notified in writing of the reasons for denial and of his/her right to appeal.

4. Any person has the right to reapply for assistance. New applications must be taken whenever a previous application has been denied or withdrawn, or whenever a grant has been cancelled, or whenever the payee has been changed. An approved application shall be addended for the purpose of adding additional eligible persons or when the payee has changed his/her name.

a. An application for AFDC received by a county must be processed as such, formally acted upon, and written notification of the disposition of the application must be provided the applicant regardless of the length of time that the applicant intends to remain a resident of that county. Until the applicant is notified in writing of the disposition of his/her application, any additional AFDC applications signed by this applicant in the same or in a different county are null and void. An applicant may voluntarily withdraw his/her application at any time.

5. Eligibility shall be redetermined at least semi-annually. When the local income maintenance unit receives information about a change in case facts, eligibility shall be reviewed within 30 days. The recipient shall furnish such correct information and reports as required by the agency to assure eligibility and payments ~~and shall report any new receipt of earned or unearned income within a ten day period~~.

6. The local agency shall verify the information contained in the application from the applicant or other persons or agencies only with the applicant's signed permission; blanket consents may be used only for groups of related agencies (such as banks, insurance agencies, etc.). If the applicant refuses to cooperate with the county agency in verifying the needed information, the application must be denied.

7. The following information shall be verified:

a. Social Security numbers of caretakers applying for or receiving assistance;

b. incapacity of a parent or unemployment of a father if such is the basis of eligibility; and

c. the applicant's income and acknowledged property.

Any other factor of eligibility may be verified depending on circumstances of the case.

8. The income maintenance unit shall make immediate~~ly refer~~ referral ~~the applicant/recipient~~ to the social service unit when there is reason to suspect that the home in which the relative and child requesting/receiving aid reside is unsuitable because of ~~the~~ neglect, or ~~abuse, or exploitation of such child or that harm or threatened harm may occur to the child.~~ sexual or physical abuse as defined in state statute.

~~This includes, but is not limited to: non-accidental physical or mental injury; sexual abuse; negligent treatment or maltreatment, including failure to provide adequate food, clothing, or shelter, and/or evidence of money mismanagement.~~

9. Because of the complexity of the welfare system in Minnesota applicants and recipients may have someone act as an advocate to ensure that their legal, civil, and human rights are upheld~~.~~ or have someone assist them in the application, redetermination, or fair hearing processes or in any other contacts with the agency. The applicant or recipient may be represented by an individual (who need not be a lawyer) of his/her choice whom he/she has specified in writing. Each local agency employee is to ensure the rights and benefits of all applicants and recipients.

10. The client shall be responsible for informing the agency within ten days of receipt or by the 5th of the following month, whichever is earlier, of changes in circumstances and/or income. Such reports shall include new sources or amounts of income. The local agency shall use this report to determine continued eligibility or the amount of assistance for the next subsequent month unless income averaging is used.

11. The local agency shall inform applicants and recipients of the availability of all programs, the benefits and limitations of each, the areas of client choice among and within programs and the results of such choices, the items concerning eligibility or payment which must be reported if they change, the time within which such reports must be made, and any other policies or actions which have a direct effect on recipients.

C. Financial responsibility of residence.

1. "Residence" or "abode" means where a person lives and intends to remain; the "county of financial responsibility" or "county of settlement" means the county which is liable for a person's public assistance.

2. Minnesota residence shall be an eligibility requirement for AFDC, but no length of residence is required. A person loses Minnesota residence when he/she leaves the state with the intent to establish a home elsewhere; evidence of intent under this rule is not simply the person's stated intentions, but includes consideration of objective criteria associated with the move (e.g., movement of possessions, rent payments, changes in voter or driver's license registrations).

3. The county of financial responsibility for an AFDC grant shall be the county wherein the dependent child is residing as of the date the application is signed. ~~This also shall apply to applications for AFDC-Unborn,~~ The county of financial responsibility for an AFDC-Unborn (UF) grant shall be the county where the mother is residing at the time the application is signed.(See D.1.). TThe county of residence if different from county of responsibility, shall be fiscally responsible for any erroneous payments, including payments to ineligible individuals and families which result from its decisions, failures to act, agency-caused errors or overdue eligibility redeterminations.

4. If more than one county is financially responsible for the children in one AFDC grant, the caretaker's needs shall be assigned to the county having the responsibility for the most children, or the county responsible for the oldest child if each county is responsible for the same number of children.

5. If a child moves from one county to another and continues to receive AFDC, the county of financial responsibility shall transfer to his/her county of residence when he/she has resided in that county for two calendar months, provided the child and/or his/her caretaker were not placed in such other county pursuant to a plan of treatment for health, rehabilitation, foster care, child care or training, nor as a result of a placement in any correctional plan. If the original county or court or related agencies developed a treatment plan requiring the child's and/or family's move to another county, and even if the original

county did not take an application prior to the move, then the original county is still responsible for initiating and accepting applications and retains financial responsibility for the AFDC grants until the goals of the plan have been reached. If thereafter the family or child continues to reside in the second county, the latter shall not assume financial responsibility until two calendar months have elapsed subsequent to completion of the plan. Such delay in transfer of financial responsibility shall relate only to such treatment placement plans which are arranged by a local agency, court order or other governmental unit such as the Division of Vocational Rehabilitation or Probation and which became effective after July 31, 1977. The delay shall not apply to child care arrangements made by the family themselves and independent of local agency or court order. The delay will apply where the local agency, etc., arranged for plans of a parent to participate in a training plan for himself/herself only and he/she takes his/her children with him/her to reside near the training facility in another county. However, the county of the child's residence shall be the county which services his/her AFDC grant, whether or not it is the county of financial responsibility; moreover, whenever the county of financial responsibility and county of residence have policies which conflict, the latter shall take precedence. The county of residence must furnish the county of financial responsibility with reports of interviews and budgetary recommendations. The county of financial responsibility must establish grants in accordance with recommendations of the county of residence after review for conformity to the statutes and the rules of the state agency. If the county of financial responsibility's action is not the one recommended by the county of residence, the county of financial responsibility shall notify the county of residence of the action taken and the reason. Client eligibility shall not be affected by a change in county of residence of and by itself. Once the client has notified the current county of residence of a planned move, the current county shall immediately forward to the new county all current and permanent case record information. Within 30 calendar days the new county of residence shall interview the client and respond to any changed circumstances which affect eligibility for AFDC payment. The county shall not take a formal reapplication for the client or apply any eligibility criteria which governs only initial applications. This includes, but is not limited to, the quarters of work in unemployed fathers [see D.10.a. (8) (a)] and the application of the $30 and 1/3 disregard [see D.12.b. (8) (a) (i)]. In all situations in which a grant is being continued, as a result of a pending appeal or as an order resulting from an appeal, the county of financial responsibility shall be determined according to C. 5. supra.

6. If counties disagree as to which is the county of financial responsibility, the following procedures shall apply:

a. the county of residence shall grant AFDC to the applicant (if eligible) while it refers the case to the alleged county of financial responsibility;

b. the alleged county of financial responsibility shall promptly decide if the applicant is eligible for AFDC and if it is the county of financial responsibility;

c. if the alleged county of financial responsibility denies eligibility or financial responsibility for the applicant, the county of residence may accept financial responsibility or may refer the matter to the Commissioner of Welfare;

d. the Commissioner of Welfare shall review the matter and provide both counties with the opportunity to state their position (by formal hearing or otherwise) and decide which county is financially responsible; the commissioner's determination shall be binding on both counties unless it is appealed to and reversed by the courts according to law; and

e. the county determined to be financially responsible shall reimburse any other county for any costs the county previously paid on the grant; if eligibility is denied, the county of residence shall be responsible for costs previously paid.

D. Eligibility factors. Child status.

1. Age.

a. Children under the age of 18 are eligible for AFDC; children age 18-19 are eligible if they are full-time students attending a high school, college, university, vocational or technical training institute.

b. Unborn are eligible for AFDC during the last three months of the mother's pregnancy (as medically certified). AFDC grants for unborn are referred to as "AFDC-UB".

2. Eligible relatives.

a. Parents (natural or adoptive), grandparents, brothers, sisters, uncles, aunts, great-grandparents, great-uncles, great-aunts, nephews, nieces, and first cousins, whether of whole or half-blood and stepparents, stepbrothers, and stepsisters, and spouses of these persons even after the marriage is terminated by death or divorce, are eligible to be the caretaker of a child receiving AFDC.

b. The caretaker must meet all eligibility requirements to be included in the child's AFDC grant.

3. Physical presence in the home.

a. A child must reside in the same home with an eligible caretaker to be eligible for AFDC unless he/she has special educational needs which cannot be met by local public school district which require that he/she reside away from home. "Educational needs" for this provision is defined as a curriculum directed toward achieving a special vocational or academic goal.

b. If an emergency exists that deprives the child of the care of the relative through whom he has been receiving aid, temporary absences of the caretaker or the child from the home shall not defeat AFDC eligibility for a temporary period necessary to make and carry out plans for the child's continuing care and support. No absence may exceed six months and all absences of more than three months shall be referred to the commissioner for a determination of continued eligibility. If the caretaker no longer, thereafter, can provide direct care for the child(ren), conditions for continued assistance do not exist. Alternative arrangements for care of the child(ren) shall be made.

4. Guardianship of a child shall not affect AFDC eligibility, but if the child does not reside with an eligible caretaker, he/she must meet the requirements of AFDC-FC (see H.3.).

5. If a child dies (or if an unborn is stillborn), the AFDC grant shall be paid for the entire month in which death occurs.

6. Parental status. To be eligible for AFDC a child must be deprived of parental support or care due to the death, incapacity or continued absence of a parent from the home, or due to the unemployment of the father. This rule shall apply to natural and adoptive parents; the term "parental support or care" means financial maintenance, training,

supervision, housekeeping and feeding normally given to children by their parents.

7. Death of a parent must be verified by official records (death certificates, military records, etc.).

8. Incapacitated parents.

a. A parent is incapacitated if he/she has a physical or mental defect, illness, or impairment which makes him/her unable to care for the child or substantially reduces or eliminates the ability to support the child. The incapacity must be expected to last at least 30 days from its onset. Budget deficiency alone shall not establish need in incapacity cases; the physical or mental handicap must cause the budget deficiency.

b. The incapacitated parent, and the caretaker relative, shall be included in the AFDC grant if need exists.

c. The incapacitated parent who is exempt from WIN registration (see H.1.) must be referred to the Department of Vocational Rehabilitation.

9. Continued absence.

a. A parent is continually absent from the home if he/she is physically absent from the home and if this absence interrupts or makes uncertain his/her ongoing parental support or care; there is no minimum time period used to establish continued absence~~, however the applicant must affirmatively establish a continued absence~~. The agency shall obtain, and the applicant shall provide, all available facts serving to establish a continued absence.

b. Upon an absent parent's return to the home, AFDC shall continue, if need exists, for one month following the month of his/her return.

c. Where continued absence exists:

(1)~~--The applicant/recipient must assign to the state his/her rights to any child support which accrues or has accrued up to the amount paid, during a time when the child or other person with respect to whom support is due was a recipient of AFDC.~~ The applicant/recipient shall assign to the State his/her rights to any support from any other person. The assigned rights shall include support owed to the applicant/recipient on his/her own behalf and support owed on behalf of any other family member whose needs are included in the AFDC grant. The assignment shall not give to the State the right to agree to a reduction in the support being assigned or to a lump sum compromise or settlement of support due in the future. The maximum amount of the assigned support that shall be retained by the State shall be an amount equal to the total assistance expenditures.

(2) The applicant/recipient must be referred to the Child Support Unit.

(3) The applicant/recipient must cooperate in establishing paternity or obtaining support.

The Child Support Unit shall not attempt to establish paternity in cases involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending if, in the opinion of the Income Maintenance Unit, it would not be in the best interest of the child.

(4) If an applicant or recipient fails to assign rights to support or to cooperate in establishing paternity or obtaining support, an AFDC grant shall be provided only for the child/children through protective or vendor payments. The needs of the caretaker shall not be deleted, nor protective or vendor payments instituted, if the

caretaker demonstrates "good cause" that establishing paternity or obtaining support is not in the best interest of the child. The conditions of "good cause" as stated in federal regulations shall be applied.

10. Unemployed fathers (AFDC-UF).

a. An unemployed father is a father:

(1) whose family is in need;

(2) who is not unemployed due to a labor dispute;

(3) who works less than 100 hours per month;

(4) who has not been fully employed for 30 days prior to the receipt of AFDC-UF;

(5) who has not refused or quit employment except for good cause, within 30 days prior to the receipt of AFDC-UF;

(6) who has not been fired from his job within 30 days prior to the receipt of AFDC-UF;

(7) who is currently registered with the local Job Service Office of the Department of Economic Security and is available for training and/or employment;

(8) who has:

(a) worked at least six quarters during any 13 calendar quarters ending within one year prior to the date of application; at least $50 per quarter must have been earned during this period or the father must have been in an approved work-and-training program; or

(b) received or could have qualified for Unemployment Compensation during the year prior to application for AFDC-UF.

b. To refuse or quit employment or training except for good cause means that an individual refused or quit employment or training, or the offer of employment or training, which he was physically and technically able to perform, which was not excessively hazardous, for which transportation was available, and which paid the prevailing wage in the community for that type of work (but not less than the minimum wage).

c. An unemployed father and family shall be eligible to receive AFDC-UF and Unemployment Insurance concurrently, provided that the unemployed father applies for and accepts any Unemployment Insurance to which he is entitled. All Unemployment Insurance benefits received by the unemployed father must be subtracted from the amount of aid otherwise payable to the AFDC assistance unit. Ineligibility for AFDC for the whole family shall exist for any week for which the child's father qualifies for Unemployment Insurance, but refuses to apply for or accept these benefits.

d. To continue AFDC-UF eligibility in non-WIN counties, the father must re-register with the local Job Service Office of the Department of Economic Security every 30 days, and actively seek employment or enroll in a work training program or the entire family is ineligible. In WIN counties he must register for WIN (see H.1.).

e. If the father quits or refuses an offer of employment or training without good cause he shall no longer be considered registered in a non-WIN county and the entire

family shall become ineligible to receive AFDC payments for so long as the father refuses a bona fide offer of employment or training. See H.1. for sanctions in WIN counties.

11. Stepparent.

a. A stepparent is a potential resource for the support of his/her stepchildren, but cannot be required to support them. If a stepparent chooses to support a stepchild, that stepchild's needs must be removed from the grant.

b. A stepparent shall be legally responsible for the support of his/her spouse; if the stepparent is unable to support the spouse (and can document that fact), the spouses's needs may be included in his/her children's AFDC grant, assuming other eligibility conditions are met. To determine if the stepparent is unable to support his/her spouse, the amount of the stepparent's income (determined in the same way that an AFDC recipient's income is determined under D. 12.b.) shall be compared with the SSI payment level for one person; if the stepparent's income does not exceed this level, the spouse may be included in the AFDC grant, but any excess income shall be considered available for the support of the spouse.

12. Income and resources.

a. Property.

(1) Types of ownership. The owner of property in joint tenancy shall be considered as owning one-half of the value of such property, but the county or the joint tenant may establish legal interest of a greater or lesser amount. An owner of property as a tenant-in-common owns his/her pro rata share of the property's value. All other types of ownership shall be evaluated according to the law.

(2) Transfers of property. The transfer of real or personal property to establish or continue AFDC eligibility is contrary to public policy. Under this provision:

(a) Each AFDC applicant shall be required to disclose whether he/she has transferred any property within the last year worth more than $500 for which a reasonable consideration was not received; this disclosure requirement shall apply to all AFDC recipients upon a redetermination of their eligibility.

(b) Any property so transferred is a potential resource for the applicant or recipient, and the transferor must disclose the property's description and value, the names of the transferees, and the circumstances of the transfer.

(c) The applicant or recipient must cooperate with the local agency in reasonable efforts to reacquire the property or its value; failure to cooperate in reasonable efforts to do so shall constitute grounds for termination or denial of assistance.

(d) If the property cannot be reacquired, the matter must be referred to the county attorney for possible civil and criminal prosecution; the fact of transfer in itself shall not defeat AFDC eligibility.

(3) Real estate.

(a) No AFDC recipient may own net equity in real estate used as a home ~~(or in a mobile home)~~ which exceeds $15,000, unless the local welfare board waives such excess equity. The amount of net equity is the difference between the recipient's share of the property's market value and encumbrances on the property.

(b) No AFDC recipient may own real property not used as a home (including ~~mobile homes and~~ properties being sold for contract for deed) unless the local welfare agency determines that the property produces net income applicable to the family's needs or which the family is making a continuous effort to sell at a fair and reasonable price. To determine net income from such property, taxes and maintenance expenses (but not principal payments of costs of improvement) shall be deducted from the gross income of the property.

(c) In deciding if the property limits of D.12.a.(3) (a) of this section should be waived, the local board shall determine if such real estate is available for the support of the family or if the sale of such property would cause undue hardship. If so, then the excess shall be waived.

(d) The total real property (except for that used as a home and that which is income producing) plus all excluded and non-excluded personal property (except the earnings of a child being saved for educational needs) shall not exceed the limits established in federal regulations.

(4) Personal property.

(a) No AFDC recipient may own personal property the value of which is more than $300 if one child is included in the grant, or $500 if more than one child is included in the grant.

(b) The provisions of D.12.a.(4)(a) shall not apply to household goods, furniture, clothing, burial lots, mobile homes used as a home, or personal items; the limits of D.12.a.(4)(a) may be exceeded where the excess is:

(i) derived from a child's earnings and is designated for specific educational needs of the child, and is in an amount reasonable for that need, and is held in a separate account, and/or

(ii) is designated for a specific purpose (such as real estate taxes or other large expenses), will be eliminated yearly, and does not exceed $500, and/or

(iii) is legislatively disregarded payment (such as some Indian tribal payments); and/or

(iv) is due to an income tax refund received within the preceding three months.

(c) A recipient may build his/her personal property to limits set forth in D.12.a.(4)(a) as long as all his/her non-exempt income has been reported and counted in determining the amount of his/her grant.

(d) Income producing personal property shall <u>be</u> exempt from limits of D.12.a.(4)(a). This includes tools, implements (trucks, tractors), and domestic animals.

(e) One automobile, the market trade-in value of which does not exceed $1650 shall be excluded in determining the personal property resources of all applicants/recipients. Market value shall be its current National Automobile Dealers Association (NADA) NADA trade-in value. If client disagrees with NADA value, local agency evaluation shall be used. <u>If</u> ~~I~~<u>t</u>he market trade-in value ~~may~~ exceeds ~~the~~ $1650 ~~limit~~ <u>the automobile shall be excluded</u> if client is employed, in training for employment, actively seeking employment, temporarily unemployed due to illness or injury and has a definite plan to work or the automobile is needed to obtain necessary medical care. Medical care

shall mean the person or a member of such individual's immediate family has a medically diagnosed mental or physical condition which requires continued inevitable or unavoidable medical attention.

(i) If the market trade-in value exceeds $1650 and none of the exceptions are applicable, the automobile's equity (when added to the value of non-exempt personal property owned by the recipient) must be within the personal property limits for the family. Equity shall be NADA trade-in value minus encumbrances.

(5) Life insurance and trust funds.

(a) A recipient unit may retain life insurance policies with total cash surrender values of not more than $500 without defeating AFDC eligibility.

(b) A trust fund whose beneficiary is a dependent child shall be subject to the property limits of this rule unless it can be demonstrated that the fund cannot be made available for the child's support.

(6) Prepaid burials. An AFDC recipient may have a prepaid burial contract which does not exceed $750 for each family member plus $200 in accrued interest. The funeral director must be the trustee of any such burial contract and a recipient must be the beneficiary, or a trust account specifically designated for funeral costs may be established by the funeral director and recipient jointly.

(7) Personal property which has increased in value beyond the limits of this rule must be reported to the agency. Such property will not defeat AFDC eligibility if the applicant/recipient within 15 days of notice by the county agency:

(a) converts the excess to an excluded type of property;

(b) uses the excess to repay the county for assistance already received;

(c) use the excess to reduce his/her grant for one month; or

(d) uses the excess to meet all his/her needs for up to three months (thereby suspending his/her grant for those months).

(8) The resources of an SSI recipient shall be exempt in determining AFDC eligibility. In any family situation in which some members are eligible for AFDC and any other members are eligible for Minnesota Supplemental Aid (MSA), or General Assistance (GA), ~~or Medical Assistance (MA)~~ the property limitations in the program involved that has the least restrictive eligibility maxima will apply to the extent allowed by law.

b. Income.

(1) Generally, "income" is any benefit received by and available to an AFDC recipient as earnings or otherwise. Income may be earned or unearned. In family groups living together, the income of a spouse shall be considered available to his/her children under age 21. All income, except non cash items provided free of cost and other items specifically disregarded in this rule, must be evaluated in determining the need of AFDC recipients. Real or personal property which has been converted to cash shall be treated within the property standards stated in part D.12.a.(4), not as newly received income. ~~New sources or amounts of income must be reported to the local welfare agency within ten days.~~

(2) Exclusions. The following income is not considered a resource for AFDC purposes:

(a) inconsequential income (amounts up to $30 per month providing such amount is less than the grant);

(b) reimbursement for the maintenance costs incurred in providing foster care;

(c) WIN work and training allowances;

(d) non-WIN training allowances received as a social service expense;

(e) Food Stamp bonuses;

(f) Comprehensive Employment and Training Act incentive payments;

(g) home-produced foods used in the home;

(h) reimbursement for out-of-pocket expense incurred for volunteer work;

(i) corrective payments from the local agency;

(j) assistance under the Uniform Relocation Act of 1970;

(k) Indian tribal payments specifically exempted by Congress;

(l) loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(m) any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the United States Commissioner of Education;

(n) Vietnam veteran's bonuses authorized by law;

(o) benefits under Titles VI or VII of the Older Americans Act of 1965;

(p) federal and state income tax refunds, (annual tax refunds shall not be considered available income; availability of income shall be determined at the time income is earned; determination of currently available income shall require assessment and disregard of the amount of tax obligation incurred at a given level of current monthly income; the amount withheld from wages, for various reasons, may exceed the amount of tax obligation; when the excessive amount withheld is returned in the form of a tax refund, the amount of the tax refund shall be disregarded; the availability of that income has been previously assessed);

(q) federal payments for presidentially declared disaster areas when specifically identified in federal law;

(r) volunteer payments under Title II and III of the Domestic Service Act of 1973;

(s) assistance through the National School Lunch and Child Nutrition Act amendments of 1973;

(t) allowances and expenses paid by Vocational Rehabilitation;

(u) other income disregards as mandated by federal or state law;

(v) earnings received by any youth under Title III, Part C, Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973 Public Law 93-203 is to be disregarded.

(w) Minnesota property tax credits or refunds received by a recipient who does not receive a housing allowance pursuant to Section E.3. following shall be excluded.

(3) Allocation of income.

~~(a)--All-income-received-must-be-reported-within-ten-(10)-days-but-no-later-than-the-fifth-day-of-the-month-following-the-month-of-receipt.--For-current-recipients,-the-local-agency-shall-use-this-report-to-determine-the-amount-of-the-grant-for-the-next-subsequent-month-unless-income-averaging-is-used.~~

~~(b)~~ (a) Before applying income to need, income may be allocated from spouse to spouse and from parents to children under age 21 if such person resides with the AFDC recipient and is in need.

~~(c)~~ (b) The income and resources of an SSI recipient shall not be counted in determining the AFDC recipient's income.

~~(d)~~ (c) Trust funds for a particular person or purpose shall not be allocated to the family until that person's needs or the particular purpose are met; only legally restricted trust funds shall be excluded.

~~(e)~~ (d) Retirement, Survivors, and Disability Insurance (RSDI) payments are considered family income unless they are paid on behalf of a child who is excluded from the grant.

~~(f)~~ (e) Income from jointly-held property shall be allocated according to the share of ownership and availability to AFDC recipients.

(4) Income cannot be allocated to meet past obligations. See DPW 53 (12 MCAR 2.053).

(5) During the period of eligibility, the county may determine income and work expenses monthly or average them over a three-month period.

(6) All unexcluded unearned income and earned income minus allowable deductions must be applied against the AFDC Standard.

(7) Income averaging shall involve use of three months of income to establish assistance for three months; actual income variations shall be ignored when income averaging is used unless a significant change requires a stop in the averaging cycle. Significant changes are: A decrease in total income (disregard, available income and grant) to less than the need standard; an increase in net income which would result in ineligibility~~.~~; termination of employment; ~~The-averaging-also-may-be-stopped-if-there-is~~ a change in net income totalling more than a $50 difference from the average in a given month~~.~~, except when the difference is due to calendar fluctuations causing receipt of an extra paycheck, and except when the agency reconciles the budget at the end of the averaging period. When income is averaged or budgeted monthly, monthly equivalent income ~~may~~ shall be established by one of the following methods: by multiplying weekly income by 4.3, bi-weekly income by 2.16, and semi-monthly income by 2~~.~~, or by using any method resulting in an accurate reflection of total monthly income.

(8) Earned income.

(a) Generally, earned income shall include any compensation from employment or self-employment (wages, salary tips, commissions, profits, etc.), plus training

incentive payments and work allowances under the Equal Opportunity Act and Title I of the Elementary and Secondary Education Act.

(i) $30, plus one-third of the remainder of the family's total earned income shall be disregarded unless a family member has terminated or refused employment, or reduced earned income without good cause within the preceding 30 days (in which case the disregard shall not be applied for one month to the earnings of that individual); this disregard shall not apply to income from WIN public service employment.

(ii) The earned income of a child under age 14 shall be excluded.

(iii) The earned income of a child over age 14 who is a full or part time student (but not employed full time) in a high school, college university, vocational or technical courses shall be excluded; the earnings of the student shall be considered in determining initial eligibility and afterward, excluded.

(iv) In new applications, the $30 and 1/3 earned income disregard shall not be applied to earned income unless the applicants' needs were met, in whole or in part, by AFDC in any of the four months preceding the month of application.

(b) The following employment expenses shall be deducted in determining net earned income:

(i) federal and state income tax obligation; (the expense of employment at a given level of income is the tax obligation incurred; in determining net income which is currently available, the amount of the tax obligation incurred at current monthly income is used; the amount of monthly tax obligation is displayed on tables developed and published by the Department of Public Welfare); <u>(at client's request, a reconciliation shall be performed to determine whether client's tax obligation for a past tax year has been understated; any understatement discovered shall be corrected by a supplementary payment to the client);</u>

(ii) FICA and SMI payments;

(iii) child care costs unless these are paid as a social service; or paid to a relative included in the AFDC grant; or paid to a relative who is financially responsible for the family and able to contribute to it; child care costs paid to a parent may not be deducted in determining net income;

(iv) business expenses (except depreciation);

(v) personal expenses in the manner described in paragraph D.12.b.(8)(c);

(c) Personal expenses of employment shall be recognized by deducting 10% of gross income up to a maximum of $60. If the client requests that actual expenses be recognized in lieu of the standard deductions, the following expenses shall be deducted, if incurred, necessary and reasonable;

(i) mandatory retirement fund deductions;

(ii) transportation costs to and from work based on the actual cost of public transportation or car pool payments, or 13 cents per mile for the actual number of miles driven, not to exceed 100 miles per day of employment; no fault insurance is included in the 13 cents per mile;

(iii) cost of work uniforms;

(iv) union dues;

(v) professional association dues required for employment;

(vi) health insurance premiums;

(vii) cost of tools and equipment used on the job;

(viii) one dollar per day for the cost of meals eaten during employment;

(ix) public liability insurance required by the employer when an automobile is used in employment and the cost is not compensated for by the employer.

(d) Income from small businesses is the difference between gross receipts and business costs. (Capital expenditures and depreciation are not a business cost.) Those expenses which are allowable as personal expenses of employment under D.12.b (8)(c)(i-ix) shall not be allowed as business expenses.

(e) Farm income is the difference between gross receipt (sales, rents, soil conservation payments) and operating expenses. Home-produced foods for sale are included. (Capital expenditures are not included as an operating expense.)

(f) Income from child care in the home shall be 40% of gross receipts. The client may rebut this presumption by documenting actual business expenses in conformance with IRS Schedule "C" and the limitations in D.12.b. (8) (d), in which case income shall be gross receipts minus actual business expenses.

(g) Income from roomers and boarders is computed by allowing $58 per month (for each boarder), $48 per month (for each roomer), or $105 per month (for each roomer and boarder), as the expenses of producing this income.

(h) Unearned income is not the direct result of labor performed by the recipient as an employee. Receipt of SSI shall be a bar to receipt of AFDC. Serviceperson's income shall be counted after deducting the amount needed for the serviceperson's clothing, personal needs, and transportation, but ~~the amount deducted~~ cannot be greater than the amount actually received by the family.

(9) Special situations.

(a) Rental income is unearned income unless there is labor expended in obtaining the income from rental property. $69 shall be deducted per year or two percent of market value (whichever is less) for upkeep and repairs, and ~~deduct~~ taxes, insurance, utilities and interest on principal payments shall be deducted ~~if the recipient lives on the property.~~ Where the recipient lives on the property, these expenses shall be allocated according to the number of rooms.

(b) Unless otherwise excepted, lump sum payments and windfalls ~~are~~ shall be unearned income in the month received and shall be considered property thereafter.

(c) An AFDC recipient must be a U.S. citizen, an alien lawfully admitted for permanent residence, or a continuous U.S. resident since July 1948.

(d) Social Security numbers of all caretakers included in the grant must be provided to the county agency as a condition of eligibility (but assistance shall not be denied where a number has been requested from the Social Security Administration, but not received). Failure to cooperate shall result in deletion of the caretaker's needs and protective/vendor payments shall be issued for the children.

E. AFDC family allowance.

1. Standards of need.

a. The need standards set forth in this section shall be used to determine the grant for every AFDC family in Minnesota (except AFDC-FC).

b. Definitions.

(1) An "eligible person" is one who is eligible for and receives AFDC; in most circumstances it means one caretaker relative and the dependent children he/she cares for. (More than one caretaker may be included when eligibility is based on parental incapacity or unemployment of the father.) All "eligible persons" receiving one AFDC grant constitute one "recipient unit".

(2) The "children" standard shall apply to all members of a recipient unit except the caretaker or other adult.

(3) The "first adult" standard shall apply to the caretaker relative.

(4) The "second adult" standard shall apply to an adult member of the recipient unit who is in addition to the caretaker.

(5) To determine the grant amount for an eligible family, the appropriate amount for the children from the standard shall be added to the amount for an adult(s) from the standard if applicable, to arrive at the grant amount.

(6) A family composed of individuals with varying bases of eligibility but living together as a unit shall constitute one recipient unit. This does not apply when two eligible adults share shelter without a marital bond.

(7) In family groups in which there is an adult caretaker(s), a minor, and a child of the minor, the minor shall have the choice as to which way the grant shall be determined:

(a) the minor and her child may be included in the adult caretaker's grant;

(b) the minor and her child may receive a separate grant; or

(c) the minor may continue in the adults caretaker's grant and the child of the minor shall receive a separate grant.

c. Family allowance.

Eligible Persons	Children Standard
1	171
2	235
3	295
4	348
5	399
6	~~450~~ 451
7	495
8	540
9	578
10	614
Each person above 10 add	37

First Adult standard: 129

Second Adult standard: 51

d. Amount of grant. The amount of the AFDC grant for a recipient unit is the difference between the standard of need as determined by the above table and the recipients' non-exempt, non-disregarded income (see D.12.b.).

2. Special need items. The local agency shall provide funds for certain special needs of AFDC recipients as specified below. Allowances for these items shall receive prior authorization from the local agency. The payment shall be issued directly to the recipient, unless he/she elects to sign a request to have payment issued directly to the vendor.

a. Major home repairs. The local agency shall provide payment for costs of major home repairs if the home is owned and lived in by the recipient; if the need for repair is ~~established~~ documented to the local agency's satisfaction; ~~and the home is owned and lived in by the recipient.~~ if such expenditures are within reasonable limits in relation to overall condition of dwelling and available alternative housing. Major home repairs allowed as special need items shall include repairs to the home's roof, foundation, wiring, heating system, chimney, and plumbing. The recipient shall provide the local agency with a vendor's written estimate for repairs and the agency may require up to two additional estimates when it deems the first estimate excessive. There shall be no maximum allowance established for major home repairs.

b. Replacement or repair of essential major appliances and household furnishings. Costs up to agency maximums for replacement or repair of essential major appliances and household furnishings shall be authorized if the need for such replacement or repair is established to the local agency's satisfaction and any existing rental agreement does not establish that such item, in good repair, is to be provided by landlord/lessor. The local agency shall inform the recipient of the maximum agency allowance for the item and the recipient's free choice to apply such allowance to either repair or replacement of the item. If the recipient elects to repair a major appliance, he/she shall provide the local agency with a vendor's written estimate for repairs. The local agency may require up to two additional estimates when it deems the first estimate excessive. The recipient may supplement the agency's maximum allowance if he/she so chooses.

(1) Major household appliances repair/replacement. Major household appliances covered and agency maximum allowances shall be as follows:

Item	Maximum
Cooking Stove or Range	$ 55.00
Refrigerator	$ 64.00
Washing Machine	$ 64.00
Dryer	$ 64.00
Water Heater	$128.00

(2) Household furnishings repair/replacement. Essential household furnishings covered and agency maximum allowances shall be as follows:

Item	Maximum
Kitchen Table	$ 17.00
Kitchen Chair	$ 7.00
Couch	$ 51.00
Living Room Chair	$ 17.00
Lamp	$ 9.00
Chest of Drawers	$ 18.00
Crib and Mattress	$ 34.00
High Chair	$ 11.00
Living Room Table	$ 7.00
Bed, Full Size (complete)	$ 81.00

Mattress or Box Spring (only)	$ [illegible].00
Frame (only	$ 13.00
Bed, Twin Size (complete)	$ 51.00
Mattress or Box Spring (only)	$ 19.00
Frame (only)	$ 13.00
Bedding (includes blanket, pillow and case, sheets)	$ 14.00

c. Medically prescribed diets. Costs for medically prescribed diets shall be authorized if they are prescribed by a physician and add expense to a normal diet. The following diets shall not be authorized: diets which are paid for by the Medical Assistance Program, reducing or low caloric diets (1800 calories or less), sodium restricted diets (1000 mg sodium), diabetic diets (1800 calories or less), fat controlled diets (55 mg. fat or less) and bladder, ulcer, low residue or low fiber diets which prescribe only soft food or prescribe special food preparation.

d. State appropriation. Each quarter the state appropriation for special needs shall be allocated among the local agencies on the basis of caseloads. Unused funds shall be reallocated at the end of the fiscal year.

3. Housing Allowance. An AFDC allowance for a portion of housing costs attributable to the local property tax will be provided to individuals who have not received such payment under the Minnesota Property Tax Refund Act. The amount of the allowance shall be the same as that paid under the Property Tax Refund Act.

4. Funerals.

a. The local agency shall pay the funeral expenses of AFDC recipients (not exceeding $370) and actual cemetery charges, unless the deceased's estate or surviving spouse and children are able to pay. The local agency's payment shall not be limited by additional payments for or donation of a cemetery lot, interment, religious service, and transportation of the body to or from the community of the deceased's residence.

b. The state shall reimburse the county for 50 percent of the funeral expenses not exceeding $370, under this provision, and the county shall have a prior claim against the deceased's estate for the amount of the payments made hereunder.

F. Payment provisions

1. Payment methods.

a. Money payments. In usual circumstances, AFDC payments shall be made by monthly check to the AFDC recipient. The initial grant shall be retroactive to the first day of the month of application when all eligibility factors were met in that month. The county shall impose no restrictions on the use of the grant. A money payment for one time only may be made to someone acting on behalf of the caretaker in an emergency situation. Recipients may elect to have their monthly Food Stamp purchase requirement withheld from the assistance check.

(1) Payment shall be made only to the address at which the recipient resides, unless another address has been approved in advance by the local agency. Box numbers shall not be sufficient as addresses unless:

(a) prior agency approval has been received for their use; or

(b) box numbers are used in the community as the usual means of mail delivery.

Failure to comply with this provision shall be a sufficient ground for termination of the grant.

(2) ~~A statutory prerequisite to issuance of a duplicate check is the filing of an affidavit with the county agency by the payee attesting to the loss, theft or destruction of the original (the county may require an indemnity bond; however this can be waived by the board of commissioners).~~ The issuance of duplicate checks shall be in accordance with the provisions of Minn. Stat. 471.415.

b. Protective and vendor payments.

(1) A protective payment is one made to someone other than the recipient; a vendor payment is one made to a provider of goods and services.

(2) Protective and vendor payments shall be made only in the following cases;

(a) when a recipient fails to participate in WIN or during the 60-day counseling period (see H.1.);

(b) when the caretaker fails to assign support, furnish or obtain Social Security numbers for himself/herself, or cooperate in establishing paternity or obtaining support;

(c) when the caretaker's continued mismanagement of funds causes hardship for the children; if this situation persists for more than two years, the agency shall take steps to establish a guardianship or other arrangements for the children.

(3) Protective and vendor payments because of money mismanagement shall not continue for more than two years and are subject to a fair hearing appeal by the recipient. Not more than ten percent of the total state AFDC recipients may be paid through protective and vendor payments under this provision.

(4) When protective and vendor payments because of money mismanagement are required, the local welfare board shall approve the payment method selected before it is implemented, and shall review it at least quarterly.

(5) Protective payments cannot be made to the local welfare director or welfare board members, or to landlords, grocers, or other vendors (who can receive vendor payments); a local agency staff member can be the protective payee for cases other than those in his/her own caseload if no other suitable payee can be found.

(6) As a WIN sanction, protective and vendor payments shall be made according to the above requirements for selection of payees. There shall be quarterly review of the payee's performance by the local agency; the recipient has the right to appeal the use of protective or vendor payments and the payee selected.

(7) For cases subject to protective or vendor payments because of failure to obtain support or cooperate in establishing paternity, the requirements for the selection of protective payees and vendors and quarterly reviews by the local agency of the way in which the protective payees' duties are carried out must be met. The entire amount of assistance must be made as a protective or vendor payment.

2. Grant termination, suspension, and reduction.

a. AFDC applicants and recipients have the right to a fair hearing if they are aggrieved by action or inaction of the local agency. The following issues shall be appealable:

(1) denial of application for assistance;

(2) failure to act upon application within the prescribed time limits;

(3) suspension of assistance;

(4) reduction of assistance;

(5) termination of assistance;

(6) use of protective/vendor payments;

(7) referral by local agency to WIN for appraisal interview.

~~Upon-written-request-from-either-party,-a-jurisdictional-hearing-shall-be-conducted-to-determine-whether-there-is-in-fact-an-appealable-issue.--This-hearing-shall-be-held-upon-five-days'-notice-being-provided-to-the-affected-parties,-exclusive-of-Saturdays,-Sundays,-and-holidays.--The-determination-of-the-welfare-referee-may-be-appealed-as-provided-in-Minn.-Stat.-§256.045.--The-right-to-a-fair-hearing-does-not-include-such-matters-as-the-conduct-of-the-local-agency-staff-and-discretionary-matters-such-as-the-replacement-of-lost-or-stolen-AFDC-checks.--Such-matters-should-be-directed-to-the-local-director-or-local-welfare-board.~~ The foregoing items are meant to serve as examples only. An appeal shall also be authorized relative to any matter which is appealable based on state law or federal law and regulation as they currently exist or as they may exist based on subsequent amendment.

b. The local agency must give the recipient timely, advance notice of a grant suspension, termination, or reduction. This notice must be in writing, mailed to the recipient at least ten days before the effective date of the action, and must clearly state what action the agency intends to take, the reasons for the action, the right to appeal the action, the conditions under which assistance can be continued, and any collateral consequences of the action (e.g., loss of Food Stamp or Medical Assistance eligibility). Five days shall be sufficient for timely notice where the agency has verified and documented that the case facts require grant action and the action is based upon probable fraud by the recipient.

c. The local agency must give the recipient adequate written notice, no later than the effective date of the action, when there is:

(1) confirmation of the death of the recipient or payee;

(2) a written statement by the recipient that assistance is no longer desired;

(3) a written information from the recipient that requires grant reduction or termination and the recipient understands that the change will occur; or when:

(4) the recipient has been admitted to an institution; placed in skilled nursing or intermediate care or long term hospitalization;

(5) the recipient has been accepted for assistance by another county;

(6) the recipient has been placed in foster care; or

(7) the recipient's whereabouts are unknown.

d. If the recipient appeals the agency's action before it is effected, the action shall not be effected until the appeal is decided by the local or state hearings process.

3. Incorrect payments.

a. Underpayments shall be adjusted through an additional or a supplemental payment to the grant; the agency need not correct underpayments made more than 12 months prior to the date of discovery of error.

b. Overpayments caused by client or ~~and~~ agency error shall be corrected through the process of recoupment or by the recipient's voluntary reimbursement. Voluntary reimbursements must be documented by the recipient's signed agreement and shall not be fulfilled through reduction of the grant. Overpayments caused by client error shall not be recouped unless the process is begun within a year after the agency learns of the overpayment. The process begins with the sending of the notice. Overpayments more than 12 months old when the agency learns of the error may not be recouped. Overpayment due solely to agency error shall be recoupable for the three months prior to the discovery if the client is notified in writing.

c. Recoupment shall be made by deducting an amount up to one-half of the recipient's disregarded earnings from the AFDC grant until the overpayment has been corrected. Recoupment shall be made only from recipients who have disregarded earnings. If recoupment has been interrupted by termination of employment or assistance, the recoupment shall be resumed when the individual resumes AFDC and employment.

d. The provisions of this section regarding incorrect payments shall be applicable to cases involving recipient fraud or abuse.

4. Wrongfully obtained assistance. The legal basis for prosecution of fraud in the AFDC program is Minn. Stat. 256.98.

~~a.--The-legal-basis-for-civil-and/or-criminal-action-in-the-AFDC-program-is Minnesota-Stat.---256.98,-which-covers-both:~~

~~(1)--willfully-false-statements-or-representations;-and~~

~~(2)--intentional-concealment-of-material-facts.~~

~~b.~~ a. The local agency director shall be responsible for securing appropriate action relative to any fraud allegation received. Appropriate action shall include:

(1) issuing timely notice and taking grant action where warranted;

(2) referring cases of suspected fraud to the agency investigative unit for necessary investigations; and

(3) insuring the referral of substantiated fraud to the county attorney for necessary legal action.

~~c.~~ b. If eligibility otherwise exists, a grant shall be continued at the established level when fraud is suspected or the case is under investigation for fraud.

~~d.~~ c. Recovery in fraud cases may be based on client agreement, recoupment or court order. A client's basic grant shall not, however, be reduced to meet the recovery obligation. Recoupment shall be applicable only in cases involving disregarded earnings and shall follow the procedures outlines above dealing with incorrect payments.

e. d. The local agency director shall be responsible for securing and reporting such statistical data on agency fraud prevention activities as the commissioner may require.

G. Relative responsibility

1. Procedures.

a. Parents, grandparents, brothers and sisters shall be responsible for the support of children on AFDC; spouses shall be responsible for the support of their spouses whose needs are included in an AFDC grant.

b. Failure of responsible relatives to furnish support shall not render an individual ineligible for AFDC; the local agency shall take the steps outlined in this rule to seek support from responsible relatives whom it believes are able to contribute toward the needs of AFDC recipients.

c. If the responsible relative fails to contribute support after the local agency notifies him/her of his/her obligation to do so, the agency shall notify the county attorney or the Commissioner of Welfare to take legal action against the relative.

d. The amount of support recoverable from a responsible relative, other than the parent of a child under 18, shall not exceed the amount of AFDC assistance granted after the relative is notified of his/her obligation to support. Recovery shall apply only to the period following issuance of notice to contribute. However, the court can order continuing contribution while the recipient continues to receive public assistance.

2. Standards of support.

a. The amount of support due from the absent parent of a child or the parents of a child in AFDC-FC shall be established by the court or through voluntary agreement by the absent parent and the local child support unit.

b. Parental income shall be totally available for the needs of children under 18 and residing in the parental home. The ability of parent to support a minor, including one who is eligible for AFDC as a caretaker relative, shall be based upon a determination of parental income according to the procedures used in establishing AFDC eligibility for new applicants. All income in excess of the appropriate AFDC Standard is available for the support of the minor.

c. The financial contribution of other responsible relatives, and the parents of caretakers under 18 and residing outside the parental home, shall be computed according to the relative responsibility scale.

3. Relative responsibility scale.

Size of Family	Annual Cost of Living (ACL)	Monthly Cost of Living
1	$ 5,304	$ 442
2	8,196	683
3	11,784	982
4	14,088	1,174
5	16,200	1,350

Twenty percent of the ACL for a family of five shall be added for each additional family member.

a. The gross income of the responsible relative shall be assessed against the above scale; taxes or employment expenses shall not be deducted.

b. "Size of family" means all persons who are in fact supported by the responsible relative (whether or not he/she is legally responsible for their support).

c. Other justified expenses (such as medical and education bills, or housing costs exceeding 30 percent of the family's gross income) shall be deducted from the gross income.

d. If a minus balance remains, no contribution shall be expected. If a plus balance remains, 1/3 of the amount shall be the expected contribution.

4. Child support and paternity.

a. Every AFDC applicant and recipient shall be required to furnish information (including court testimony) needed by the local agency to obtain child support payments, locate absent parents, establish paternity, and obtain support from responsible relatives.

b. If a caretaker relative fails to cooperate with the above requirements, his/her needs shall be deleted from the grant and the eligible childiren shall be furnished assistance through protective or vendor payments.

c. If a court orders child support paid by an absent parent, the local agency shall petition the court for an order directing that all such payments be made to the local welfare board until AFDC assistance stops.

d. The regulations and procedures of Title IV-D of the federal Social Security Act shall be applied in the collection of support and establishment of paternity.

~~e.--Regulations-and-procedures-of-Title-IV-D-of-the-Social-Security-Act-shall apply-to-AFDC-FC.~~

H. Other program requirements.

1. Work Incentive Program (WIN).

a. Registration requirements.

(1) All AFDC applicants and recipients residing in WIN counties (who are not exempted below) must register for WIN as a condition of eligibility.

(2) The following persons shall be exempted from WIN registration:

(a) children under age 16;

(b) children age 16 <u>through</u> 18 attending school full time;

(c) persons who are ill;

(d) persons who are incapacitated; if WIN exemption is based on incapacity a referral to the Division of Vocational Rehabilitation is mandatory; (NOTE: the local agency may require a physical examination to confirm illness or incapacity.) or

(e) over age 65;

(f) persons who live so far away from a WIN project that more than a 10-hour day (employment plus commuting time) would be required to participate;

(g) persons whose presence in the home is needed because of the illness or incapacity of other persons;

(h) a caretaker of a child under age six (only one such exemption is allowed per family); (In AFDC-UF cases, either parent may elect to claim this exemption);

(i) the spouse of a WIN registrant.

b. Other WIN requirements.

(1) If a required WIN registrant refuses to register, his/her needs shall be deleted from the AFDC grant; if the only dependent child over age 16 and not in school in a family refuses to register, the entire AFDC grant for the family will be denied or terminated. If the father in an AFDC-UF case refuses to register, or if he refuses a bona fide offer of employment or training without good cause, the entire family is ineligible for AFDC-UF.

(2) An AFDC applicant or recipient may contest the requirement that he/she register for WIN through the fair hearing procedure.

c. "Failure to participate in WIN" means:

(1) failure to attend the WIN appraisal interview;

(2) failure to accept child care plans for the WIN program;

(3) failure to participate in Job Service Office of the Department of Economic Security activities;

(4) failure to accept employment or training;

(5) failure to remain in employment.

d. If a WIN registrant fails to participate in WIN, WIN Job Service Office of the Department of Economic Security shall provide him/her an opportunity to contest whether or not this failure was for good cause; the decision of this hearing shall not be appealable to the Commissioner of Welfare and the result shall be binding on the local welfare agency. If the hearing opportunity is not taken, or if the failure to participate is found to be without good cause, WIN will provide the individual with a 60-day counseling period to correct the situation.

e. If an individual is found to have failed to participate in WIN, the following sanctions shall apply:

(1) If the individual is the only dependent child in an AFDC family , assistance for the entire family shall be terminated; if the individual is one of several dependent children in an AFDC family, his/her needs shall be deleted from the AFDC grant. In AFDC-UF, if the father refuses to accept a bona fide offer of employment or training without good cause, he shall be considered deregistered and the entire family shall be ineligible, unless the individual is undergoing the 60-day counseling period which is described in H.1.e.(2).

(2) If the individual is the caretaker of AFDC children, his/her needs shall be excluded from the grant and assistance to other family members will be provided through protective or vendor payments. If the individual is undergoing the 60-day counseling period his/her needs will not be removed from the grant; however, assistance to the family shall be provided in the form of protective or vendor payments. These sanctions shall not apply to persons who are voluntary WIN registrants.

An individual who has been found to have failed to participate in WIN without good cause must wait 90 days after his/her AFDC benefits are terminated to reregister for WIN; if an individual has twice failed to particiapte in WIN without good cause, he/she must wait six months to reregister. WIN may reaccept any such reregistrant whose prior failure to participate was the result of criminal or other activities which presented a hazard to WIN staff or other WIN participants.

f. A WIN participant's monthly $40 training allowance and $30 incentive payment shall be disregarded as income in computing the AFDC grant.

g. Public Service Employment (WIN/PSE) shall not be subject to the $30 plus 1/3 disregard.

h. On-the-job training (WIN/OJT) shall be subject to ~~for~~ the $30 plus 1/3 disregard plus employment expenses. If the recipient is on AFDC-UF, the 100 hour rule shall apply.

2. Emergency Assistance for families with children under age 21 (AFDC-EA).

a. Eligibility qualifications.

(1) Emergency Assistance is immediate financial aid for AFDC families and other families in situations that place a child and any other member(s) of the family in jeopardy and cannot be resolved with the family's current resources. Examples of emergencies are natural and civil disorders, illness, accident, death, threat of eviction, etc.

(2) Emergency Assistance shall be granted only to a family which includes a child (under age 21) who is (or within six months prior to application has been) living with a relative eligible as an AFDC caretaker, and which is completely without resources to solve the emergency. It shall not be available to persons or on behalf of children over age 16 and not in school who have refused employment or training without good cause.

b. Allowable need items.

(1) Emergency Assistance shall cover payment for food, shelter, clothing, fuel and utilities, medical care and child care. It may also cover moving expense, major home repairs and major furniture and appliance replacement, replacement of furnace, roof, plumbing, or electrical systems, if authorized by the local agency before the expense is incurred.

(2) Emergency Assistance shall be available when the proceeds of cashed AFDC checks are lost or stolen; the theft must be reported to the police and the local welfare agency in the form of an affidavit. It shall not be available when uncashed AFDC checks are lost or stolen; in such cases, the lost or stolen AFDC funds ~~may~~ shall be replaced ~~by another AFDC check.~~ in accordance with the provisions of F.1. of this Rule.

c. Emergency Assistance payments.

(1) The amount of Emergency Assistance shall be based on the AFDC Standard and the state standard for special need items; if this sum is insufficient to meet need, the AFDC-EA allowance shall be based on cost. Payments may be made as money, vendor payments, payments in kind, or in the form of interest free loans (up to $100) for employment expenses.

(2) AFDC-EA shall be granted only for one consecutive 30-day period in one consecutive 12-month period; needs which accrue prior to the 30-day period may be met only when necessary to resolve the current emergency situation (e.g., back rent or utility payments). Assistance may be extended for up to 30 days beyond the 30-day base period, if authorized during the base period.

(3) Each local agency shall designate at least one staff member to authorize immediate AFDC-EA grants.

3. AFDC-Foster Care (AFDC-FC).

a. Eligibility for AFDC-FC.

(1) AFDC-FC shall be available for children placed by judicial action in foster homes or private nonprofit child caring institutions. All such institutions, homes and agencies must be licensed for child caring. Payments for foster or institutional services may be made to cooperating public or private agencies for care given in foster homes or nonprofit private child care institutions.

(2) AFDC-FC shall not be available when the child lives with a relative who is legally liable for support. AFDC-FC shall be paid to non legally responsible relatives who are licensed or approved as foster care providers.

(3) AFDC-FC shall be available only for children eligible for ordinary AFDC during the month in which judicial proceedings are started, or who would have been eligible during the prior six months and if they had lived with an eligible relative.

b. AFDC-FC shall be available whether or not parental support is available; the local agency shall petition the juvenile court for an order requiring the parents to contribute to the child's support.

c. AFDC-FC will be paid to the foster home parent or institutional care representative, as the provider of care, not as the payee.

d. AFDC Foster Care Rates (AFDC-FC).

(1) The rates for AFDC-FC shall be applicable to foster and group homes and child care institutions. In no circumstances can rates paid to institutions include overhead costs.

MANDATORY STATEWIDE RATES (BASIC)

Age	Basic Rate		Initial Clothing
	Monthly	Per Diem	
0-3	$123	4.10	$ 56
4-8	156	5.20	83
9-11	172	5.73	110
12-14	206	6.87	~~192~~ 193
15-18	225	7.50	221

The initial clothing allowance shall be available at the time of the initial application and each reapplication. The care rate includes food, clothing, shelter, physical attendance, and supervision, and transportation. Additional payments may be made for specific social services provided by the foster home or child care institutions. Additional payments shall not be made to supplement maintenance costs.

(2) In addition to the basic rate, monthly payments for additional maintenance needs (as determined by the local agency) may be made. The additional care rates shall be determined by adding the points assigned to each level and type of care required by the child. No more than 175 points may be designated for each child.

DIFFICULTY OF CARE SCHEDULE AND RATES

	A	B	C	D	E
Emotional	5	15	30	60	175
Physical	5	15	30	60	175
Auxiliary	5	10	15	60	

Points	Monthly	Daily	Points	Monthly	Daily
5	34	1.13	95	242	8.07
10	45	1.50	100	253	8.43
15	57	1.90	105	265	8.83
20	68	2.27	110	276	9.20
25	80	2.67	115	288	9.60
30	91	3.03	120	299	9.97
35	103	3.43	125	311	10.37
40	114	3.80	130	322	10.73
45	126	4.20	135	334	11.13
50	138	4.60	140	345	11.50
55	149	4.97	145	357	11.90
60	161	5.37	150	369	~~12.00~~ 12.30
65	172	5.73	155	~~362~~ 380	12.67
70	184	6.13	160	392	13.07
75	195	6.50	165	403	13.43
80	207	6.90	170	415	13.83
85	218	7.27	175	426	14.20
90	230	7.67			

(a) motional.

(i) Level A. These are children who periodically exhibit excessive dependency, passivity, lack of responsiveness and the inability to relate.

(ii) Level B. Children at this level require abnormal amounts of attention and affection, and have need for a regimental program, such as behavior modification. Such children often have school problems, difficulty with peers, moodiness, and frequent enuresis. Foster parents often have to provide an abnormal amount of structure (e.g., constant repetition and follow through on instructions).

(iii) Level C. These children exhibit extreme attention-seeking behavior, stealing, drug use, encopresis, destructive behavior, extreme hyperactivity, sexual acting-out, running away, withdrawal, etc.

(iv) Level D. These children show extreme bizarre behavior, and may be self-destructive and require exceptional care.

(v) Level E. Children at this level show severely disturbed behavior, such as frequent running away, depression, attempted suicide, fantasizing, or inappropriate behavior. They may be dangerous to themselves or others, and cannot be maintained in a normal family setting.

(b) Physical.

(i) Level A. These children need some help with putting on braces or prosthetic devices, some help with buttons, laces, etc., but are basically self-caring.

(ii) Level B. These children need help with dressing, bathing, and general toilet needs, as well as some help in ambulation. They exhibit feeding problems such as excessive intake, or are extremely slow and/or messy requiring help and/or supervision due to retardation or emotional or physical handicap. They may need tube or gavage feeding. They may need physical therapy, under one hour per day.

(iii) Level C. These children need appliances for drainage or ileal conduit, or a colostomy. They may need aspiration, suctioning, mist tent, etc. They are non ambulatory, needing constant attendance, and/or prescribed physical therapy, 1-2 hours per day, by foster parent.

(iv) Level D. These children require custodial care, and physical therapy 2-3 hours per day. They may have uncontrollable seizures.

(v) Level E. Due to the severity of their physical handicap, these children are unable to tolerate a normal family setting and require ongoing care. Such children possibly need 24 hour supervision.

(c) Auxiliary.

(i) Level A. These children require special diets or supplements that require extra expense and are not covered under any other program. Regular but infrequent (less than monthly) trips must be made to a physician, psychiatrist, therapist, etc.

(ii) Level B. These children require special equipment or a regular and consistent tutoring program at home. There is unusual wear and tear on the home, and need for occasional periods of relief by an adult. Therapeutic appointments must be met every two to four weeks.

(iii) Level C. There is extreme wear and tear on the home, frequent hospitalizations, and/or therapeutic visits every two weeks or oftener.

(iv) Level D. These children exhibit either emotional or physical problems of such severity that the foster parents must make extraordinary adjustments in their family life style to accommodate the foster child. Such adjustments may include, but not be limited to, ongoing regular attendance at supportive group meetings, physical changes in the home (such as building ramps, installing lifts, etc.), ongoing consultation with child care professionals. These children require foster parents who have shown skill in adapting family life to the needs of each child.

I. Relationship to other programs.

1. AFDC recipients are automatically eligible for:

a. Medical Assistance upon signing a benefit assignment Form 1933; for health care coverage in which he/she is a policyholder.

b. Food Stamps;

c. Social Services;

2. AFDC recipients may not be simultaneously eligible for:

a. General Assistance unless served by the Battered Women Program;

b. Poor Relief;

c. Supplemental Security Income.

3. The Income Maintenance Unit shall refer all cases involving minor caretakers to the Social Service Unit for evaluation of service needs. Such referrals shall not be a factor in determining eligibility, and shall be made after such eligibility is determined.

4. The following programs are not a bar to AFDC eligibility but may furnish the AFDC family with another source of support (which may remove the need for AFDC):

a. Retirement, Survivors, and Disability Insurance;

b. School Lunch Program;

c. services and payments to veterans and armed forces personnel;

d. services and payments for immigrants and refugees;

e. Servicemen's Quarters Allowances.

The local agency shall help the AFDC recipient explore the resources offered by these programs.

J. Miscellaneous.

1. Former DPW Rule 44 is hereby amended.

2. 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 agency, person, or circumstances shall not be affected thereby.

3. The effective date of this rule is five working days after the adopted rule is published in the State Register.

APPROVED AS TO FORM AND LEGALITY
DEC. 26 1978 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 26 1978
Joan Anderson Growe
Secretary of State

9:00 A.M.

STATE OF MINNESOTA

COUNTY OF RAMSEY

EDWARD J. DIRKSWAGER, JR.

COMMISSIONER OF PUBLIC WELFARE

In the Matter of the Proposed Amendment of Rule 44 of the Department of Public Welfare Governing Aid to Families With Dependent Children Program.

AMENDMENT TO ORDER ADOPTING RULE

The Commissioner of Public Welfare hereby amends his Order Adopting Rule for DPW Rule 44, dated November 22, 1978. This amendment to the Order addresses section J.3. of the Rule and adds a Finding 14 to the Order. This amendment is intended to supplement the Order Adopting Rule and no part of that Order is vacated by this amendment.

Paragraph J.3. of Rule 44 is hereby amended to read as follows:

> The effective date of this Rule is the first day of the month following publication in the State Register, but not less than five working days after publication.

The Commissioner's Order Adopting Rule is hereby amended by addition of the following Finding 14:

> The Commissioner finds that in order to avoid heavy costs in terms of administrative burden, time, and money, it is necessary to amend section J.3. of Rule 44 so that the Rule becomes effective on the first of a month. The original language as proposed was the result of an oversight. The new language provides that at least five working days shall elapse between the time of publication in the State Register and the effective date of the Rule but that the Rule shall become effective on the first of the month. This is both necessary and reasonable in order to make administration of the new rule workable because AFDC grants are

calculated on a monthly basis. This is not a substantial change from the original language as proposed in the sense that the Department may choose the effective date of the Rule by varying the publication date. The new version merely lightens the administrative burden. For the same reasons, this change will not have an adverse effect upon any member of the public.

IT IS THEREFORE ORDERED, that the Rule identified as Rule 44 of the Rules of the Minnesota Department of Public Welfare, as adopted on November 22, 1978, is hereby amended as set forth herein.

Dated: December 29, 1978

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Edward S. Dirkswager, Jr.
Commissioner

a. General Assistance unless served by the Battered Women Program;

b. Poor Relief;

c. Supplemental Security Income;

3. The Income Maintenance Unit shall refer all cases involving minor caretakers to the Social Service Unit for evaluation of service needs. Such referrals shall not be a factor in determining eligibility, and shall be made after such eligibility is determined.

4. The following programs are not a bar to AFDC eligibility but may furnish the AFDC family with another source of support (which may remove the need for AFDC):

a. Retirement, Survivors, and Disability Insurance;

b. School Lunch Program;

c. services and payments to veterans and armed forces personnel;

d. services and payments for immigrants and refugees;

e. Servicemen's Quarter Allowances.

The local agency shall help the AFDC recipient explore the resources offered by these programs.

J. Miscellaneous.

1. Former DPW Rule 44 is hereby amended.

2. 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 agency, person, or circumstances shall not be affected thereby.

3. The effective date of this Rrule is ~~five-working-days-after-the-adopted-rule-is published-in-the-State-Register.~~ the first day of the month following publication in the State Register, but not less than five working days after publication.

APPROVED AS TO FORM AND LEGALITY

JAN. 2 1979 19___

WARREN SPANNAUS, ATTORNEY GENERAL

BY [signature]

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 2 1979
Joan Anderson Growe
Secretary of State
3:15 P.M.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General

DATE: 1/2/78

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 2418

SUBJECT: Rule 44

Attached are copies of the Amendment to Order Adopting Rule for Rule 44, as well as the page containing the rule section changed. I spoke with Peter Erickson of the Office of Hearing Examiners regarding this amendment. Both he and Duane Harves feel that they need not review or formally approve the amendment. Therefore, I am forwarding everything to you directly.

Will you file the Rule as amended with the Secretary of State or would you prefer I do? I would be happy to in order to expedite matters. Please let me know. Thank you very much for the help.

ECD/pas
Attachment

Lee - Can we get this done today? (Tuesday) Please let me know. Someone from DPW is available for all footwork. - Ellen

PROPOSED

Department of Public Welfare

12 MCAR 2.044 Aid to families with dependent children

A. Introduction.

1. This rule shall governs administration of the Aid to Families with Dependent Children (AFDC) program in Minnesota. The provisions of this rule are to be read in conjunction with Title IV-A of the Federal Social Security Act, Title 45 of the Code of Federal Regulations, Minn. Stat. ch. 256, and other rules of the Department of Public Welfare pertaining to public assistance and the administration of Minnesota's state and local welfare departments. ("Local welfare department" or "agency" means includes the county welfare department of those multi county welfare agencies established under Minn. Stat. § 393.01 (1974) or Minn. Stat. ch 402). The Commissioner of Public Welfare may issue instructions, bulletins, and manuals to the local welfare agencies to clarify the provisions of this rule (DPW 44 takes precedence over such documents) and may prescribe forms and procedures to be used in administration of this program.

2. The commissioner shall cooperate with the federal government and its public welfare agencies in any reasonable matter that will be necessary to qualify for AFDC. Notwithstanding any provisions of this rule, administration of the AFDC program is shall be subject to changes in federal or state law. The commissioner will shall notify the local welfare agencies of such changes as they occur.

3. The AFDC program shall be administered to provide qualifying needy families with the resources necessary to sustain a reasonable subsistence compatible with decency and health, according to this rule. The AFDC program will shall not be administered to deny applicants and recipients their individual and civil rights, nor to obtain or disclose information regarding them except as provided by DPW rules.

4. The commissioner shall supervise the AFDC program on a state wide basis in accordance with equitable standards for assistance and administration which shall be mandatory on upon all political subdivisions.

5. DPW Rule 44 (12 MCAR 2.044) incorporates federal-state laws, rules and regulations pertaining to the Aid to Families with Dependent Children Program in a summarized form. Interpretation of its content shall be considered in conjunction with the state AFDC Policy Manual which details the state plan of operation.

B. Applications for assistance.

1. Any person may apply for AFDC to the local welfare agency in the county in which he/she resides, and the local agency shall promptly advise him/her of the program's eligibility requirements. The local agency shall provide an application form immediately upon receipt of a written or oral request for assistance. The local agency shall require a written application signed under a penalty of perjury, on a form prescribed by the state agency, by applicant himself/herself or his authorized representative, whom he/she has specified in writing, or, where the applicant is incompetent or incapacitated, by someone acting responsibly for him/her. An applicant may be assisted, if he/she so desires, by an individual(s) of his/her choice whom he/she has specified in writing (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them. ~~The application form shall be signed by the applicant, his/her parent, eligible caretaker relative, legal guardian, an authorized representative of the applicant, or if~~ If the application is for AFDC-Foster Care (FC), the agency or designee~~, shall~~ may sign it. (See ~~Part~~ H. 3. below.)

2. As soon as possible, but no later than 45 days from the date of request for assistance, the local agency shall determine the applicant's eligibility for assistance. All eligibility conditions must be met within this 45-day limit. Assistance may be issued before the eligibility process is completed, but if the applicant is found ~~not~~ ineligible, no federal or state financial participation may be claimed for this assistance.

3. The applicant must be notified in writing that his/her application has been approved or denied, unless the applicant dies or cannot be located. If the application is denied, the recipient must be notified in writing of the reasons for denial and of his/her right to appeal.

4. Any person has the right to reapply for assistance. New applications must be taken whenever a previous application has been denied or withdrawn, or whenever a grant has been cancelled, or whenever the payee has been changed. ~~or the county of financial responsibility has been changed.~~ An approved application shall be addended for the purpose of adding additional eligible persons or when the payee has changed his/her name.

a. An application for AFDC received by a county must be processed as such, formally acted upon, and written notification of the disposition of the application must be provided the applicant regardless of the length of time that the applicant intends to remain a resident of that county. Until the applicant is notified in writing of the disposition of his/her application, any additional AFDC applications signed by this applicant in the same or in a different county are null and void.

5. Eligibility shall be redetermined at least semi-annually. When the local income maintenance unit receives information about a change in case facts, eligibility shall be reviewed within 30 days. ~~Eligibility for AFDC-UF cases shall be redetermined every three months.~~ The recipient shall furnish such correct information and reports as required by the agency to assure eligibility and payments, and shall report any new receipt of earned or unearned income within a ten day period.

6. The local agency shall verify the information contained in the application from the applicant or other persons or agencies only with the applicant's signed permission; blanket consents may be used only for groups of related agencies (such as banks, insurance agencies, etc.). If the applicant refuses to cooperate with the county agency in verifying the needed information, the application must be denied.

7. The following information shall be verified:

a. Social Security numbers ~~of all individuals~~ of caretakers applying for or receiving assistance; ~~and parents of dependent children;~~

b. incapacity of a parent or unemployment of a father if such is the basis of eligibility; and

c. the applicant's income and acknowledged property.

Any other factor of eligibility may be verified depending on circumstances of the case.

8. The income maintenance unit shall immediately refer the applicant/recipient to the social service unit when there is reason to suspect that the home in which the relative and child requesting/receiving aid reside is unsuitable because of the neglect, abuse, or exploitation of such child or that harm or threatened harm may occur to the child.

This includes, but is not limited to: non-accidental physical or mental injury; sexual abuse; negligent treatment or maltreatment, including failure to provide adequate

food, clothing, or shelter, and/or evidence of money mismanagement.

9. Because of the complexity of the welfare system in Minnesota applicants and recipients may have someone act as an advocate to ensure that their legal, civil, and human rights are upheld.

10. The client shall be responsible for informing the agency within ten days or by the 5th of the following month, whichever is earlier, of changes in circumstances and/or income.

C. Financial responsibility and residence.

1. "Residence" or "abode" means where a person lives and intends to remain; the "county of financial responsibility" or "county of settlement" means the county which is liable for a person's public assistance.

2. Minnesota residence ~~is~~ shall be an eligibility requirement for AFDC, but no length of residence is required. A person loses Minnesota residence when he/she leaves the state with the intent to establish a home elsewhere; evidence of intent under this rule is not simply the person's stated intentions, but includes consideration of objective criteria associated with the move (e.g., movement of possessions, rent payments, changes in voter or driver's license registrations).

3. The county of financial responsibility for an AFDC grant ~~is~~ shall be the county ~~of the longest period of residence~~ wherein the dependent child ~~during the year preceding application, free of "excluded time".~~ is residing as of the date the application is signed. This also shall apply to applications for AFDC-Unborn (UB) (See D.1.). ~~"Excluded time" the period the child resides in a licensed hospital, detention home, county jail, licensed foster home, or public or private child care institution, if the child has always resided in places of excluded time, the county of financial responsibility is the county of the child's longest residence during the year preceding application.~~ The county of residence, if different from county of responsibility, shall be fiscally responsible for any erroneous payments, including payments to ineligible individuals and families which result from its decisions, failures to act, agency-caused errors or overdue eligibility redeterminations.

4. ~~For purposes of AFDC-UB (See D. 1.), an unborn's residence begins on the estimated date of conception.~~ If more than one county is financially responsible for the children in one AFDC grant, the caretaker's needs ~~are~~ shall be assigned to the county having the responsibility for the most children, or the county responsible for the oldest child if each county is responsible for the same number of children.

5. If a child moves from one county to another and continues to receive AFDC, the county of financial responsibility shall transfers to his/her county of residence when he/she has resided in that county for ~~one year, free of excluded time.~~ two calendar months, provided the child and/or his/her caretaker were not placed in such other county pursuant to a plan of treatment for health, rehabilitation, foster care, child care or training, nor as a result of a placement in any correctional plan. If the original county or court or related agencies developed a treatment plan requiring the child's and/or family's move to another county, and even if the original county did not take an application prior to the move, then the original county is still responsible for initiating and accepting applications and retains financial responsibility for the AFDC grants until the goals of the plan have been reach. If thereafter the family or child continues to reside in the second county, the latter shall not assume financial responsibility until two calendar months have elapsed subsequent to completion of the plan. Such delay in transfer of financial responsibility shall relate only to such treatment placement plans which are arranged

by a local agency, court order or other governmental unit such as the Division of Vocational Rehabilitation or Probation and which became effective after July 31, 1977. The delay shall not apply to child care arrangements made by the family themselves and independent of local agency or court order. The delay will apply where the local agency, etc., arranged for plans of a parent to participate in a training plan for himself/herself only and he/she takes his/her children with him/her to reside near the training facility in another county. However, the county of the child's residence is shall always be the county which services his/her AFDC grant, whether or not it is the county of financial responsibility; moreover, whenever the county of financial responsibility and county of residence has have policies which conflict, the latter shall takes precedence. The county of residence must furnish the county of financial responsibility with reports of interviews and budgetary recommendations. The county of financial responsibility must establish grants in accordance with recommendations of the county of residence after review for conformity to the statutes and the rules of the state agency. If the county of financial responsibility's action is not the one recommended by the county of residence, the county of financial responsibility shall notify the county of residence of the action taken and the reason. Client eligibility shall not be affected by a change in county of residence of and by itself. Once the client has notified the current county of residence of a planned move, the current county shall immediately forward to the new county all current and permanent case record information. Within 30 calendar days the new county of residence shall interview the client and respond to any changed circumstances which affect eligibility for AFDC payment. The county shall not take a formal reapplication for the client or apply any eligibility criteria which governs only initial applications. This includes, but is not limited to, the quarters of work in unemployed fathers (see D.10.a.[8][a] and the application of the $30 and 1/3 disregard (see D.12.b.[8][a][i]).

In all situations in which a grant is being continued, as a result of a pending appeal or as an order resulting from an appeal, the county of financial responsibility shall be determined according to C. 5. supra.

6. If counties disagree as to which is the county of financial responsibility, the following procedures shall apply:

a. the county of residence shall grant AFDC to the applicant (if eligible) while it refers the case to the alleged county of financial responsibility;

b. the alleged county of financial responsibility shall promptly decide if the applicant is eligible for AFDC and if it is the county of financial responsibility;

c. if the alleged county of financial responsibility denies eligibility or financial responsibility for the applicant, the county of residence may accept financial responsibility or may refer the matter to the Commissioner of Welfare;

d. the Commissioner of Welfare shall review the matter and provide both counties with the opportunity to state their position (by formal hearing or otherwise) and decide which county is financially responsible; the commissioner's determination is shall be binding on both counties unless it is appealed to and reversed by the courts according to law; and

e. the county determined to be financially responsible shall reimburse any other county for any costs the county previously paid on the grant; if eligibility is denied, the county of residence is shall be responsible for costs previously paid.

D. Eligibility factors. Child status.

1. Age.

a. Children under the age of 18 are eligible for AFDC; children age 18-19 are eligible if they are full-time students attending a high school, college, university, vocational or technical training institute.

b. Unborn are eligible for AFDC during the last three months of the mother's pregnancy (as medically certified). AFDC grants for unborn are referred to as "AFDC-UB".

2. Eligible relatives.

a. Parents (natural or adoptive), grandparents, brothers, sisters, uncles, aunts, great-grandparents, great-uncles, great-aunts, nephews, nieces, and first cousins, whether of whole or half-blood and stepparents, stepbrothers, and stepsisters, and spouses of these persons even after the marriage is terminated by death or divorce, are eligible to be the caretaker of a child receiving AFDC.

b. The caretaker must meet all eligibility requirements to be included in the child's AFDC grant.

3. Physical presence in the home.

a. A child must reside in the same home with an eligible caretaker to be eligible for AFDC unless he/she has special educational needs which cannot be met by local public school district which require that he/she reside away from home. "Educational needs" for this provision is defined as a curriculum directed toward achieving a special vocational or academic goal.

b. If an emergency exists that deprives the child of the care of the relative through whom he has been receiving aid, temporary absences of the caretaker or the child from the home ~~will~~ shall not defeat AFDC eligibility, for a temporary period necessary to make and carry out plans for the child's continuing care and support. No absence may exceed six months and all absences of more than three months shall be referred to the commissioner for a determination of continued eligibility. If the caretaker no longer, thereafter, can provide direct care for the child(ren), conditions for continued assistance do not exist. Alternative arrangements for care of the child(ren) shall be made.

4. Guardianship of a child ~~does~~ shall not affect AFDC eligibility, but if the child does not reside with an eligible caretaker, he/she must meet the requirements of AFDC-FC (see H.3.).

5. If a child dies (or if an unborn is stillborn), the AFDC grant shall be paid for the entire month in which death occurs.

~~Parental status.~~

6. Parental status. To be eligible for AFDC a child must be deprived of parental support or care due to the death, incapacity or continued absence of a parent from the home, or due to the unemployment of the father. This rule ~~applies~~ shall apply to natural and adoptive parents; the term "parental support or care" means financial maintenance, training, supervision, housekeeping and feeding normally given to children by their parents.

7. Death of a parent must be verified by official records (death certificates, military records, etc.).

8. Incapacitated parents.

a. A parent is incapacitated if he/she has a physical or mental defect, illness, or impairment which makes him/her unable to care for the child or substantially reduces or eliminates the ability to support the child. The incapacity must be expected to last at least 30 days from its onset. Budget deficiency alone ~~does~~ shall not establish need in incapacity cases; the physical or mental handicap must cause the budget deficiency.

b. The incapacitated parent, and the caretaker relative, ~~are to~~ shall be included in the AFDC grant if need exists.

c. The incapacitated parent who is exempt from WIN registration (see H.1.) must be referred to the Department of Vocational Rehabilitation.

9. Continued absence.

a. A parent is continually absent from the home if he/she is physically absent from the home and if this absence interrupts or makes uncertain his/her ongoing parental support or care; there is no minimum time period used to establish continued absence~~.~~, however the applicant must affirmatively establish a continued absence.

b. Upon an absent parent's return to the home, AFDC shall continue, if need exists, for one month following the month of his/her return.

c. Where continued absence exists:

(1) The applicant/recipient must assign to the state his/her rights to any child support which accrues or has accrued up to the amount paid, during a time when the child or other person with respect to whom support is due was a recipient of AFDC. The assignment ~~does~~ shall not give to the state the right to agree to a reduction in the support being assigned or to a lump sum compromise or settlement of support due in the future.

(2) The applicant/recipient must be referred to the Child Support Unit.

(3) The applicant/recipient must cooperate in establishing paternity or obtaining support.

The Child Support Unit shall not attempt to establish paternity in cases involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending if, in the opinion of the ~~Child Support Unit,~~ Income Maintenance Unit, it would not be in the best interest of the child.

(4) If an applicant or recipient fails to assign rights to support or to cooperate in establishing paternity or obtaining support, an AFDC grant ~~will~~ shall be provided only for the child/children ~~and~~ through protective or vendor payments. The needs of the caretaker shall not be deleted, nor protective or vendor payments instituted, if the caretaker demonstrates "good cause" that ~~establishes~~ establishing paternity or obtaining support ~~are~~ is not in the best interest of the child. The conditions of "good cause" as stated in federal regulations shall be applied.

10. Unemployed fathers (AFDC-UF).

a. An unemployed father is a father:

(1) whose family is in need;

(2) who is not unemployed due to a labor dispute;

(3) who works less than 100 hours per month;

(4) who has not been fully employed for 30 days prior to the receipt of AFDC-UF;

(5) who has not refused or quit employment except for good cause, within 30 days prior to the receipt of AFDC-UF;

(6) who has not been fired from his job within 30 days prior to the receipt of AFDC-UF;

(7) who is currently registered with the local Department of ~~Employment Services~~ Economic Security and is available for training and/or employment;

(8) who has:

(a) worked at least six quarters during any 13 calendar quarters ending within one year prior to the date of application; at least $50 per quarter must have been earned during this period or the father must have been in an approved work-and-training program; or

(b) received or could have qualified for Unemployment Compensation during the year prior to application for AFDC-UF.

b. To refuse or quit employment or training except for good cause means that an individual refused, or quit employment or training, or the offer of employment or training, which he was physically and technically able to perform, which was not excessively hazardous, for which transportation was available, and which paid the prevailing wage in the community for that type of work (but not less than the minimum wage).

c. An unemployed father ~~may receive either Unemployment Compensation or AFDC-UF but not concurrently.~~ and family shall be eligible to receive AFDC-UF and Unemployment Insurance concurrently, provided that the unemployed father applies for and accepts any Unemployment Insurance to which he is entitled. All Unemployment Insurance benefits received by the unemployed father must be subtracted from the amount of aid otherwise payable to the AFDC assistance unit. Ineligibility for AFDC for the whole family shall exist for any week for which the child's father qualifies for Unemployment Insurance, but refuses to apply for or accept these benefits.

d. To continue AFDC-UF eligibility in non-WIN counties, the father must re register with the local Department of ~~Employment Services~~ Economic Security every 30 days, and actively seek employment or enroll in a work training program or the entire family is ineligible. In WIN counties he must register for WIN (see H.1.).

e. If the father quits or refuses an offer of employment or training without good cause, ~~he is no longer eligible for AFDC-UF; his needs will not be included in the AFDC grant, protective or vendor payments will be used for the needs of other eligible family members, and his income will be attributed first to his own needs and then to the needs of the members of his family still receiving AFDC. In WIN counties, a father who refuses or quits an offer of employment or training is subject to sanctions following a WIN project determination of refusal to participate without good cause. Part of the adjudication process attendant on such a determination includes 60 days of counseling. If he accepts this, his needs may be included in the grant for the duration of the counseling period, but protective or vendor payments will continue. If the father accepts training or employment after having refused or quit such (without good cause) protective or vendor payment will stop, but the father's needs will not be included in the grant until 90 days have elapsed; if this happens a second time, the waiting period shall be six months.~~ he shall no longer be considered registered in a non-WIN county and the entire family shall become ineligible to receive AFDC payments for so long as the father refuses a bona fide offer of employment or training. See H.1. for sanctions in WIN counties.

11. Stepparents

a. A stepparent is a potential resource for the support of his/her stepchildren, but cannot be required to support them. If a stepparent chooses to support a stepchild, that stepchild's needs must be removed from the grant.

b. A stepparent ~~is~~ shall be legally responsible for the support of his/her spouse; if the stepparent is unable to support the spouse (and can document that fact), the spouse's needs may be included in his/her children's AFDC grant, assuming other eligibility conditions are met. To determine if the stepparent is unable to support his/her spouse, ~~compare~~ the amount of the stepparent's income (determined in the same way that an AFDC recipient's income is determined under D ~~13.~~12.b.) shall be compared with the SSI payment level for one person; if the stepparent's income does not exceed this level, the spouse may be included in the AFDC grant, but any excess income ~~is~~ shall be considered available for the support of the spouse.

12. Income and resources.

~~12.~~a. Property.

~~a.~~(1) Types of ownership. The owner of property in joint tenancy shall be considered as owning one-half of the value of such property, but the county or the joint tenant may establish legal interest of a greater or lesser amount. An owner of property as a tenant-in-common owns his/her pro rata share of the property's value. All other types of ownership shall be evaluated according to the law.

~~b.~~(2) Transfers of property. The transfer of real or personal property to establish or continue AFDC eligibility is contrary to public policy. Under this provision:

~~(1)~~(a) Each AFDC applicant shall be required to disclose whether he/she has transferred any property within the last year worth more than $500 for which a reasonable consideration was not received; this disclosure requirement ~~applies~~ shall apply to all AFDC recipients upon a redetermination of their eligibility.

~~(2)~~(b) Any property so transferred is a potential resource for the applicant or recipient, and the transferor ~~or~~ must disclose the property's description and value, the names of the transferees, and the circumstances of the transfer.

~~(3)~~(c) The applicant or recipient must cooperate with the local agency in reasonable efforts to reacquire the property or its value; failure to cooperate in reasonable efforts to do so shall constitute grounds for termination of assistance.

~~(4)~~(d) If the property cannot be reacquired, the matter must be referred to the county attorney for possible civil and criminal prosecution; the fact of transfer in itself ~~will~~ shall not defeat AFDC eligibility.

~~e.~~(3) Real estate.

~~(1)~~(a) No AFDC recipient may own ~~an~~ net equity in real ~~property~~ estate used as a home (or in a mobile home) which exceeds ~~$7,500,~~ $15,000, unless the local welfare board waives such excess equity~~:~~. ~~the~~ The amount of net equity is the difference between the recipient's share of the property's market value and encumbrances on the property.

~~(2)~~(b) No AFDC recipient may own real property not used as a home (including mobile homes and properties being sold for contract for deed) unless the local welfare agency determines that the property produces net income applicable to the family's needs ~~or that no market or a reasonable price exists for its sale,~~ or which the family is making a continous effort to sell at a fair and reasonable price. To determine net income from such property, taxes and maintenance expenses (but not principal payments or costs of improvement) ~~are~~ shall be deducted from the gross income of the property.

~~(3)~~(c) In deciding if the property limits of ~~e.~~ ~~(1)~~D.12.a.(3)(a) of this section should be waived, the local welfare board ~~should~~shall determine ~~if the excess equity can be converted to cash for the family's support.~~ if such real estate is available for the

support of the family or if the sale of such property would cause undue hardship. If ~~not,~~ so, then the excess ~~should~~ shall be waived.

~~(4)~~(d) The total real property (except for that used as a home and that which is income producing) plus all excluded and non excluded personal property (except the earnings of a child being saved for educational needs) shall not exceed the limits established in federal regulations.

~~d.~~(4) Personal property.

~~(1)~~(a) No AFDC recipient may own personal property the value of which is more than $300 if one child is included in the grant, or $500 if more than one child is included in the grant.

~~(2)~~(b) The provisions of ~~(1)~~D.12.a.(4)(a) ~~do~~ shall not apply to household goods, furniture, clothing, burial lots, mobile homes used as a home, or personal items; the limits of ~~(1)~~D.12.a.(4)(a) may be exceeded where the excess is:

~~(a)~~(i) derived from a child's earnings and is designated for specific educational needs of the child, and is in an amount reasonable for that need, and is held in a separate account, and/or

~~(b)~~(ii) is designated for a specific purpose (such as real estate taxes or other large expenses), will be eliminated yearly, and does not exceed $500, and/or

~~(c)~~(iii) is a legislatively disregarded payment (such as some Indian tribal payments); and/or

(iv) is due to an income tax refund received with the preceding three months.

~~(3)~~(c) A recipient may build his/her personal property to limits set forth in ~~(1)~~D.12.a.(4)(a) as long as all his/her non-exempt income has been reported and counted in determining the amount of his/her grant.

~~(4)~~(d) ~~Income-producing-personal-property-is-exempt-from-the-limits-of-part-(1).-This-includes-tools,-domestic-animals,-implements,-and-one-automobile-used-to-transport-the-recipient-to-work-or-a-work-training-program,-or-for-transportation-in-actively-seeking-employment.--Automobiles-are-not-otherwise-excluded-from-this-rule;-an-automobile's-value-shall-be-its-current-NADA-average-trade-in-value-minus-encumbrances,-unless-the-recipient-can-demonstrate-that-its-value-is-less-than-the-NADA-average.~~ Income producing personal property shall exempt from limits of D.12.a.(4)(a). This includes tools, implements (trucks, tractors), and domestic animals.

~~(5)~~(e) One automobile, the market trade-in value of which does not exceed $1650, shall be excluded in determining the personal property resources of all applicants/recipients. Market value shall be its current National Automobile Dealers Association (NADA) NADA trade-in value. If client disagrees with NADA value, local agency evaluation shall be used. The market trade-in value may exceed the $1650 limit if client is employed, in training for employment, actively seeking employment, temporarily unemployed due to illness or injury and has a definite plan to work or the automobile is needed to obtain necessary medical care. Medical care shall mean the person or a member of such individual's immediate family has a medically diagnosed mental or physical condition which requires continued inevitable or unavoidable medical attention.

~~(a)~~(i) If the market trade-in value exceeds $1650 and none of the exceptions are applicable, the automobile's equity must be within the personal property limits for the family. Equity shall be NADA trade-in value minus encumbrances.

~~e.~~ (5) Life insurance and trust funds.

~~(1)~~ (a) A recipient unit may retain life insurance policies with total cash surrender values of not more than $500 without defeating AFDC eligibility.

~~(2)~~ (b) A trust fund whose beneficiary is a dependent child ~~is~~ shall be subject to the property limits of this rule unless it can be demonstrated that the fund cannot be made available for the child's support.

~~f.~~ (6) Prepaid burials. An AFDC recipient may have a prepaid burial contract which does not exceed $750 for each family member plus $200 in accrued interest. The funeral director must be the trustee of any such burial contract and a recipient must be the beneficiary, or a trust account specifically designated for funeral costs may be established by the funeral director and recipient jointly.

~~g.~~ (7) Personal property which has increased in value beyond the limits of this rule must be reported to the agency. Such property will not defeat AFDC eligibility if the applicant/recipient within 15 days of notice by the county agency~~:~~:

~~(1)~~ (a) converts the excess to an excluded type of property;

~~(2)~~ (b) uses the excess to repay the county for assistance already received;

~~(3)~~ (c) uses the excess to reduce his/her grant for one month; or

~~(4)~~ (d) uses the excess to meet all his/her needs for up to three months (thereby suspending his/her grant for those months).

~~h.~~ (8) The resources of an SSI recipient ~~are~~ shall be exempt in determining AFDC eligibility. In any family situation in which some members are eligible for AFDC and any other members are eligible for Minnesota Supplemental Aid (MSA), General Assistance (GA), or Medical Assistance (MA), the property limitations in the program involved that has the least restrictive eligibility maxima will apply to the extent allowed by law.

~~13.~~ b. Income.

~~a.~~ (1) Generally, "income" is any benefit received by and available to an AFDC recipient as earnings or otherwise. Income may be earned or unearned. In family groups living together, the income of a spouse ~~is~~ shall be considered available to his/her children under age 21. All income, except non cash items provided free of cost and other items specifically disregarded in this rule, must be evaluated in determining the need of AFDC recipients. Real or personal property which has been converted to cash ~~is~~ shall be treated within the property standards, stated in part ~~D.4.a.(4)~~ D.12.a.(4), not as newly received income. New sources or amounts of income must be reported to the local welfare agency within ten days.

~~b.~~ (2) Exclusions. The following income is not considered a resource for AFDC purposes:

~~(1)~~ (a) inconsequential income (amounts up to $30 per month providing such amount is less than the grant);

~~(2)~~ (b) reimbursement for the maintenance costs incurred in providing foster care;

~~(3)~~ (c) WIN work and training allowances;

~~(4)~~ (d) non-WIN training allowances received as a social service expense;

~~(5)~~ (e) Food Stamp bonuses;

~~(6)~~(f) Comprehensive Employment and Training Act incentive payments;

~~(7)~~(g) home-produced food used in the home;

~~(8)~~(h) reimbursement for out-of-pocket expense incurred for volunteer work;

~~(9)~~(i) corrective payments from the local agency;

~~(10)~~ (j) assistance under the Uniform Relocation Act of 1970;

~~(11)~~ (k) Indian tribal payments specifically exempted by Congress;

~~(12)~~ (l) loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

~~(13)~~ (m) any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the United States Commissioner of Education;

~~(14)~~ (n) Vietnam veteran's bonuses authorized by law;

~~(15)~~ (o) benefits under Titles VI or VII of the Older Americans Act of 1965;

~~(16)~~(p) ~~Minnesota tax refunds for senior citizens and disabled persons;~~ federal and state income tax refunds, (annual tax refunds shall not be considered available income; availability of income shall be determined at the time income is earned; determination of currently abailable income shall require assessment and disregard of the amount of tax obligation incurred at a given level of current monthly income; the amount withheld from wages, for various reasons, may exceed the amount of tax obligation; when the excessive amount withheld is returned in the form of a tax refund, the amount of the tax refund shall be disregarded; the availability of that income has been previously assessed);

~~(17)~~(q) federal payments for presidentially declared disaster areas when specifically identified in federal law;

~~(18)~~(r) volunteer payments under Title II and III of the Domestic Service Act of 1973;

~~(19)~~ (s) assistance through the National School Lunch and Child Nutrition Act amendments of 1973;

~~(20)--Up to $20 per month in child support (Title IV-D) bonus payments;~~

~~(21)~~ (t) allowances and expenses paid by Vocational Rehabilitation;

~~(22) Annual supplemental housing allowances provided to AFDC recipients in lieu of income adjusted homestead credits under Minn. Stat. ---- 290A.01 to 290A.22 if approved by the United States Department of Health, Education, and Welfare;~~

~~(23)~~ (u) other income disregards as mandated by federal or state law;

(u) earnings received by any youth under Title III, Part C, Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973 Public Law 93-203 is to be disregarded.

~~c.~~(3) Allocation of income.

~~(1)~~(a) ~~All income received must be reported promptly but no later than the fifth day of the month following the month of receipt. For current recipients, the local agency will use this report to determine the amount of the grant for the month~~

~~in-which-the-report-is-submitted;~~ All income received must be reported within ten (10) days but no later than the fifth day of the month following the month of receipt. For current recipients, the local agency shall use this report to determine the amount of the grant for the next subsequent month unless income averaging is used.

~~(2)~~(b) Before applying income to need, income may be allocated from spouse to spouse and from parents to children under age 21 if such person resides with the AFDC recipient and is in need.

~~(3)~~(c) The income and resources of an SSI recipient ~~are~~ shall not be counted in determining the AFDC recipient's income.

~~(4)~~(d) Trust funds for a particular person or purpose ~~cannot~~ shall not be allocated to the family until that person's needs or the particular purpose are met; only legally restricted trust funds ~~are~~ shall be excluded.

~~(5)~~(e) Retirement, Survivors, and Disability Insurance (RSDI) payments are considered family income unless they are paid ~~for~~ on behalf of a child who is excluded from the grant.

~~(6)~~(f) Income from jointly-held property ~~is~~ shall be allocated according to the share of ownership and availability to AFDC recipients.

~~d.~~(4) Income cannot be allocated to meet past obligations. See DPW Rule 53. (12 MCAR 2.053).

~~e.~~(5) During the period of eligibility, the county ~~can~~ may determine income and work expenses monthly or average ~~it~~ them over a three-month period.

~~f.~~(6) All unexcluded unearned income and earned income minus allowable deductions must be applied against the AFDC ~~Family Allowance~~ Standards.

~~g.~~(7) ~~Income averaging involves dividing total income for the past three months by three; actual income variations are ignored when income averaging is used unless a significant change requires a stop in the averaging cycle; weekly income should be multiplied by 4.3, bi-weekly income by 2.16, and semi-monthly income by 2, to determine monthly income. Significant changes are: a change in net income totalling more than $50 in a given month. A decrease in total income (disregard, available income and grant) to less than the need standard. An increase in net income which would result in ineligibility. The recipient is employment ends.~~ Income averaging shall involve use of three months of income to establish assistance for three months; actual income variations shall be ignored when income averaging is used unless a significant change requires a stop in the averaging cycle. Significant changes are: a decrease in total income (disregard, available income and grant) to less than the need standard; an increase in net income which would result in ineligibility. The averaging also may be stopped if there is a change in net income totalling more than $50 difference from the average in a given month. When income is averaged or budgeted monthly, monthly equivalent income may be established by multiplying weekly income by 4.3, bi-weekly income by 2.16, and semi-monthly income by 2.

~~h.~~(8) Earned income.

~~(1)~~(a) Generally, earned income shall includes any compensation from employment or self-employment (wages, salary tips, commissions, profits, etc.), plus training incentive payments and work allowances under the Equal Opportunity Act and Title I of the Elementary and Secondary Education Act.

~~(a)~~(i) $30, plus one-third of the remainder of the family's total earned income ~~is to~~ shall be disregarded unless a family member has terminated or refused employment, or reduced earned income without good cause within the preceding 30 days (in which case the

disregard ~~is~~ shall not be applied for one month to the earnings of that individual); this disregard ~~does~~ shall not apply to income from WIN public service employment.

~~(b)~~(ii) The earned income of a child under age 14 shall be excluded.

~~(c)~~(iii) The earned income of a child over age 14 who is a full or part time student (but not employed full time) in a high school, college, university, vocational or technical courses shall be excluded; ~~if the money is set aside for specified educational goals, the amount may exceed the personal property maximum;~~ the earnings of the student ~~are~~ shall be considered in determining initial eligibility and afterward, excluded.

~~(d)~~(iv) In new applications, the $30 and 1/3 earned income disregard ~~is~~ shall not be applied to earned income unless the applicants' needs ~~are~~ were met, in whole or in part, by AFDC in any of the four months preceding the month of application.

~~(2)~~(b) The following employment expenses ~~are to~~ shall be deducted in determining net earned income~~;~~: ~~if incurred, necessary, and reasonable:~~

~~(a)~~(i) ~~Mandatory retirement fund deductions;~~ federal and state income tax obligation; (the expense of employment at a given level of income is the tax obligation incurred; in determining net income which is currently available, the amount of the tax obligation incurred at current monthly income is used; the amount of monthly tax obligation is displayed on tables developed and published by the Department of Public Welfare);

~~(b)~~(ii) ~~Transportation costs to and from work based on the actual cost of public transportation or car pool payments, or 13 cents per mile for the actual number of miles driven, not to exceed 100 miles per day of employment (unless the recipient can establish higher transportation costs that are both necessary and reasonable; cost of no fault insurance is included in the 13 cents per mile;~~ FICA and SMI payments;

~~(c)~~(iii) ~~Cost of work uniforms;~~ child care costs unless these are paid as a social service; or paid to a relative included in the AFDC grant; or paid to a relative who is financially responsible for the family and able to contribute to it; child care costs paid to a parent may not be deducted in determining net income;

~~(d)~~(iv) ~~FICA and SMI payments;~~ business expenses (except depreciation);

~~(e)~~(v) ~~Federal and state income taxes withheld;~~ personal expenses in the manner described in paragraph D.12.b.(8)(c);

~~(f) Union dues;~~

~~(g) Professional association dues required for employment;~~

~~(h) Child care costs unless these are paid as a social service, or paid to a relative included in the AFDC grant, or paid to a relative who is financially responsible for the family and able to contribute to it;~~

~~(i) Health insurance premiums;~~

~~(j) Cost of tools and equipment used on the job;~~

~~(k) One dollar per day for the cost of meals eaten during employment hours (unless the recipient can establish actual higher meal costs that are both necessary and reasonable);~~

~~(l) Public liability insurance required by the employer when an automobile is used in employment and the cost is not compensated for by the employer;~~

~~(m)--Business-expenses-(except-depreciation)-as-recognized-by-the-federal and-state-tax-authorities.~~

~~(3)~~(c) Personal expenses of employment shall be recognized by deducting 10% of gross income up to a maximum of $60. If the client requests that actual expenses be recognized in lieu of the standard deductions, the following expenses shall be deducted, if incurred, necessary and reasonable:

~~(a)~~(i) mandatory retirement fund deductions;

~~(b)~~(ii) transportation costs to and from work based on the actual cost of public transportation or car pool payments, or 13 cents per mile for the actual number of miles driven, not to exceed 100 miles per day of employment; no fault insurance is included in the 13 cents per mile;

~~(c)~~(iii) cost of work uniforms;

~~(d)~~(iv) union dues;

~~(e)~~(v) professional association dues required for employment;

~~(f)~~(vi) health insurance premiums;

~~(g)~~(vii) cost of tools and equipment used on the job;

~~(h)~~(viii) one dollar per day for the cost of meals eaten during employment hours;

~~(i)~~(ix) public liability insurance required by the employer when an automobile is used in employment and the cost is not compensated for by the employer.

~~(3)~~ (d) Income from small businesses is the difference between gross receipts and business costs. (Capital expenditures and depreciation are not a business cost.)

~~(4)~~ (e) Farm income is the difference between gross receipt (sales, rents, soil conservation payments) and operating expenses. Home-produced foods for sale are included. (Capital expenditures are not included as an operating expense.)

~~(5)~~ (f) ~~Income-from-child-care-in-the-home-is-the-difference-between-gross-receipts-and-the-expenses-allowed-by-IRS-Schedule-C;-the-cost-of-meals-shall-be-60 cents-per-meal-per-child,-unless-the-actual-reasonable-cost-exceeds-this-amount.~~ Income from child care in the home shall be 40% of gross receipts. The client may rebut this presumption by documenting actual business expenses in conformance with IRS Schedule "C" in which case income shall be gross receipts minus actual business expenses.

~~(6)~~ (g) Income from roomers and boarders is computed by allowing ~~$53~~ $58 per month (for each boarder), ~~$42~~ $48 per month (for each roomer), or ~~$95~~ $105 per month (for each roomer and boarder), as the expenses of producing this income.

~~(7)~~ (h) Unearned income is not the direct result of labor performed by the recipient as an employee. Receipt of SSI ~~is~~ shall be a bar to receipt of AFDC~~,~~ . ~~but-not AFDC-FC.~~ Serviceperson's income shall be counted after deducting the amount needed for the serviceperson's clothing, personal needs, and transportation, but the amount deducted cannot be greater than the amount actually received by the family.

~~i.~~(9) Special situations.

~~(1)~~(a) Rental income is unearned income unless there is labor expended in obtaining the income from rental property. ~~Deduct-$60~~ $69 shall be deducted per year

or two percent of market value (whichever is less) for upkeep and repairs, and deduct taxes, insurance, utilities and interest on principal payments if the recipient lives on the property. Where the recipient lives on the property, these expenses shall be allocated according to the number of rooms.

~~(2)~~(b) Unless otherwise excepted, lump sum payments and windfalls are unearned income in the month received and ~~are~~ shall be considered property thereafter.

~~(3)--Income-tax-refunds-are-counted-as-income.~~

~~(4)--Income-tax-refunds-except-those-based-on-pre-AFDC-earnings-do-not qualify-for-the-$30-and-1/3-disregard.--If-a-refund-is-received-for-the-income-of-a recipient-and-non-recipient,-it-shall-be-allocated-according-to-the-gross-income-of each.--Recipients-must-be-notified-of-the-status-of-income-tax-refunds-each-January-and-April.--Income-tax-refunds-are-counted-as-income.~~

~~14.~~(c) An AFDC recipient must be a U.S. citizen, an alien lawfully admitted for permanent residence, or a continuous U.S. resident since July 1948.

~~15.~~(d) Social Security numbers of all ~~applicants-and-recipients~~ caretakers included in the grant must be provided to the county agency as a condition of eligibility (but assistance shall not be denied where a number has been requested from the Social Security Administration, but not received). Failure to cooperate shall result in deletion of the caretaker's needs and protective/vendor payments shall be issued for the children.

E. AFDC family allowance.

1. Standards of need.

a. The need standards set forth in this section ~~are-to~~ shall be used to determine the grant for every AFDC family in Minnesota (except AFDC-FC).

b. Definitions.

(1) An "eligible person" is one who is eligible for and receives AFDC; in most circumstances it means one caretaker relative and the dependent children he/she cares for.(More than one caretaker may be included when eligibility is based on parental incapacity or unemployment of the father~~).~~.) All "eligible persons" receiving one AFDC grant constitute one "recipient unit."

(2) ~~-The-"Child-Only"-applies-to-a-family-in-which-no-adults-are-eligible persons.~~ The "children" standard shall apply to all members of a recipient unit except the caretaker or other adult.

(3) ~~The-"Family-Standard"-applies-to-families-in-which-one-or-more-adults are-eligible-persons.--For-purposes-of-AFDC,-an-eligible-caretaker-under-age-18-is considered-an-adult.~~ The "first adult" standard shall apply to the caretaker relative.

(4) The "second adult" standard shall apply to an adult member of the recipient unit who is in addition to the caretaker.

(5) To determine the grant amount for an eligible family, the appropriate amount for the children from the standard shall be added to the amount for an adult(s) from the standard if applicable, to arrive at the grant amount.

(6) A family composed of individuals with varying bases of eligibility but living together as a unit~~,~~ shall constitute one recipient unit. This does not apply when two eligible adults share shelter without a marital bond.

(7) In family groups in which there is an adult caretaker(s), a minor, and a child of the minor, the minor shall have the choice as to which way the grant shall be determined:

(a) the minor and her child may be included in the adult caretaker's grant;

(b) the minor and her child may receive a separate grant; or

(c) the minor may continue in the adult caretaker's grant and the child of the minor shall receive a separate grant.

c. Family allowance.

Eligible Persons	Children ~~Only~~ Standard	~~Family Standard~~	
1	~~136~~ 171		
2	~~216~~ 235	~~272~~	
3	~~268~~ 295	~~330~~	
4	~~330~~ 348	~~385~~	First Adult standard: 129
5	~~366~~ 399	~~432~~	
6	~~398~~ 450	~~479~~	
7	~~437~~ 495	~~526~~	Second Adult standard: 51
8	~~471~~ 540	~~566~~	
9	~~505~~ 578	~~607~~	
10	~~533~~ 614	~~641~~	
Each person above 10 add	~~33~~ 37	~~33~~	

d. Amount of grant. The amount of the AFDC grant for a recipient unit is the difference between the standard of need as determined by the above table and the recipients' non-exempt, non-disregarded income (see D.~~1~~312.b.).

~~2.--Supplements.--The local agency shall provide supplemental grants to AFDC families to cover the costs of the following special needs.~~

~~a.-Major home repairs may be supplemented if the need for repair is establishing to the local agency's satisfaction.--Major home repairs include foundation, wiring, furnace, hot water heater, chimney, and plumbing repairs over $25; a written estimate is required on repairs of more than $100 and the agency may require two additional estimates if one appears excessive.-~~

~~b.--Major appliance repairs will be supplemented if the agency authorizes them and if they are repairable.--The only appliances covered are washers, dryers, refrigerators, and stoves.~~

~~c.--Replacement of essential major appliances and furnishings shall be authorized when the local agency worker identifies that the appliance or furnishing is not repairable, or the household does not have such an item.--Appliances covered are washers, dryers, refrigerators, and stoves; furnishings covered are beds, mattresses, bedding, kitchen tables and chairs, couches and chairs, living room tables, lamps, and chests of drawers. More than one item may be allowed in the supplement.--The actual cost of the items purchased or replaced shall be covered by the supplement, less $25 per supplemental month.~~

~~d.--Medically prescribed diets will be supplemented if they are prescribed by a physician and add expense to a normal diet.--The following diets are not covered: diets by the Medical Assistance Program, reducing or low calorie diets (1800 calories or less), sodium restricted diets (1000 mg. sodium), diabetic diets (1800 calories or less), fat controlled diets (55 mg. fat or less) and bladder, ulcer, low residue or low fiber diets which prescribe only soft food or prescribe special food preparation.~~

~~e.--The appropriation for supplements shall be allocated among the local agencies on the basis of caseloads.--Unused funds shall be re-allocated.--Supplements shall cease when each annual appropriation has been expended.~~

2. Special need items. The local agency shall provide funds for certain special needs of AFDC recipients as specified below. Allowances for these items shall receive prior authorization from the local agency. The payment shall be issued directly to the recipient, unless he/she elects to sign a request to have payment issued directly to the vendor.

a. Major home repairs. The local agency shall provide payment for costs of major home repairs if the need for repair is established to the local agency's satisfaction, and the home is owned and lived in by the recipient. Major home repairs allowed as special need items shall include repairs to the home's foundation, wiring, heating system, chimney, and plumbing. The recipient shall provide the local agency with a vendor's written estimate for repairs and the agency may require up to two additional estimates when it deems the first estimate excessive. There shall be no maximum allowance established for major home repairs.

b. Replacement or repair of essential major appliances and household furnishings. Costs up to agency maximums for replacement or repair of essential major appliances and household furnishings shall be authorized if the need for such replacement or repair is established to the local agency's satisfaction and any existing rental agreement does not establish that such item, in good repair, is to be provided by landlord/lessor. The local agency shall inform the recipient of the maximum agency allowance for the item and the recipient's free choice to apply such allowance to either repair or replacement of the item. If the recipient elects to repair a major appliance, he/she shall provide the local agency with a vendor's written estimate for repairs. The local agency may require up to two additional estimates when it deems the first estimate excessive. The recipient may supplement the agency's maximum allowance if he/she so chooses.

(1) Major household appliances repair/replacement. Major household appliances covered and agency maximum allowances shall be as follows:

Item	Maximum
Cooking Stove or Range	$ 55.00
Refrigerator	$ 64.00
Washing Machine	$ 64.00
Dryer	$ 64.00
Water Heater	$128.00

(2) Household furnishings repair/replacement. Essential household furnishings covered and agency maximum allowances shall be as follows:

Item	Maximum
Kitchen Table	$ 17.00
Kitchen Chair	$ 7.00
Couch	$ 51.00
Living Room Chair	$ 17.00
Lamp	$ 9.00
Chest of Drawers	$ 18.00
Crib and Mattress	$ 34.00
High Chair	$ 11.00
Living Room Table	$ 7.00
Bed, Full Size (complete	$ 81.00
Mattress or Box Spring (only)	$ 34.00

Frame (only)	$ 13.00
Bed, Twin Size (complete)	$ 51.00
Mattress or Box Spring (only)	$ 19.00
Frame (only)	$ 13.00
Bedding (includes blanket, pillow and case, sheets)	$ 14.00

c. Medically prescribed diets. Costs for medically prescribed diets shall be authorized if they are prescribed by a physician and add expense to a normal diet. The following diets shall not be authorized: diets which are paid for by the Medical Assistance Program, reducing or low caloric diets (1800 calories or less), sodium restricted diets (1000 mg sodium), diebetic diets (1800 calories or less), fat controlled diets (55 mg. fat or less) and bladder, ulcer, low residue or low fiber diets which prescribe only soft food or prescribe special food preparation.

d. State appropriation . Each quarter the state appropriation for special needs shall be allocated among the local agencies on the basis of caseloads. Unused funds shall be reallocated at the end of the fiscal year.

3. Housing Allowance. An AFDC allowance for a portion of housing costs attributable to the local property tax will be provided to individuals who have not received such payment under the Minnesota Property Tax Refund Act. The amount of the allowance shall be the same as that paid under the Property Tax Refund Act.

~~3.~~ 4. Funerals

a. The local agency shall pay the funeral expenses of AFDC recipients (not exceeding $370) and actual cemetery charges, unless the deceased's estate or surviving spouse and children are able to pay. The local agency's payment shall not be limited by additional payments for or donations of a cemetery lot, interment, religious service, and transportation of the body to or from the community of the deceased's residence.

b. The state shall reimburse the county for 50 percent of the funeral expenses not exceeding $370, under this provision, and the county shall have a prior claim against the deceased's estate for the full amount of the payments made hereunder.

F. Payment provisions

1. Payment methods.

a. Money payments. In usual circumstances, AFDC payments ~~will~~ shall be made by monthly check to the AFDC recipient. The initial grant shall be retroactive to the first day of the month of application when all eligibility factors were met in that month. The county ~~will~~ shall impose no restrictions on the use of the grant. A money payment for one time only may be made to someone acting on behalf of the caretaker in an emergency situation.

Recipients may elect to have their monthly Food Stamp purchase requirement withheld from the assistance check.

(1) Payment shall be made only to the address at which the recipient resides, unless another address has been approved in advance by the local agency. Box numbers shall not be sufficient as addresses unless:

(a) prior agency approval has been received for their use; or

(b) box numbers are used in the community as the usual means of mail delivery.

Failure to comply with this provision shall be a sufficient ground for termination of the grant.

(2) A statutory prerequisite to issuance of a duplicate check is the filing of an affidavit with the county agency by the payee attesting to the loss, theft or destruction of the original (the county may require an indemnity bond; however this can be waived by the board of commissioners).

b. Protective and vendor payments.

(1) A protective payment is one made to someone other than the recipient; a vendor payment is one made to a provider of goods and services.

(2) Protective and vendor payments ~~will~~ shall be made only in the following cases:

(a) ~~Where~~ when a recipient fails to participate in WIN or during the 60-day WIN counseling period (see ~~Part~~ H.1.);

(b) when the caretaker fails to assign support, furnish or obtain Social Security numbers for himself/herself, or cooperate in establishing paternity or obtaining support;

(c) ~~Where~~ when the caretaker's continued mismanagement of funds causes hardship for the children; if this situation persists for more than two years, the agency ~~should~~ shall take steps to establish a guardianship or other arrangements for the children.

(3) Protective and vendor payments because of money mismanagement ~~cannot~~ shall not continue for more than two years and are subject to a fair hearing appeal by the recipient. Not more than ten percent of the total state AFDC recipients may be paid through protective and vendor payments under this provision.

(4) ~~Where~~ When protective and vendor payments because of money mismanagement are required, the local welfare board ~~and the Commissioner of Welfare~~ shall approve the payment method selected before it is implemented, and shall review it at least quarterly.

(5) Protective payments cannot be made to the local welfare director or welfare board members, or to landlords, grocers, or other vendors (who can receive vendor payments); a local agency staff member can be the protective payee for cases other than those in his/her own caseload if no other suitable payee can be found.

(6) As a WIN sanction, protective and vendor payments ~~will~~ shall be made according to the above requirements for selection of payees. There ~~will~~ shall be a quarterly review of the payee's performance by the local agency; the recipient has the right to appeal the use of protective or vendor payments and the payee selected.

(7) For cases subject to protective or vendor payments because of failure to obtain support or cooperate in establishing paternity, the requirements for the selection of protective payees and vendors and quarterly reviews by the local agency of the way in which the protective payees' duties are carried out, must be met. The entire amount of assistance must be made as a protective or vendor payment.

2. Grant termination, suspension, and reduction.

a. AFDC applicants and recipients have the right to a fair hearing if they are aggrieved by action or inaction of the local agency. ~~This includes denial or failure to act on an application in 45 days, and grant suspension, termination, and reduction; it does not include complaints about the conduct of local agency staff, which should be directed to the local director or local welfare board.~~ The following issues shall be appealable:

(1) denial of application for assistance;

(2) failure to act upon application within the prescribed time limits;

(3) suspension of assistance;

(4) reduction of assistance;

(5) termination of assistance;

(6) use of protective/vendor payments;

(7) referral by local agency to WIN for appraisal interview.

Upon written request from either party, a jurisdictional hearing shall be conducted to determine whether there is in fact an appealable issue. This hearing shall be held upon five days' notice being provided to the affected parties, exclusive of Saturdays, Sundays, and holidays. The determination of the welfare referee may be appealed as provided in Minn. Stat. 256.045. The right to a fair hearing does not include such matters as the conduct of the local agency staff and discretionary matters such as the replacement of lost or stolen AFDC checks. Such matters should be directed to the local director or local welfare board.

b. The local agency must give the recipient timely, advance notice of a grant suspension, termination, or reduction. This notice must be in writing, mailed to the recipient at least ten days before the effective date of the action, and must clearly state what action the agency intends to take, the reasons for the action, the right to appeal the action, the conditions under which assistance can be continued, and any collateral consequences of the action (e.g., loss of Food Stamp or Medical Assistance eligibility). ~~Timely notice of five days is sufficient when there is documentation of factors supporting the adverse action and probable fraud on the part of the recipient.~~ Five days shall be sufficient for timely notice where the agency has verified and documented that the case facts require grant action and the action is based upon probable fraud by the recipient.

c. The local agency must give the recipient adequate written notice, no later than the effective date of the action, when there is:

(1) confirmation of the death of the recipient or payee;

(2) a written statement by the recipient that assistance is no longer desired;

(3) a written information from the recipient that requires grant reduction or termination and the recipient understands that the change will occur; or when:

(4) the recipient has been admitted to an institution; placed in skilled nursing or intermediate care or long term hospitalization;

(5) the recipient has been accepted for assistance by another county;

(6) the recipient has been placed in foster care; or

(7) the recipient's whereabouts are unknown.

d. If the recipient appeals the agency's action before it is effected, the action shall not be effected until the appeal is decided by the local or state hearings process.

3. Incorrect payments.

a. Underpayments ~~will~~ shall be adjusted through an ~~added~~ additional or a supplemental payment to the grant; the agency need not correct underpayments made more than 12 months ~~from~~ prior to the date of discovery of error.

b. Overpayments caused by client and agency error ~~will~~ shall be corrected through the process of recoupment or by the recipient's voluntary reimbursement. Voluntary reimbursements must be documented by the recipient's signed agreement and ~~may~~ shall not be fulfilled through reduction of the grant. Overpayments caused by client error ~~may~~ shall not be recouped unless the process is begun within a year after the agency learns of the overpayment~~s~~ . The process begins with the sending of the notice. ~~o~~Overpayments more than 12 months old when the agency learns of the error may may not be recouped. Overpayment due solely to agency error shall be recoupable for the three months prior to the discover if client is notified in writing. ~~AFDC payments caused by agency error may not be recouped from disregarded income, but may be voluntarily reimbursed by the client.~~

c. Recoupment ~~is~~ shall be made by deducting an amount up to one-half of the recipient's disregarded ~~income~~ earnings from the AFDC grant until the overpayment has been corrected. Recoupment ~~may~~ shall be made only from recipients who have disregarded ~~income.~~ earnings. If recoupment has been interrupted by termination of employment or assistance, the recoupment ~~may~~ shall be resumed when the individual resumes AFDC and employment.

d. The provisions of this section regarding incorrect payments shall be applicable to cases involving recipient fraud or abuse.

4. Wrongfully obtained assistance. ~~The legal basis for prosecution of fraud in the AFDC program is Minn. Stat. 256.98 (1975)~~

a. The legal basis for civil and/or criminal action in the AFDC program is Minn. Stat. §256.98, which covers both:

(1) willfully false statements or representations; and

(2) intentional concealment of material facts.

b. The local agency director shall be responsible for securing appropriate action relative to any fraud allegation received. Appropriate action shall include:

(1) issuing timely notice and taking grant action where warranted;

(2) referring cases of suspected fraud to the agency investigative unit for necessary investigation; and

(3) insuring the referral of substantiated fraud to the county attorney for necessary legal action.

c. If eligibility otherwise exists, a grant shall be continued at the established level when fraud is suspected or the case is under investigation for fraud.

d. Recovery in fraud cases may be based on client agreement, recoupment or court order. A client's basic grant shall not, however, be reduced to meet the recovery obligation. Recoupment shall be applicable only in cases involving disregarded earnings and shall follow the procedures outlined above dealing with incorrect payments.

e. The local agency director shall be responsible for securing and reporting such statistical data on agency fraud prevention activities as the commissioner may require.

G. Relative responsibility.

1. Procedures.

a. Parents, grandparents, brothers and sisters ~~are~~ shall be responsible for the support of children on AFDC; spouses ~~are~~ shall be responsible for the support of their spouses whose needs are included in an AFDC grant.

b. Failure of responsible relatives to furnish support ~~does~~ shall not render an individual ineligible for AFDC; the local agency shall take the steps outlined in this rule to seek support from responsible relatives whom it believes are able to contribute toward the needs of AFDC recipients.

c. If the responsible relative fails to contribute support after the local agency notifies him/her ~~or~~ of his/her obligation to do so, the agency ~~should~~ shall notify the county attorney or the Commissioner of Welfare to take legal action against the relative.

d. The amount of support recoverable from a responsible relative, other than the parent of a child under 18, shall not exceed the amount of AFDC assistance granted after the relative is notified of his/her obligation to support. Recovery shall apply only to the period following issuance of notice to contribute. However, the court can order continuing contribution while the recipient continues to receive public assistance.

2. Standards of support.

a. The amount of support due from the absent parent of a child or the parents of a child in AFDC-FC shall be established by the court or through voluntary agreement by the absent parent and the local child support unit.

b. Parental income ~~is~~ shall be totally available for the needs of children under 18 and residing in the parental home. The ability of parents to support a minor, including one who is eligible for AFDC as a caretaker relative, ~~is~~ shall be based upon a determination of parental income according to the procedures used in establishing AFDC eligibility for new applicants. All income in excess of the appropriate ~~Family Allowance~~ AFDC Standard is available for the support of the minor.

c. The financial contribution of other responsible relatives, ~~and the parents of recipients over age 18,~~ and the parents of caretakers under 18 and residing outside the parental home, shall be computed according to the relative responsibility scale.

3. Relative responsibility scale.

Size of Family	Annual Cost of Living (ACL)	Monthly Cost of Living
1	~~$ 4,824~~ 5,304	~~$ 402~~ 442
2	~~7,452~~ 8,196	~~621~~ 683
3	~~10,716~~ 11,784	~~893~~ 982
4	~~12,804~~ 14,088	~~1,067~~ 1,174
5	~~14,724~~ 16,200	~~1,227~~ 1,350

~~20%~~ Twenty percent of the ACL for a family of five shall be added for each additional family member.

a. The gross income of the responsible relative ~~is~~ shall be assessed against the above scale; ~~do not deduct~~ taxes ~~or~~ or employment expenses, shall not be deducted.

b. "Size of family" means all persons who are in fact supported by the responsible relative (whether or not he/she is legally responsible for their support).

c. Other justified expenses (such as medical and education bills, or housing costs exceeding 30 percent of the family's gross income) ~~are~~ shall be deducted from the gross income.

d. If a minus balance remains, no contribution shall be expected. If a plus balance remains, 1/3 of the amount shall be the expected contribution.

4. Child support and paternity.

a. Every AFDC applicant and recipient shall be required to furnish information (including court testimony) needed by the local agency to obtain child support payments, locate absent parents, establish paternity, and obtain support from responsible relatives.

b. If a caretaker relative fails to cooperate with the above requirement, his/her needs shall be deleted from the grant and the eligible children shall be furnished assistance through protective or vendor payments.

c. If a court orders ~~alimony~~ child support paid by an absent ~~spouse~~, parent, the local agency shall petition the court for an order directing that all such payments be made to the local welfare board until AFDC assistance stops.

d. The regulations and procedures of Title IV-D of the federal Social Security Act shall be applied in the collection of support and establishment of paternity.

e. Regulations and procedures of Title IV-D of the Social Security Act shall apply to AFDC-FC.

H. Other program requirements.

1. Work Incentive Program (WIN).

a. Registration requirements.

(1) All AFDC applicants and recipients residing in WIN counties (who are not exempted below) must register for WIN as a condition of eligibility.

(2) The following persons ~~are~~ shall be exempted from WIN registration:

(a) children under age 16;

(b) children age 16-~~19~~18 attending school full time;

(c) persons who are ill;

(d) persons who are incapacitated; if WIN exemption is based on incapacity a referral to the Division of Vocational Rehabilitation is mandatory; ~~or~~ (NOTE: the local agency may require a physical examination to ~~test~~ confirm illness or incapacity.) or

(e) over age 65;

(f) persons who live so far away from a WIN project that more than a 10-hour day (employment plus commuting time) would be required to participate;

(g) persons whose presence in the home is needed because of the illness or incapacity of other persons;

(h) a caretaker of a child under age six (only one such exemption is allowed per family); (In AFDC-UF cases, either parent may elect to claim this exemption);

(i) the spouse of a WIN registrant.

b. Other WIN requirements.

(1) If a required WIN registrant refuses to register, his/her needs shall be deleted from the AFDC grant; if the only dependent child over age 16 and not in school in a family refuses to register, the entire AFDC grant for the family will be denied or terminated. If the father in an AFDC-UF case refuses to register, or if he refuses a bona fide offer of employment or training without good cause, the entire family is ineligible for AFDC-UF.

(2) An AFDC applicant or recipient may contest the requirement that he/she register for WIN through the fair hearing procedure.

c. "Failure to participate in WIN" means:

(1) failure to attend the WIN appraisal interview;

(2) failure to accept child care plans for the WIN program;

(3) failure to participate in ~~Employment Services~~ Economic Security activities;

(4) failure to accept employment or training;

(5) failure to remain in employment.

d. If a WIN registrant fails to participate in WIN, WIN ~~Employment Services~~ Economic Security ~~will~~ shall provide him/her an opportunity to contest whether or not this failure was for good cause; the decision of this hearing ~~is~~ shall not be appealable to the Commissioner of Welfare and the result ~~is~~ shall be binding on the local welfare agency. If the hearing opportunity is not taken, or if the failure to participate is found to be without good cause, WIN will provide the individual with a 60-day counseling period to correct the situation.

e. If an individual is found to have failed to participate in WIN, the following sanctions shall apply:

(1) If the individual is the only dependent child in an AFDC family, assistance for the entire family ~~will~~ shall be terminated; if the individual is one of several dependent children in an AFDC family, his/her needs ~~will~~ shall be deleted from the AFDC grant. In AFDC-UF, if the father refuses to accept a bona fide offer of employment or training without good cause, he shall be considered deregistered and the entire family shall be ineligible.

(2) If the individual is the caretaker of AFDC children, his/her needs ~~will~~ shall be excluded from the grant and assistance to other family members will be provided through protective or vendor payments. If the individual is undergoing the 60-day counseling period his/her needs will not be removed from the grant; however, assistance to the family shall be provided in the form of protective or vendor payments. These sanctions ~~do~~ shall not apply to persons ~~who are undergoing the 60-day counseling period or~~ who are voluntary WIN registrants.

An individual who has been found to have failed to participate in WIN without good cause must wait 90 days after his/her AFDC benefits are terminated to reregister for WIN; if an individual has twice failed to participate in WIN without good cause, he/she must wait six months to reregister. WIN ~~need not~~ may reaccept any such reregistrant whose prior failure to participate was the result of criminal or other activities which presented a hazard to WIN staff or other WIN participants.

f. A WIN participant's monthly $40 training allowance and $30 incentive payment ~~is to~~ shall be disregarded as income in computing the AFDC grant.

g. Public Service Employment (WIN/PSE) ~~is not~~ shall not be subject to the $30 plus 1/3 disregard.

h. On-the-job training (WIN/OJT) ~~provides~~ shall be subject to for the $30 plus 1/3 disregard plus employment expenses. If the recipient is on AFDC-UF, the 100 hour rule ~~applies~~ shall apply.

2. Emergency Assistance for families with children under age 21 (AFDC-EA).

a. Eligibility qualifications.

(1) Emergency Assistance is immediate financial aid for AFDC families and other families in situations that place ~~some or all~~ a child and any other member(s) of the family in jeopardy and cannot be resolved with the family's current resources. Examples of emergencies are natural and civil disorders, illness, accident, death, threat of eviction, etc.

(2) Emergency Assistance shall be granted only to a family which includes a child (under age 21) who is (or within six months prior to application was has been) living with a relative eligible as an AFDC caretaker, and which is completely without resources to solve the emergency. It ~~is not~~ shall not be available to persons or on behalf of children over age 16 and not in school who have refused employment or training without good cause.

b. Allowable need items.

(1) Emergency Assistance shall covers payment for food, shelter, clothing, fuel and utilities, medical care and child care. It may also cover moving expense, major home repairs and major furniture and appliance replacement, replacement of furnace, roof, plumbing, or electrical systems, if authorized by the local agency before the expense was is incurred.

(2) Emergency Assistance ~~is~~ shall be available when the proceeds of cashed AFDC checks are lost or stolen; the theft must be reported to the police and the local welfare agency in the form of an affidavit. It ~~is not~~ shall not be available when uncashed AFDC checks are lost or stolen; in such cases, the lost or stolen AFDC funds ~~should~~ may be replaced by another AFDC check.

c. Emergency Assistance payments.

(1) The amount of Emergency Assistance ~~is~~ shall be based on the AFDC ~~Family Allowance~~ Standard and the state standard for special need items; if this sum is insufficient to meet need, the AFDC-EA allowance shall be based on cost. Payments may be made as money, vendor payments, payments in kind, or in the form of interest free loans (up to $100) for employment expenses.

(2) AFDC-EA ~~may~~ shall be granted only for one consecutive 30-day period in one consecutive 12-month period; needs which accrue prior to the 30-day period may be met only when necessary to resolve the current emergency situation (e.g., back rent or utility payments). Assistance may be extended for up to 30 days beyond the 30-day base period, if authorized during the base period.

(3) Each local agency shall designate at least one staff member to authorize immediate AFDC-EA grants ~~and may establish a schedule of maximum allowances for the purchase of furniture and appliances~~.

3. AFDC-Foster Care (AFDC-FC).

a. Eligibility for AFDC-FC.

(1) AFDC-FC ~~is~~ shall be available for children placed by judicial action in foster homes or private non-profit child caring institutions. All such institutions, homes and agencies must be licensed ~~as~~ for child caring. Payments for foster or institutional services may be made to cooperating public or private agencies for care given in foster homes or non profit private child care institutions.

(2) AFDC-FC ~~is~~ shall not be available when the child lives with a relative who is legally liable for support. AFDC-FC ~~is~~ shall be paid to non legally responsible relatives who are licensed or approved as foster care providers.

(3) AFDC-FC ~~is~~ shall be available only for children eligible for ordinary AFDC during the month in which judicial proceedings were are started, or who would have been eligible during the prior six months and if they had lived with an eligible relative.

b. AFDC-FC ~~is~~ shall be available whether or not parental support is available; the local agency ~~should~~ shall petition the juvenile court for an order requiring the parents to contribute to the child's support.

c. AFDC-FC will be paid to the foster home parent or institutional care representative, as the provider of care, not as the payee.

d. AFDC Foster Care Rates (AFDC-FC).

(1) The rates for AFDC-FC shall be applicable to foster and group homes and child care institutions ~~except-where-a-rate-for-institutional-maintenance-has-been established-through-a-state-agency-rate-setting-process~~. In no circumstances can rates paid to institutions include overhead costs.

MANDATORY STATEWIDE RATES (BASIC)

Age	Basic Rate		Initial Clothing
	Monthly	Per Diem	
0-3	~~$111~~ 123	~~3.90~~ 4.10	$ ~~50~~ 56
4-8	~~142~~ 156	~~4.97~~ 5.20	~~75~~ 83
9-11	~~156~~ 172	~~5.47~~ 5.73	~~100~~ 110
12-14	~~187~~ 206	~~6.53~~ 6.87	~~175~~ 192
15-18	~~204~~ 225	~~7.13~~ 7.50	~~200~~ 221

The initial clothing allowance ~~is~~ shall be available ~~only~~ at the time of ~~the first placement~~ the initial application and each reapplication.

The care rate includes food, clothing, shelter, physical attendance, and supervision, and transportation.

Additional payments may be made for specific social services provided by the foster home or child care institutions. Additional payments may shall not be made to supplement maintenance costs.

(2) In addition to the basic rate, monthly payments for additional maintenance needs (as determined by the local agency) ~~can~~ may be made. The additional care rates ~~are~~ shall be determined by adding the points assigned to each level and type of care required by the child. No more than 175 points may be designated for each child.

DIFFICULTY OF CARE SCHEDULE AND RATES

	A	B	C	D	E
Emotional	5	15	30	60	175
Physical	5	15	30	60	175
Auxiliary	5	10	15	60	

Points	Monthly	Daily	Points	Monthly	Daily
5	~~30.00~~ 34	~~1.00~~ 1.13	95	~~219.00~~ 242	~~7.30~~ 8.07
10	~~40.50~~ 45	~~1.35~~ 1.50	100	~~229.50~~ 253	~~7.65~~ 8.43
15	~~51.00~~ 57	~~1.70~~ 1.90	105	~~240.00~~ 265	~~8.00~~ 8.83
20	~~61.50~~ 68	~~2.05~~ 2.27	110	~~250.00~~ 276	~~8.35~~ 9.20
25	~~72.00~~ 80	~~2.40~~ 2.67	115	~~261.00~~ 288	~~8.70~~ 9.60
30	~~82.50~~ 91	~~2.75~~ 3.03	120	~~271.50~~ 299	~~9.05~~ 9.97
35	~~93.00~~ 103	~~3.10~~ 3.43	125	~~282.00~~ 311	~~9.40~~ 10.37
40	~~103.50~~ 114	~~3.45~~ 3.80	130	~~292.50~~ 322	~~9.75~~ 10.73
45	~~114.00~~ 126	~~3.80~~ 4.20	135	~~303.00~~ 334	~~10.10~~ 11.13
50	~~124.50~~ 138	~~4.15~~ 4.60	140	~~313.50~~ 345	~~10.45~~ 11.50
55	~~135.00~~ 149	~~4.50~~ 4.97	145	~~324.00~~ 357	~~10.80~~ 11.90
60	~~145.50~~ 161	~~4.85~~ 5.37	150	~~334.50~~ 369	~~11.15~~ 12.00
65	~~156.00~~ 172	~~5.20~~ 5.73	155	~~345.00~~ 362	~~11.50~~ 12.67
70	~~166.50~~ 184	~~5.55~~ 6.13	160	~~355.50~~ 392	~~11.85~~ 13.07
75	~~177.00~~ 195	~~5.90~~ 6.50	165	~~366.00~~ 403	~~12.20~~ 13.43
80	~~187.50~~ 207	~~6.25~~ 6.90	170	~~376.50~~ 415	~~12.55~~ 13.83
85	~~198.00~~ 218	~~6.60~~ 7.27	175	~~387.00~~ 426	~~12.90~~ 14.20
90	~~208.50~~-230	~~6.95~~-7.67			

(a) Emotional.

(i) Level A. These are children who periodically exhibit excessive dependency, passivity, lack of responsiveness and the ~~ability~~ inability to relate.

(ii) Level B. Children at this level require abnormal amounts of attention and affection, and have need for a regimental program, such as behavior modification. Such children often have school problems, difficulty with peers, moodiness, and frequent enuresis. Foster parents often have to provide an abnormal amount of structure (e.g., constant repetition and follow through on instructions).

(iii) Level C. These children exhibit extreme attention-seeking behavior, stealing, drug use, encopresis, destructive behavior, extreme hyperactivity, sexual acting-out, running away, withdrawal, etc.

(iv) Level D. These children show extreme, bizarre behavior, and may be self-destructive and require exceptional care.

(v) Level E. Children at this level show severely distrubed behavior, such as frequent running away, depression, attempted suicide, fantasizing, or inappropriate behavior. They may be dangerous to themselves or others, and cannot be maintained in a normal family setting.

(b) Physical.

(i) Level A. These children need some help with putting on braces or prosthetic devices, some help with buttons, laces, etc., but are basically self-caring.

(ii) Level B. These children need help with dressing, bathing, and general toilet needs, as well as some help in ambulation. They exhibit feeding problems such as excessive intake, or are extremely slow and/or messy requiring help and/or supervision due to retardation or emotional or physical handicap. They may Nneed ~~for~~ tube or gavage feeding. They may need ~~Physical~~ physical therapy, under one hour per day.

(iii) Level C. These children need appliances for drainage or ileal conduit, or a colostomy. They ~~might~~ may need aspiration, suctioning, mist tent, etc. They are non ambulatory, needing constant attendance, and/or prescribed physical therapy, 1-2 hours per day, by foster parent.

(iv) Level D. These children require custodial care, and physical therapy 2-3 hours per day. They may have uncontrollable seizures.

(v) Level E. Due to the severity of their physical handicap, these children are unable to tolerate a normal family setting and require ongoing care. Such children possibly need 24 hour supervision.

(c) Auxiliary.

(i) Level A. These children require special diets or supplements that require extra expense and are not covered under any other program. Regular but infrequent (less than monthly) trips must be made to a physician, psychiatrist, therapist, etc.

(ii) Level B. These cChildren require special equipment or a regular and consistent tutoring program at home. There is unusual wear and tear on the home, and need for occasional periods of relief by an adult. Therapeutic appointments must be met every ~~2-4-weeks~~ two to four weeks.

(iii) Level C. There is extreme wear and tear on the home, frequent hospitalizations, and/or therapeutic visits every two weeks or oftener.

(iv) Level D. These children exhibit either emotional or physical problems of such severity that the foster parents must make extraordinary adjustments in their family life style to accommodate the foster child. Such adjustments may include, but not be limited to, ongoing regular attendance at supportive group meetings, physical changes in the home (such as building ramps, installing lifts, etc.), ongoing consultation with child care professionals. These children require foster parents who have shown skill in adapting family life to the needs of each child.

I. Relationship to other programs.

1. AFDC recipients are automatically eligible for:

   a. Medical Assistance upon signing a benefit assignment Form 1933;

   b. Food Stamps;

   c. Social Services;

2. AFDC recipients may not be simultaneously eligible for:

   a. General Assistance~~;~~, unless served by the Battered Women Program;

   b. Poor Relief;

   c. Supplemental Security Income ~~(except for foster children)~~.

3. The Income Maintenance Unit shall refer all cases involving minor caretakers to the Social Service Unit for evaluation of service needs.

~~3.~~ 4. The following programs are not a bar to AFDC eligibility but may furnish the AFDC family with another source of support (which may remove the need for AFDC):

a. Retirement, Survivors, and Disability Insurance;

b. School Lunch Program;

c. services and payments to veterans and armed forces personnel;

d. services and payments for immigrants and refugees;

e. Servicemen's Quarters Allowances.

The local agency ~~should~~ shall help the AFDC recipient explore the resources offered by these programs.

J. Miscellaneous.

1. Former DPW Rule 44 is hereby ~~repealed~~ amended.

2. 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 agency, person, or circumstances shall not be affected thereby.

3. The effective date of this rule is ~~the date of final enactment.~~ five working days after the adopted rule is published in the State Register.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed Amendment of Rule 44 of the Department of Public Welfare Governing the Aid to Families with Dependent Children Program.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:00 a.m. on July 19 and 20, 1978 in Room 83 of the State Office Building, St. Paul, Minnesota.

Ellen Dubuque, Special Assistant Attorney General, appeared as counsel for the Department of Public Welfare (DPW). Barbara Stromer, Director of the Assistance Payments Division, Joel Kvamme, Supervisor of Corrective Action, and George Hoffman, Management Analyst, testified in support of the proposed rules on behalf of the Department. The hearing continued until all interested persons or groups had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department of Public Welfare shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his Report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department of Public Welfare shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On June 16, 1978, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On June 19, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 2266.

3. On June 13, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On June 23, 1978, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called; and
(h) The names of Department personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through Wednesday, August 9, 1978, for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. § 256.01, subd. 4(2) and (5).

7. Generally speaking, the Department expressed the need for the rule amendments as follows:

> The Department intends that its rules be periodically evaluated in terms of clarity and readability, since they are the primary vehicles through which the Department administers laws which both concern and affect the public. Therefore, many sections of the existing rule have been grammatically revised and/or clarified so that the intent of the provision is made as clear as possible.
>
> Since the last amendments of Rule 44 in July, 1976, changes have been made in the Social Security Act, the Code of Federal Regulations, and the Minnesota Statutes which necessitate amendment of this rule to bring it into proper conformance with these statutory and regulatory materials. In addition, various judicial determinations and federal policy clarifications have had a major impact upon the existing provisions of Rule 44.

8. Many non-substantive amendments are proposed which do not alter the meaning or intended effect of Rule 44. These amendments relate solely to grammar, legal clarity and/or readability. In addition, many structural changes have been proposed regarding heading letters and numbers which clarify the relationship of one section to the others. These minor amendments will not be addressed further in this Report.

SECTION A.- Introduction

9. At hearing, DPW proposed to delete the first sentence of new paragraph A.5. and place the second sentence at the end of paragraph A.1. Several persons commented that the reference to the AFDC Policy Manual as being an interpretative device was inappropriate as the Manual has never been promulgated pursuant to Chapter 15. In response, DPW proposed to amend the sentence to read as follows:

> "Interpretation of 12 M.C.A.R. 2.044 shall be considered in conjunction with the State AFDC Policy Manual, <u>which while not having the force and effect of law</u>, details the State plan of operation."

The Examiner finds that even the amended version set forth above infers that a policy manual may override the language of the duly promulgated rule. This effect is contrary to the A.P.A. Chapter 15 does exempt rules "concerning only the internal management of the agency"; however, supplementing a rule as set forth above goes beyond internal management. The sentence should be deleted.

SECTION B. - Applications for Assistance

10. The proposed amendments to paragraph B.1. instruct the local agencies as to the proper procedure to follow regarding the initial processing of AFDC applications. At hearing, DPW proposed to delete the new sentence beginning "An applicant may be assisted . . ." The substance of that sentence would then be added to paragraph B.9. The Examiner also points out that the last sentence in B.1. is unclear and thus not reasonable. DPW should clarify, prior to taking final action on these rules, who is required to sign an application for AFDC - Foster Care.

11. New paragraph B.4.a. sets forth requirements for counties to act formally on all applications for AFDC and prohibits applicants from making multiple applications.

a. Dorothy Claybourne, co-chairperson of the Minnesota Recipients Alliance (MRA), and Martha Eaves, representing Southern Minnesota Regional Legal Services, Inc. (SMRLS), proposed that B.4.a. be amended by adding the sentence, An applicant may voluntarily withdraw his/her application at any time. The purpose of this addition is to allow immediate reapplication in another county if the applicant moves. DPW stated that the option of withdrawal is implicit in the rule. The Examiner finds that the rule as proposed is both needed and reasonable; however, he recommends that the rule be amended as set forth above so that the option is spelled out.

12. At hearing, DPW proposed to delete the new language added to B.5. and incorporate all of the client reporting requirements in B.10. Paragraph B.5. was amended to eliminate the mandatory three-month redetermination for AFDC-UF (unemployed father) cases because it is no longer necessary.

13. Paragraph B.7.a. has been amended to reflect a recent court order in the case of Millikan v. Califano. The Ramsey County Attorney's Office argues that because the court order is merely a temporary injunction, no change in the rule should be made until a decision on the merits has been rendered. DPW contends that the rule should reflect the current practice in administering the AFDC program. The Examiner finds that paragraph B.7.a., as amended, is both needed and reasonable.

14. Paragraph B.8. sets forth various home conditions which may lead to a determination that the home is unsuitable for children. Comments were made by several persons concerning the definition of neglect and abuse which appeared to be punitive in nature. After consideration of those comments, DPW proposed to revise the paragraph to read:

> "The income maintenance unit shall make immediate referral to the social service unit when there is reason to suspect that the home in which the relative and child requesting/receiving aid reside is unsuitable because of neglect or, sexual or physical abuse as defined in state statute."

15. As stated in Finding 10, new paragraph B.9. has been revised to include all of the recipient representation language as follows:

> "Because of the complexity of the welfare system, applicants and recipients may have someone act as an advocate to ensure that their legal, civil, and human rights are upheld or have someone assist them in the application, redetermination, or fair hearing processes or in any other contacts with the agency. The applicant or recipient may be represented by an individual (who need not be a lawyer) of his/her choice whom he/

she has specified in writing. Each local agency employee is to ensure the rights and benefits of all applicants and recipients."

16. Paragraph B.10 contains the client reporting requirements. As stated in Finding 12, DPW has amended the paragraph as follows to include all of the reporting language:

"The client shall be responsible for informing the agency within ten days of receipt or by the fifth of the following month whichever is earlier, of changes in circumstances and/or income. Such reports shall include new sources or amounts of income. The local agency shall use this report to determine continued eligibility or the amount of assistance for the next subsequent month unless income averaging is used.

17. Concerns were expressed by several persons regarding recipients not being aware of their choices within programs or their reporting obligations. DPW stated that it is implicit in the AFDC program that all local agencies provide information of that sort to clients. The Department, however, proposed a new paragraph, B.11., to make explicit current practices of local agencies as follows:

"The local agency shall inform applicants and recepients of the availability of all programs, the benefits and limitations of each, the areas of client choice among and within programs and the results of such choices, the items concerning eligibility or payment which must be reported if they change, the time within which such reports must be made, and any other policies or actions which have a direct effect on recipients".

SECTION C. - Financial Responsibility and Residence.

18. Paragraph C.3. has been amended to comply with 1977 amendments to Minn. Stat. § 256.73, subd. 4, which provides that the county of financial responsibility be that county in which the child resides at the time of application for assistance. The first sentence of current paragraph C.4. has been added to C.3.

19. Paragraph C.5. has been amended to comply with Minn. Stat. § 256.79 which provides for the transfer of financial responsibility to the county of residence.

SECTION D.- Eligiblity Factors. Child Status

20. Paragraph D.2.a. was amended to comply with federal rules which allow the inclusion of relatives, whether whole or half-blood, and does not sever the relative status after a marriage is dissolved by death or divorce. Bruce P. Kurtz, Director of Economic Assistance of Hennepin County, questioned whether relatives are still eligible after parental rights have been terminated by court action. DPW stated that federal rules did not cover that situation; however, case law would indicate that relative status no longer exists after court-ordered termination of rights.

21. Paragraph D.3.a. has been amended to clarify what is meant by special education needs. Dianne Olson, St. Cloud Area Recipients Alliance, commented that this amendment would terminate eligibility for children in parochial or private schools. DPW stated that eligibility would not be terminated as long as the schools' curriculum lead to a special vocational or academic goal. The Examiner finds, however, that the language, ". . . cannot be met by local public school district. . . ", goes contrary to DPW's interpretation of the rule. The rule, as such, is not in compliance with federal law

and should be clarified to provide for the private or parochial school option.

22. Paragraph D.3.b. has been amended to specify that a relative must exercise responsibility for the care and control of the child.

23. Kent Allin, Southern Minnesota Legal Services, and Thomas Hamlin, Welfare Law Clinic, commented that D.6. should be amended to read "unemployed parent" rather than "unemployed father" because of the holding in a recent Ohio federal district court decision. DPW stated that the federal rules speak to an "unemployed father" and that the district court decision has no binding effect in Minnesota. The Examiner finds that the rule, as written, is needed, reasonable, and in compliance with 45 C.F.R.

24. Paragraph D.9.a. has been amended to require that applicants must "affirmatively establish a continued absence" if that is the basis of the application. Several persons spoke to the inappropriateness of placing an affirmative burden on the applicant to prove continued absence. DPW responded by proposing that the paragraph be revised as follows:

> "The agency shall obtain, and the applicant shall provide, all available facts serving to establish a continued absence."

25. Paragraph D.9.c. was amended to comply with 45 C.F.R. which requires the Income Maintenance Unit rather than the child Support Unit determine whether paternity should be pursued. DPW proposed to clarify the intent of D.9.c. (1) by amending it to read as follows:

> "The applicant/recipient shall assign to the State his/her rights to any support from any other person. The assigned rights shall include support owed to the applicant/recipient on his/her own behalf and support owed on behalf of any other family member whose needs are included in the AFDC grant. The assignment shall not give to the State the right to agree to a reduction in the support being assigned or to a lump sum compromise or settlement of support due in the future. The maximum amount of the assigned support that shall be retained by the State shall be an amount equal to the total assistance expenditures."

26. Comments were made that the "good cause" requirements should be made a part of D.9. Although this issue goes beyond the scope of the proposed amendments, the Examiner finds that inclusion of the requirements would be advantageous if they are not too lengthy.

27. Paragraph D.10.c. has been amended to comply with federal law which allows an unemployed father to receive AFDC and unemployment compensation concurrently.

28. Paragraph D.10.d. was amended to comply with a 1976 change in federal regulations making a family ineligible for assistance if the father does not register to find work. Paragraph D.10.e. has also been amended to reflect this change in federal law.

29. Paragraph D.12.a.(2)(c) was amended to comply with 45 C.F.R. which requires states to take into consideration other potential sources of income. Thomas Hamlin argues that the amendment constitutes an additional eligibility requirement which is more restrictive than federal law and thus, must be stricken. DPW contends that the amendment is not an eligibility requirement but rather merely states the remedy for non-cooperation. The Department also proposed to amend (c) by adding the words or denial after "termination". The Examiner finds that the paragraph, as amended, is both needed and reasonable.

30. Paragraph D.12.a.(3)(a) was amended to comply with a statutory increase in property value. Carol Casebolt, Legal Aid Society of Minneapolis, Inc., commented that the inclusion of mobile homes in the real estate property value limit is in conflict with Minn. Stat. § 256.73, subd. 2(2). Because mobile homes are personal property, the Examiner finds that the inclusion of mobile homes in the real estate property limits is in conflict with state law. Mobile homes should be deleted from this paragraph.

31. Paragraph D.12.a.(3)(b) was amended to comply with the 1977 amendments to Minn. Stat. § 256.73, subd. 2(3). Mobile homes should also be deleted from this paragraph.

32. Paragraph D.12.a.(3)(c) was amended to comply with the 1977 amendments to Minn. Stat. § 256.73, subd. 2(1).

33. Paragraphs D.12.a.(4)(b)(iv) and D.12.b.(2)(p) have been amended to reflect a new policy that income tax refunds are exempt income and exempt resources for three months after receipt.

34. Paragraph D.12.a.(4)(d) was amended to comply with a change in state law.

35. Paragraph D.12.a.(4)(e) has been amended to reflect the new statutory market value limits for automobiles. DPW proposed to revise the fourth sentence in the paragraph to eliminate the word "may" as follows:

> "If the market trade-in value exceeds $1650, the automobile shall be excluded if . . ."

36. Paragraph D.12.a.(4)(e)(i) covers the situation when an automobile exceeds $1650 in value but does not fall into any of the exemptions set out in (e) above. Thomas Hamlin commented that this paragraph is unclear as to the effect of the allowable limit on the total value of personal property. DPW contends that the rule is clear; the equity of an automobile valued at over $1650, when combined with other personal property, cannot exceed the statutory limits. The Examiner agrees that rule appears to work unjustly for a family with a car valued at $1655. However, the statute is clear that only one automobile with a market value not over $1650 is exempt. The Examiner also agrees that the rule could be written more understandably. As proposed, it is unclear whether the equity is added to other personal property. Consequently, the paragraph is unreasonable absent redrafting by DPW.

37. Paragraph D.12.a.(8) was amended to liberalize property limitations in family situations in which members are eligible for various types of assistance. DPW proposed to amend the paragraph to correct a clerical oversight as follows:

> ". . . any other members are eligible for Minnesota Supplemental Aid or General Assistance, the property limitations in the program involved that has the least restrictive maxima will apply to the extent allowed by law."

38. The amended portion of D.12.b.(1), the last sentence, was deleted by DPW because the reporting requirement is spelled out in B.10.

39. Paragraph D.12.b.(2)(v) has been added to reflect new federal law which exempts certain student earnings. Mr. Hamlin requested that rent credits also be included as excluded income under this section. DPW concurred and proposed the addition of a paragraph to read:

Minnesota property tax credits or refunds received by a recipient who does not receive a housing allowance pursuant to Section E.3. following shall be excluded.

40. Paragraph D.12.b.(3)(a) has been deleted by DPW because it also deals with reporting requirements which are contained in B.10.

41. Paragraph D.12.b.(7) has been rewritten to be more readable but the content remains the same. The word "may" is used in this section to allow the agency more latitude. The Examiner would point out that recent rule opinions of the Attorney General have proscribed use of the word "may" absent specific criteria delimiting agency discretion. This comment would apply to use of the word "may" without criteria in any previous or subsequent section of the proposed rules and will not be repeated.

42. Paragraph D.12.b.(8)(b)(i) has been amended to allow for a more exact monthly assessment of income tax as a work expense and thus to permit disregard of income tax refunds as income. SMRLS suggested that the paragraph be amended to include the reconciliation process. DPW concurred in that addition and proposed to amend the paragraph as follows:

The Department proposed to amend D.12.b.(8)(b)(i) by adding the following statement to the parenthesis after "Department of Public Welfare":

"(. . . at client's request, a reconciliation shall be performed to determine whether client's tax obligation for a past tax year has been understated; any understatement discovered shall be corrected by a supplementary payment to the client);

43. Paragraphs D.12.b.(8)(b)(ii)-(v) restate allowable employment expenses which are set out in the present rule with the exception of tax obligations. Several persons expressed concern over the current rule language which precludes the deduction of child care costs when paid to a financially responsible relative who is able to contribute. Laura Cooper, Associate Professor of Law, University of Minnesota, contends that the aforementioned policy is in violation of both state and federal law. Because the child care cost policy is part of the present rule and has not been changed in the amended rules except for location, the Examiner will not address issues of legality. However, DPW should carefully assess the issues raised to determine whether or not the policy is in violation of the law.

44. Paragraph D.12.b.(8)(c) includes a new flat rate method for deducting work expenses. The existing method of itemizing expenses is also an available option. DPW asserts that in 65.7% of employed AFDC cases, the amount of actual work expenses is at or below the proposed flat rate. Beverly Hanson argued that the 10% flat rate would allow for the deduction of business expenses for the self-employed. DPW responded by proposing that the following language be added to D.12.b.(8)(d):

Those expenses which are allowable as personal expenses of employment under D.12.b.(8)(c)(i-ix) shall not be allowed as business expenses.

Thomas Hamlin and SMRLS commented that inclusion of the word "necessary" in (8)(c) conflicts with the standard set out in Shea v. Vialpando, 416 U.S. 251 (1974). The Examiner finds that the proposed rule does not set a standard which is more restrictive than that stated in Shea.

45. Paragraph D.12.b.(8)(f) has been amended to provide for a standard deduction of 60% of gross receipts to determine earned income from child care. The existing method of itemizing expenses remains as an option. Michael McCauley argued that the 60% standard deduction and 10% deduction for personal expenses would overlap so as to allow for doubling certain expenses. DPW stated that insofar as that result might happen, the amount would be negligible; it does not want to single out child care providers for special treatment.

Many persons commented that the 60% figure was not reasonable as many home child care operations are lucky to break even, especially in the first several years of business. DPW contends that the 60% deduction is designed to cover the expenses of the majority of child care providers; that the option to itemize is still available for all providers. The figure of 60% came from a Department study of 28 "Family Day Care Homes."

Absent a conflicting statistical base, the Examiner finds that the proposed rule is both needed and reasonable. DPW has left the itemization option open for those who would be adversely affected by the 60% deduction.

46. At hearing, DPW proposed to delete the new language, "the amount deducted", from D.12.b.(8)(h).

47. Paragraph D.12.b.(9)(a) has been amended to reflect the deduction of interest on principal payments for housing. DPW suggested that the wording be changed as follows:

> Amend to read: ". . . two percent of market value (whichever is less) for upkeep and repairs and taxes, insurance, utilities and interest on principal payments shall be deducted".

Also, a clerical amendment was made to (9)(b) which reads "windfalls shall be unearned. . ."

48. Paragraph D.12.b.(9)(d) has been amended to comply with a recent Federal District Court Order.

SECTION E. - AFDC Family Allowance

49. Paragraphs E.1.b.(2), (3), (4) and (c) enumerate the re-structuring of the standard for family allowances. HEW found that the present "Child/Family" standard is not in compliance with federal rules thus prompting the change. The revised standard sets out specific dollar allowances for children, a fixed amount for a needy adult and a second fixed amount when two adults are eligible for aid.

David Kramer, Welfare Law Clinic, University of Minnesota, argued that the method used to derive the allowance amounts was invalid. He stated:

> This process used by DPW would be perfectly valid except for one thing. In order to arrive at the $129 for one adult, the old Child-only amount for three is subtracted from the old Family amount for four. This assumes the Child-only amount for three is a valid amount. It is not. The Child-only Standard for three (or for any other number of children) does not adequately account for certain essential needs required by the children, but instead assumes that such needs will be provided by a responsible adult. Such an assumption violates 42 U.S.C. § 606(a) and 45 C.F.R. § 233.90(a). DPW must first increase the Child-only Standard for three to reflect the essential items that it does not now include. Once this is done, no further objection exists to carrying out the rest of the calculation to arrive at a new fixed amount for one adult.

DPW responded as follows:

> DPW does not accept the assertion that the allowance for three children under the existing Child/Family standard should be higher than its actual level. DPW employed the Bureau of Labor Statistics (BLS) Scale of Equivalent Values to demonstrate that the allowance for three children under the existing Child/Family standard was at least as generous as the allowance for a family of four. This is an important demonstration as the allowances for family groups are not challenged as being less than the proper value.
>
> Secondly, and more telling, is the fact that the allegation that the allowances for children under the existing Child/Family standard are deflated due to omission of certain household need items is an allegation based on misinformation. It is an incorrect statement. DPW, in construction of the Child/Family standard, added dollars to the allowances for children which were far in excess of the value of these household items. This fact is displayed in the document presented to HEW under the cover of a letter on 7/20/76 from Commissioner Likins to Clyde V. Downing.

The Examiner finds that the proposed new family allowances are both needed and reasonable. DPW did, however, miscalculate the allowance for six children. It should read $451 rather than $450.

50. Paragraphs E.1.b.(5) - (7) set forth the method of determination of the family allowance amount for different types of family units. Several persons questioned the eligibility of a family if the two caretakers were not married. DPW stated:

> This provision defines as one recipient unit two caretakers who are living together, have varying bases of eligiblity, and share a marital bond. When two caretakers live together without a marital bond, there are two recipient units rather than one unit. The reason for this distinction is that without a marital bond neither caretaker is responsible for the other according to law. Conversely, when the individuals have chosen to establish themselves as a legal family, it is reasonable to treat them as such for AFDC purposes.

DPW also commented that federal regulations dictate the minor choice provision set out in (7).

51. Paragraphs E.2. through E.2.d. are a complete revision of the procedure and amounts of money for allocation to AFDC recipients for special need items. The Ramsey County Attorney's Office commented that E.2.a. may allow one recipient an absolute right to home repairs, regardless of cost, with the potential for complete depletion of a county's entire fund. In response, DPW proposed to amend the paragraph as follows:

> a. Major home repairs. The local agency shall provide payment for costs of major home repairs if the home is owned and lived in by the recipient; if the need for repair is documented to the agency's satisfaction; if such expenditures are within reasonable limits in relation to overall condition of dwelling and available alternative housing.

Several persons commented that the issuance of the payment directly to recipients will result in the misuse of monies. DPW responded as follows:

> Recipients have argued for decreased unnecessary agency controls over their financial affairs. Adequate safeguards exist for control where money mismanagement is documented.

Agencies can counsel recipients as to the available alternative of vendor payment. It is therefore reasonable to allow clients free choice of the manner in which to pay vendors. Hennepin County's policy presently provides such an alternative, but assumes the vendor payment condition; there is no substantive difference between this and the proposed policy in E.2.

The proposed policy creates a situation in which special need monies are an issue between the welfare department and the recipient. There should be no need for defaulted payments to vendors because the client can have cash in hand at the time the transaction is finalized.

Many comments were made regarding the inadequacy of the replacement allowances for household appliances and furnishings. DPW stated that:

The equitable treatment of recipients is necessary for continued federal approval of the State Plan for AFDC. The federal agency has mandated a state-level allowance schedule to guarantee such equitable treatment. Limited funds are available. The recipients monthly grant already provides an on-going allowance for upkeep and repair of these items. Therefore, it is necessary to establish an allowance schedule which will not prematurely deplete the limited funds. The allowance schedule itself is reasonable, not because it is necessarily related to the actual price in the market-place, but because the amounts are reasonable in their relative value to each other. A ratable reduction (45 CFR 233.20A2ii) of the amounts to a level which will note deplete total funding is the most reasonable means to spread limited funds in an equitable fashion among a greater number of recipients.

The Examiner finds that the proposed special need rules, as amended by DPW above, are both needed and reasonable.

52. Paragraph E.3. is necessary to provide for a supplemental housing allowance.

SECTION F. - Payment Provisions

53. Paragraph F.1.a.(i) is necessary to provide local agencies information regarding the residence of the recipient and to determine which county is financially responsible.

54. Paragraph F.1.a.(2) duplicates, or summarizes, the language contained in Minn. Stat. s 471.415. Many questions were raised concerning the content of this paragraph and the statutory authority for its promulgation. DPW responded by proposing that the paragraph be amended as follows:

"<u>The issuance of duplicate checks shall be in accordance with the provisions of Minn. Stat. 471.415.</u>"

55. Paragraph F.2.a. was amended to more fully implement the appeal provisions of Minn. Stat. § 256.045. Many comments were made opposing the specific listing of appealable issues and adding another layer onto the appeal process, i.e., the jurisdictional hearing. In response to these concerns, DPW proposed to amend F.2.a. as follows:

The addition of the following conclusionary phrase to the first paragraph, following item (7);

"The foregoing items are meant to serve as examples only. An appeal shall also be authorized relative to any matter which is appealable based on state law or federal law and regulation as they currently exist or as they may exist based on subsequent amendment."

Deletion of the second paragraph in its entirety.

The Examiner finds that proposed paragraph F.2.a., as amended above is both needed and reasonable.

56. Paragraph F.3.b. has been amended to conform to new statutory law, see Minn. Stat. § 256.73, subd. 6 (1977 Supp.), and a recent federal court decision. DPW proposed to change the language "client and agency error" to "client or agency error" to clarify the section. The Ramsey County Attorney's Office commented that F.3.b. appears to treat fraudulently induced overpayments in the same manner as innocent overpayments. That with the safeguards expressed in federal rules, a distinction should be made between overpayment caused by honest error and that occasioned by welfare fraud.

The Examiner finds that proposed F.3.b. is both needed and reasonable.

57. Paragraph F.4. has been amended to set out the procedures to be followed in bringing either civil or criminal actions for welfare fraud. DPW proposed to delete section F.4.a. as it is unnecessary. The Ramsey County Attorney's Office commented that recoupment should not be limited to only disregarded income. DPW stated:

> Where adjudicated fraud is established, the Department has identified three types of cases:
>
> 1) Those involving the non-eligible. In such cases, there will be no grant from which to recoup as the party involved was not and is not eligible.
>
> 2) Those involving earned income where recoupment can already occur.
>
> 3) Those involving the grant only. this is the only area of controversy.
>
> Note that AFDC grants are set at a subsistence level. It is axiomatic that any reduction will remove funds which are, by definition, necessary to a minimum standard of living. There may be cases in which some recoupment would not work a hardship. This is undocumented speculation at this time. Additionally, there are extensive notice requirements and a need for standards to be developed to assure consistent and equitable application.

The Examiner finds that proposed F.4., with the deletion of a., is both needed and reasonable.

SECTION G. - Relative Responsibility

58. Paragraph G.1.d. has been amended to comply with Minn. Stat. § 256.87, subd. 1 (1977 Supp.)

59. Paragraph G.3. has been amended to reflect a cost-of-living increase in the relative responsibility scale. Paragraph G.3.d. has been added so that the amount of the relative contribution can be determined.

60. Mr. Allin and Ms. Casebolt commented that G.4.a. should be amended to include the good cause provisions. DPW stated that because this provision has not been changed, it is not currently subject to amendment. However, DPW responded that the good cause provision is implicit in the rule.

61. Paragraph G.4.c. has been amended to change the word "alimony" to child support because of the mandate in 45 C.F.R. 302.32(a).

62. At hearing, DPW withdrew the new language in G.4.e.

SECTION H. - Other Program Requirements

63. For the purpose of clarity, DPW proposed to change the amended language in H.1.a.(2)(6) to 16 through 18.

64. Paragraph H.1.a.(2)(h) has been amended to comply with a directive from the HEW regional office.

65. Paragraph H.1.b. has been amended to comply with 45 C.F.R. 233.100 (a)(5)(i) which requires ineligiblity for an entire family if the UF refuses to register or accept employment.

66. Mr. Hamlin commented that the 60-day counseling period is not mentioned in H.1.e.(1). DPW stated that the counseling provision is set out in H.1.e.(2) and does pertain to the AFDC-UF program.

67. Section H.2. and 3. have been amended to clarify the intent and implementation of the rules. The Examiner again points out use of the word "may" in H.2.b.(2).

SECTION I. - Relationship to Other Programs.

68. Paragraph I.1.a. has been amended to include execution of benefit Form 1933 which is mandated by both state and federal law. Paragraph I.2.a. was amended to include an exemption for the Battered Women Program. In response to concerns expressed by Bruce Kurtz, DPW suggested that I.1.a. be amended by deleting the semicolon and adding for health care coverage in which s/he is a policyholder.

69. Paragraph I.3. has been amended to require referral of cases from Income Maintenance to Social Services for evaluation regarding possible service needs. Kent Allin commented that there are no criteria to spell out the obligation of the Social Service Unit. DPW responded by proposing to add the following sentence to I.3.:

"Such referrals shall not be a factor in determining eligibility, and shall be made after such eligiblity is determined."

SECTION J. - Miscellaneous

70. Paragraph J.3. has been amended to reflect the effective date of the proposed rules pursuant to Minn. Stat. § 15.0412, subd. 4.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

C O N C L U S I O N S

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Public welfare. All other substantive and procedural requirements of statute or rule have been complied with.

2. Pursuant to Minn. Stat. § 15.052, subd. 3, it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. Many comments were received concerning parts of DPW Rule 44 which were not presently proposed to be amended or modified by the Department.

As such, those comments go beyond the noticed scope of this hearing. All do, however, remain a part of the record and will be available for DPW to review prior to the formulation of future changes in the Rule.

4. The Examiner concludes that DPW has documented its statutory authority to promulgate the proposed rules, as amended, with the exceptions noted in Findings 9, 21, 30 and 31.

5. The Examiner concludes that DPW has demonstrated the need for and reasonableness of the proposed rules, with the exceptions noted in Findings 10 and 36, with an affirmative presentation of facts.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

R E C O M M E N D A T I O N

That the Department of Public Welfare adopt the proposed amendments to Rule 44, as amended during and subsequent to hearing, taking note of the Examiner's suggestions set forth in Findings 9, 10, 11, 21, 26, 30, 31, 36 and 43.

Dated this 12 day of October, 1978.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

DPW #4

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JUN 25 1978
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF THE AMENDMENTS TO RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE ADMINISTRATION OF THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

STATEMENT OF NEED

The above captioned rule and its proposed amendments govern the administration of the Aid to Families with Dependent Children (hereinafter referred to as AFDC) program in the State of Minnesota. The Minnesota AFDC program was established in accordance with Title IV-A of the federal Social Security Act, Title 45 of the Code of Federal Regulations (CFR) and Minnesota Statutes, Chapter 256. The authority of the Commissioner of Public Welfare to promulgate rules and amendments is contained in Minnesota Statutes 256.01 subdivision 4 (2) and (5).

Amendments are being proposed to existing Rule 44 for the following reasons:

1. The Department intends that its rules be periodically evaluated in terms of clarity and readability, since they are the primary vehicles through which the Department administers laws which both concern and affect the public. Therefore, many sections of the existing rule have been grammatically revised and/or clarified so that the intent of the provision is made as clear as possible.

2. Since the last amendments of Rule 44 in July 1976, changes have been made in the Social Security Act, the Code of Federal Regulations, and the Minnesota Statutes which necessitate amendment of this rule to bring it into proper conformance with these statutory and regulatory materials. In addition, various judicial determinations and federal

policy clarifications have had a major impact upon the existing provisions of Rule 44.

Non-substantive Amendments

The following sections contain amendments which relate solely to grammar, legal clarity, and/or readability. Since the changes do not alter the substantive meaning of the section, these will not be discussed further in this Statement.

A.1.
A.2.
A.3.
A.4.
B.2.
B.4.
C.2.
C.4.
C.6.
C.6.d.
C.6.e.
D.
D.4.
D.6.
D.8.a.
D.8.b.
D.9.c.(4)
D.10.a.(8)(a)
D.11.b.
D.12.a.(2)(a)
D.12.a.(2)(b)
D.12.a.(2)(d)
D.12.a.(4)(b)
D.12.a.(5)(b)
D.12.a.(7)(d)
D.12.b.(3)(c)
D.12.b.(3)(d)
D.12.b.(3)(f)
D.12.b.(5)
D.12.b.(8)(a)
D.12.b.(8)(a)(*iv*)
D.12.b.(8)(b)
D.12.b.(9)(b)
E.1.a.
F.1.a.
F.1.b.(2)
F.1.b.(2)(a)
F.1.b.(2)(b)
F.1.b.(2)(c)
F.1.b.(3)
F.2.c.(5)
F.2.c.(6)
F.3.c.
G.1.a.
G.1.b.
G.1.c.
G.3.a.
G.3.c.
H.1.a.(2)
H.1.a.(2)(d)
H.1.e.(2)
H.1.f.
H.1.g.
H.2.b.(1)
H.2.b.(2)
H.2.c.(2)
H.3.a.(1)
H.3.a.(2)
H.3.a.(3)
H.3.b.
H.3.d.(2)(a)(*i*)
H.3.d.(2)(a)(*ii*)
H.3.d.(2)(a)(*iv*)
H.3.d.(2)(b)(*i*)
H.3.d.(2)(b)(*ii*)
H.3.d.(2)(b)(*iii*)
H.3.d.(2)(b)(*iv*)
H.3.d.(2)(c)(*i*)
H.3.d.(2)(c)(*ii*)
H.3.d.(2)(c)(*iii*)
I.4.

In addition, there have been structural changes to heading letters/numbers which merely clarify the relationship of one section to another. These are marked in the text of the Proposed Rule but do not require further justification in this Statement.

Substantive Amendments

A.5. is necessary to insure daily administration in conformance with the applicable rule and is authorized by MS 256.01 subdivision 4 (2).

B.1. directs the local agencies regarding a request for an application and provides the requirements for an advocate. This is authorized by 45 CFR 206.10(a)(1)(*i*), (*ii*) and (*iii*). The provision also requires that the applicant/recipient specify in writing who the applicant/recipient may wish to assist him/her in the application process. This ensures the applicant/recipient's right of privacy under Minnesota Statute § 15.1641 et seq., the Minnesota Data Privacy Act. The last sentence in this section was amended to allow persons other than the director or designee, such as the parents, to sign the application. This is necessary and reasonable in situations in which the parent(s) is available since information related to eligibility must be obtained.

B.4. is amended by deleting the provision concerning formal reapplication and amending C.5. of this statement.

B.4.a. is necessary and reasonable to ensure that all applications are formally acted upon and to prevent applicants from making multiple applications. This provision is allowed for under 45 CFR 206.10(a)(8) which requires disposition of each application by a finding of eligibility or ineligibility.

B.5. eliminates the requirement that unemployed father (UF) cases be redetermined every three months. The three month provision was specified in Federal regulations until 1971, when the states were permitted optional periods but not to exceed six months (45 CFR 206.10[a][9][*iii*]). The three month period was retained by Minnesota because the Work Incentive Program (WIN) was in its early stages

of development; the program existed in only a limited number of counties and outside of the WIN counties there was insufficient contact with AFDC-UF recipients. The majority of counties are now in WIN and it is reasonable to go to a six month redetermination schedule for UF cases, which is consistent with redetermination for other types of cases, since the reasons for the three month period have been satisfied. The added provision reflects the concern of HEW in their letter of January 27, 1977 to the Commissioner regarding timely reporting of changes in income resources and other circumstances as authorized by 45 CFR 233.20(a)(12)(i)(C)(1) and is further discussed in D.12.b.(3)(a) of this statement.

B.7.a. is necessary as a result of the Millikan vs. Califano case in which the Department of Public Welfare was enjoined from requiring children to have or apply for a Social Security number. This section reflects DPW's compliance with the court order. This does not affect the requirement that the caretaker furnish or apply for a Social Security number as a condition of eligibility under 45 CFR 232.10(a)(1).

B.8. is necessary and reasonable under 45 CFR 233.90(b)(1) relating to unsuitable homes because of child abuse or neglect. This provision is also authorized by MS § 626.556 subd. 3.

B.9. is necessary to satisfy concerns expressed by HEW in their letter of August 21, 1975 to the Commissioner which indicated that it is the obligation of the employee of the agency to ensure the rights of the applicant and recipient.

B.10. is allowed for under federal regulations 233.20(a)(12)(i)(C)(1) and HEW's letter to the Commissioner of January 27, 1977. See D.12.b.(3)(a) for further discussion of this section.

C.3. is necessary to bring the Rule in compliance with Chapter 412 Laws of 1977 which amended Minnesota Statute 256.73 subdivision 4 to provide that the county of financial responsibility shall be that county in which the child resides at the time of application for assistance. The last sentence to this section is necessary and reasonable to establish fiscal responsibility for the county of residence for cases for which they usually would not be financially responsible for, if errors occurred. This results in improving the processing of cases.

C.4. is amended by deleting the first sentence and placing the sentence in C.3. of this statement. This does not change the meaning or intent of the Rule.

C.5. is necessary to bring the Rule in compliance with Minnesota Statute 256.79 which provided for transfer of financial responsibility to the county of residence when a child has resided in that county for two full months provided the child was not placed in the county pursuant to a plan of treatment for health, rehabilitation, foster care, child care or as a result of a correctional plan. The intent of the law was to also assure that the original county retains financial responsibility if the county, court or related agencies places a child and/or family in another county for treatment prior to an application for assistance. The provision concerning the county of residence is intended to clarify the responsibilities of the county of residence in relation to the county of responsibility. An additional provision was also added to this section eliminating the requirement that a formal reapplication be taken when a client changes counties. This provision was recommended by HEW in their letter to the Commissioner of June 14, 1976 since the changing of counties does not in and of itself create ineligibility. This section also has some grammatical changes which does not alter the meaning of the provision.

D.2.a. was amended in conformance with 45 CFR 233.90(c)(1)(v)(A)(1), (3) and (4) which allow the inclusion of relatives as specified whether of whole or half-blood and does not sever the relative status after the marriage is dissolved by death or divorce.

D.3.a. was amended to clarify what is meant by special educational needs. Special educational needswere originally intended to provide assistance to children who were attending the school for the blind and the school for the deaf. However, this provision has been expanded to cover situations where a child attends a school other than the blind or deaf schools for special educational needs. Because special educational needs were never previously defined there has been some misunderstanding as to what constitutes a special educational need. The amending of the provision gives clarity to meaning and is authorized under authority of the Commissioner to make rules and regulations necessary to carry out the provisions of the program MS 256.01 subd. 4(2).

D.3.b. is amended in conformance with 45 CFR 233.90(c)(1)(v)(3) which specifies that a relative must exercise responsibility for the care and control of the child. A grammatical change was also made in this section; however, this did not alter the meaning of the provision.

D.9.a. contains an amendment that applicants must affirmatively establish continued absence. This amendment is necessary and reasonable to allow the local agencies to effectively determine eligibility when continued absence exists. In order for an agency to determine whether or not there is continued absence they must have information from the client as to when the parent left, if it was for good, absent parent's location, etc. 45 CFR 233.90(c)(1)(*iii*) provides that the agency must know when the absent parent is out of the home, the nature of his absence and the duration of the absence in order to establish continued absence.

D.9.c. was amended to bring the Rule in conformance with 45 CFR 232.11(a)(1) and 45 CFR 302.51 (b)(4) and (5); (F)(3) which require assignment of support to the state and allows for support only up to the amount of benefits paid while recipient receives assistance.

D.9.c.(3) was amended in conformance with 45 CFR 233.13(e)(2) (which was published in the federal register January 16, 1978) which requires the Income Maintenance Unit rather than the Child Support Unit to determine whether paternity should be pursued. 45 CFR 233.12(a) requires as a condition of eligibility each applicant for or recipient of AFDC must cooperate in establishing paternity and collecting support which is an Income Maintenance function.

D.10.a.(7) was changed to conform to the current title of the Agency.

D.10.a.(8)(a) was amended to comply with 45 CFR 233.100(a)(3)(iii) by adding the word "within" in the first provision and"/or" in the second provision.

D.10.c. was amended to comply with Public Law 94-566 which allows the unemployed father to receive AFDC and Unemployment Insurance concurrently. This provision has been implemented by Policy Bulletin, Manual and emergency rule 44b and is now being consolidated with the rest of the rule. This change is authorized by 45 CFR 233.20(a)(3)(ii)(B) and (a)(3)(ix), and 45 CFR 233.100.

D.10.d. was changed to conform to the current title of the agency. This section was also amended to conform to a change in federal regulations in November of 1976 (45 CFR 233.100(a)(5)(i)) which provides for denial of assistance to the entire family on AFDC-UF cases unless such father is registered with WIN or Employment Services and was referred in HEW's July 21, 1977 letter to the Commissioner.

D.10.e. is amended to conform to 45 CFR 233.100(a)(5)(i) which is discussed above.

D.12.a.(2)(c) was amended to conform with 233.20(a)(3)(ii)(a) which requires states to take into consideration potential sources of income that can be made available. Failure of a client to avail themselves of a resource can result in termination of assistance as specified in HEW's letter of February 11, 1977 to the Commissioner.

D.12.a.(3)(a) was changed to conform with Chapter 412 and Chapter 448 of the Minnesota Laws of 1977 which amended Minn. Statute 256.73, Subd. 2(1) which increased the property limit from $7,500 to $15,000.

D.12.a.(3)(b) was changed in accordance with Chapter 412 and Chapter 448 of the laws of 1977 which amended Minn. Statute 256.73, Subd. 2(3) which allows the ownership of real estate not used as a home which produces a net income applicable to the family's needs or which the family is making a continuous effort to sell at a fair and reasonable price. This section also contains a grammatical clarification.

D.12.a.(3)(c) was changed in accordance with Chapter 412 and Chapter 448 of the laws of 1977 which amended 256.73, Subd. 2(1) which allows county board to waive excess real estate used as a home when the apoperty is not available for support of the family or the sale would create undue hardship.

D.12.a.(4)(b)(iv) and D.12.b.(2)(p). Income tax refunds are exempt income and exempt resources for three months after receipt. These changes are part of new state policy on treatment of income tax as a work expense; see comment on 12.b.8.(b)(i). Each provision shall be null and void unless the other is

adopted; both shall be null and void unless 12.b.8.(b)(i) is adopted. These provisions shall be implemented January 1, 1979, provided that 12.b.8.(b)(i) has been implemented before that date. See the extended statement regarding these sections in appendix to statement of need.

D.12.a.(4)(c) contains a change in reference due to change in numbering of the rule. This does not alter the provision.

D.12.a.(4)(d) was changed in accordance with Chapter 412 and Chapter 448 of the laws of 1977 which amended M.S. 256.73, Subd. 2(2).

D.12.a.(4)(e) was changed in accordance with Chapter 448 of the laws of 1977 which amended M.S. 256.73, Subd. 2(2) by allowing ownership of an automobile up to a market value of $1650 for each family. The statute also provides the authority for exclusion of an automobile above the allowable limit when used for employment and allows for exclusion of property which produces income to the family. The provision which allows excess value in an automobile due to medical care was added to allow recipients who have a diagnosed mental or physical condition to obtain necessary medical care in reliable transportation. The provision is authorized under M.S. 256.01, Subd. 4(2) which gives the Commissioner authority to promulgate rules for the administration of the program.

D.12.a.(4)(e)(i) was necessary because if an automobile does not meet any of the exemptions in D.12.a.(4)(e) the automobile then becomes personal property and must be evaluated within those limits with any other personal property. In the personal property provision, equity in the automobile is used to determine value to the client.

D.12.a.(8) was amended to liberalize property limitations in family situations

in which some of the members are eligible for AFDC and any other member is eligible for MSA, GA or MA. This provision is necessary and reasonable to ensure maximum use of federal aid in the AFDC program as authorized by M.S. 256.01, Subd. 4(5). If this provision is not adopted it could result in the family being ineligible for AFDC and place the burden for financial assistance on the state and county through the General Assistance Program.

D.12.b.(1) is amended to by adding a provision about "timely reporting" as authorized under 233.20(a)(12)(i)(c)(1) and reflected in letter from HEW of January 27, 1977 to the Commissioner. For further discussion see D.12.b.(3)(a).

D.12.b.(2)(p). See comments on 12.a.(4)(b)(iv).

D.12.b.(2)(v) is added to give effect to an amendment to the comprehensive Employment and Training Act of 1973 Public Law 93-203 which exempts earnings of students involved in the: Youth Community Conservation Improvement Project; Youth Employment and Training Programs; and the Youth Incentive Enrollment Pilot Project.

D.12.b.(3)(a) is a reflection of the existing rule's language with the exception of defining "promptly" as being "within ten days". This change imposes realistic requirements on the client thereby allowing the counties to improve the administration of the program. This change was also recommended by HEW in their letter of January 27, 1977 who wanted promptly defined as five days. However, due to the fact some client do not have phones and the irregularity of the mail the ten day limit is being imposed. This section is allowed under 45 CFR 233.20 (a)(12)(i)(c)(1).

D.12.b.(3)(e) defines the abbreviation RSDI and makes a grammatical change which does not alter the meaning of the section.

D.12.b.(4) lists DPW Rule 53 in language used in Minnesota Code of Agency Rules and the clarification requested by the State Register.

D.12.b.(7) amends the previous language by arranging the words in a more readable format. Although the section remains essentially the same there is one change. The word "may" was substituted for "must" in the sentence concerning stopping income averaging when there is a change totalling more than $50. The purpose of making this permissive was to compensate for those situations in which the client receives three checks in a month instead of two, or five checks in a month instead of the normal four. If this was not adopted the agency would have to stop the averaging process which might result in decreased income for the client for a period of time. Authorized by 45 CFR 233.20(a)(3)(ii)(D) and (E).

D.12.b.(8)(a)(i) is mandated for under 45 CFR 233.20(a)(11)(ii)(b)(1)(i) which states that a client cannot receive the disregard if they reduce employment without good cause.

D.12.b.(8)(b)(i). This new policy is introduced to permit more equitable and more exact monthly assessment of income tax as a work expense and thus to permit disregard of income tax refunds as income. This provision shall be null and void unless 12.a.(4)(b)(iv) and 12.b.(2)(p) are adopted. This policy is allowable according to HEW's letter of December 22, 1977 to the Commissioner. See also the appendix to statement of need - attached.

D.12.b.(8)(b)(ii)-(v) are employment expenses which are listed in the previous rule with the exception of federal and state tax obligation which is discussed

above. The employment expenses are relabeled and rearranged but the meaning and effect have not changed. Employment expenses are allowed under 45 CFR 233.20(a)(11)(v)(a). Personal expenses are described in D.12.b.(8)(c).

D.12.b.(8)(c). The flat rate is introduced to reduce Quality Control errors due to misreporting and miscalculation of expenses. The rate is based on a study of actual employment expenses of a sample of AFDC recipients, "Flat Rate for Expenses of Employment: Policy Option in AFDC", Department of Public Welfare (January 1978). Authority for employment expenses is found in 45 CFR 233.20(a)(11)(v)(a). The study is in the statement of evidence and is available for inspection. The existing method remains as an option available to the client.

D.12.b.(8)(c)(i)-(ix). Items listed here as personal expenses of employment are the same items listed in the existing rule 44 as employment expense items already dealt with at D.12.b.(8)(b)(i)-(iv). The employment expenses are relabeled and rearranged but the meaning and effect have not changed. The rearrangement of these expenses is to accomodate new provisions D.12.b.(8)(i) and D.12.b.(8)(c). Employment expense are authorized by 45 CFR 233.20(a)(11)(v)(a).

D.12.b.(8)(f). The standard deduction of 60% of gross receipts to determine earned income from child care is introduced because the present policy of following IRS schedule C is impractical and results in inequitable treatment of recipients. The rate is based on a study of the expenses of small day care operators in Minnesota, "AFDC Policy and Income from Child Care", Department of Public Welfare (February 1978) which is included in the statement of evidence and is available for inspection. The existing method remains as an option available to the client.

D.12.b.(8)(g) is an increase in the roomer and boarder standard by an amount equal to cost of living increases in the AFDC allowance standards since the rule was last amended. The board and room standards were last promulgated in 1976. The increase referred to in this section and all other increases are allowed by Chapter 453.

D.12.b.(8)(h) clarifies how much of a servicepersons income can be deducted from the grant. There is also a grammatical change which does not alter the meaning of this section. A phrase "but not AFDC-FC" was deleted as recommended by HEW in their letter of November 30, 1977 to the SSI coordinator since receipt of AFDC will reduce SSI dollar for dollar.

D.12.b.(9)(a) is an increase in the amount deducted from rental income in an amount equal to the cost of living increase in the allowance standards since the standard was last amended. The words "interest on" are being added to this section in view of a previous typing error which omitted the words the last time the rule was amended. This section is authorized by MS 256.73 Subd. 2(3)

D.12.b.(9)(d) is amended because of an injunction issued on July 15, 1977 by the United States District Court in Millikan vs. Califano prohibiting DPW from requiring children to have or apply for a Social Security Number or denying or terminating assistance to the children or caretaker for failure to supply or apply for a Social Security Number. The caretaker, however, must furnish or apply for a Social Security Number under 45 CFR 232.10(a)(1). Failure to comply with the regulation results in deletion of the caretakers needs from the grant.

E.1.b.(2)(3)(4). A more detailed explanation of the change to the "child-adult standards" is in the Appendix to the Statement of Need. Definitions supplied in these items reflect the re-structuring of the standard for family allowances in response to HEW's requirement. HEW found the present "Child/Family" standard to be out of compliance with 45 CFR 233.20(a)(2). HEW interpreted the federal regulations at this citation to require a single standard for all children. HEW held that Minnesota's Child/Family standard represented two standards for children, and that it was improper to express separately an allowance for children living with a non-needy relative and an allowance addressing the needs of both children and their needy relative.

The revised AFDC standard expresses an amount for children, a fixed amount for a needy adult and a fixed amount for the seemed needy adult in cases where two adults are eligible for aid. This re-structured standard conforms to HEW's interpretation of federal regulations. HEW has advised that an amendment to Minnesota's plan for AFDC which conveyed the new re-structured standard would be approved. HEW's recommendations are contained in correspondence between HEW and the Commissioner dated: November 2, 1976; October 5, 1976; January 19, 1977; July 12, 1977; and October 18, 1977.

E.1.b.(5) defines how you determine the grant amount in the "child-adult" standard. A more detailed explanation of the change to the "child-adult standard" is in the Appendix to the Statement of Need.

E.1.b.(6) defines one recipient unit for AFDC purposes in accordance with 45 CFR 233.20(a)(2)(i) and 233.20(a)(2)(iii) of providing a uniform standard on a statewide basis. A more detailed explanation of the change to the "child-adult standard" is in the Appendix to the Statement of Need.

E.1.b.(7) defines the various alternatives available to a minor who is also eligible to be a caretaker in an AFDC grant in accordance with 45 CFR 233.30(a). A more detailed explanation of the change to the "child-adult standard" is in the Appendix to the Statement of Need.

E.1.c. presents two changes. Reflected is the change in the structure of Minnesota's standard for family allowances. The present structure of allowances for cases composed only of children and allowances for cases composed of children and adults is eliminated. It is replaced by a table of allowances for children and fixed amounts for the first adult and second adult in the case. The second change is the increased value of family allowances stemming from incorporating cost-of-living increases provided by the legislature Chapter 453 through 7/1/78. A more detailed explanation of the change to the "child-adult standard" is in the Appendix to the Statement of Need.

E.2. through E.2.d. represents a complete revision which is necessary in order to respond to federal concerns regarding evenness and availability of special need (supplemental) items. These concerns are documented in HEW's letters of 8/4/77 and 10/27/77 to the Commissioner of Public Welfare in which it indicates that the supplement program as it presently exists is unacceptable. (An 8/8/77 DPW response to these concerns alleviates some of those identified by HEW.) In general, the provisions in these sections are reasonable and necessary because the state's limited (closed-end) funding must be parcelled out among all eligible persons in need in the most fair way possible, and the provisions contained in the proposed amendments represent a method for achieving this. This program is authorized under 45 CFR 233.20(c)(1), (2) and (3), and Laws of Minnesota, Ch. 453.

Major substantive changes from the existing rule include:

1. a change in terminology from "supplements" to "special needs" (necessary to clarify to federal officials that these funds are not duplicative of funds provided within the flat grant system);

2. additional program specification (necessary to assure statewide evenness of program and expenditure levels);

3. A stronger prior authorization requirement (necessary in order to assure that the program funds, limited by the Minnesota legislative allocation, are available to persons with demonstrated need);

4. The specification of items to be covered as special needs (necessary again for statewide evenness) and assignment of maximum allowances per item (necessary to maintain the program within limited funding yet assure that persons throughout the state have the same potential resources with which to procure these items);

5. the removal of the $25 copayment on major appliance/essential household furnishings replacement (necessary to satisfy federal dissatisfaction with the copay requirement);

6. the addition of availability of recipient choice of payment methods (necessary because it is the recipient who must procure the items and must therefore be able to arrange payment);

7. A restriction on repair/replacement only if the recipient either owns the item in need of repair/replacement and/or no lease specifies that a lessor shall provide the item as a part of a rental agreement (necessary to prevent the limited funds available in the program to be directed into the repair of homes or items which are the property of landlords or others not in need).

E.2.b.(1) and E.2.b.(2) list those items which have been identified as essential household furnishings and appliances. The selection of items is reasonable because it closely approximates the current program's covered items, as identified by the Department through a survey of program policies presently in use in the local welfare agencies. Convenience items such as dishwashers, television sets, and hide-a-beds have been reasonably excluded because, given the limited funds, the Department felt that the program would not be able to meet the more basic special needs of all recipients if convenience items were included.

Maximum allowances are also identified in these sections. The Department feels these allowances are reasonable because they were selected following the survey conducted among the local agencies as to amounts presently being provided under this program. The particular selection of allowances was made based upon Ramsey County Welfare Department's allowance schedule, which was developed by that local agency following its review into the amounts actually paid in the purchase of such items. For purposes of allowances to be included in this proposed amendment, the local agency's (Ramsey's) allowance schedule was reduced by 15%, which is reasonable because the previous copayments made by recipients for the items were included in the county's allowance schedule; in FY 1977 these copayments represented about 15% of the total allocation available. Therefore, in order to remain within the limited allocation, assure evenness of

program throughout the state and throughout the budget year, and still eliminate the requirement of a recipient copayment, the reduction of 15% was necessary. Reasonableness is further enhanced by the potential of voluntary recipient supplementation over and above the agency maximum (in place of the mandatory copayment present in the existing rule -- see the letter from Mr. Hiniker to HEW which suggests this "ratable reduction" as an acceptable alternative to the copayment).

E.2.c. contains no substantive changes from language presently in rule regarding special dietary needs.

E.2.d. is essentially unchanged except for the exclusion of the final sentence, which assures evenness of program regardless of the point in the budget year.

E.3. is authorized by M.S. 256.879 which allows payment of a Supplemental Housing Allowance for persons on assistance if approved by HEW. This provides the same tax relief to persons on AFDC as to those not on assistance. HEW has approved the plan for paying a supplement in a letter to the Commissioner on February 15, 1978.

F.1.a.(1) is necessary and reasonable so that local agencies can determine where in fact the recipient resides and to determine which county is financially responsible. This section also reduces the possibility of mail drops where a client receives a grant where he/she doesn't reside. The section does provide for receipt of grants at addresses, other than where the recipient resides, when it is prior approved by the agency. Authority for this is found in 45 CFR 233.10(a)(1)(ii)(b) which allows states to impose conditions for the administration of the program and M.S. 256.74, subd. 2 which requires an application to indicate where a child is residing.

F.1.a.(2) is authorized under M.S. 471.415, subd. 1 defining the statutory requirement for issuing a duplicate check.

F.1.b.(4) amends the section by deleting the words "Commissioner of Welfare". The deletion eliminates the duplication of approval, however, 45 CFR 234.60 does require a review quarterly of the need for protective payments and the duties of the payee. A grammatical change was also made which does not alter the meaning of the section.

F.1.b.(6) is amended by inserting the words "the local agency" to review the way the protective payees perform. Federal regulations 45 CFR 234.60(a)(9)(ii) and (12) requires a quarterly review and amending of this section designates who is responsible for the review.

F.1.b.(7) is amended by inserting the words "the local agency" to designate who is responsible for quarterly reviews under 45 CFR 234.60(a)(9)(ii) and (13). The word "cooperate" was also added in conformance with the above cited federal regulation.

F.2.a. was amended to conform to 45 CFR 205.10, 45 CFR 234.60(a)(11), and 45 CFR 224.20(c)(3) and M.S. 256.045 subd. (2) and (3) which defines what issues are appealable. An additional provision was added to this section which provides for a jurisdictional hearing when either party questions whether the matter is appealable in accordance with federal or state law. The purpose of this provision is to reduce appeals which have no legal basis. The determination of the welfare referee in a jurisdictional hearing is appealable as provided by M.S. 256.045.

F.2.b. was amended to clarify the language on the appropriate use of the five day notice as mandated by 45 CFR 205.10(a)(4)(iv). The intent of the section was not changed.

F.3.a. was amended to clarify the language and to correct grammatical errors; the meaning of this has not been altered.

F.3.b. is amended in conformance with M.S. 256.73 subd. 6 (ch. 448, Laws of 1977) and the United States Court of Appeals for the Eighth Circuit of December 27, 1977 in Johnson vs. Likins (No. 77-1390) and 45 CFR 233.20(a)(12)(i)(c)(4)(g) which allows for recoupment of overpayments due to agency error if the client is notified in writing. Recoupment is limited to three months prior to the discovery if client is notified in writing. A clarification was also added which defines when recoupment process begins in cases of client error.

F.3.d. is authorized under 45 CFR 233.20(a)(12)(i)(c)(4)(g) which allows for recoupment in fraud or abuse.

F.4.a. was developed in conjunction with 45 CFR 235.110 and Minn. Statute 256.98 which defines legal basis for civil or criminal action.

F.4.b. defines what is appropriate action and who is responsible for the action in accordance with 45 CFR 235.110(a)(2)(c) and Minn. Statute 256.98 and 393.07. The director who is hired by the board is responsible for daily operation of the local agency.

F.4.c. requires the grant to continue if eligibility otherwise exists when fraud is suspected or under investigation but case facts have not been documented or verified. This is authorized under 45 CFR 205.10(a)(4)(iv).

F.4.d. defines what recovery may be based on and the procedure for recovery as allowed by 45 CFR 233.20(a)(12)(i)(c)(4)(g).

F.4.e. defines who is responsible for securing and reporting statistical data on fraud. The director is responsible for the daily operation of the local agency. This is necessary and reasonable as authorized by M.S. 256.72(2).

G.1.d. was amended in accordance with Minn. Statute 256.87, Subd. 1 (1977) which allows judgements on past assistance as well as ongoing assistance. Previously the agency had to go back to court everytime to obtain a judgement. While the court can order support for ongoing assistance, the amount recoverable is only that amount after the relative is notified in writing of their obligation to support.

G.2.b. has some grammatical changes which do not change the meaning of the provision. Another change which does not affect the meaning was changing the words "Family Allowance" to "AFDC standard" in line with the restructured standard referred to in section E.1.b. of the Statement of Need.

G.3. is an increase in the relative responsibility scale by an amount equal to the cost of living increase in the allowance standards since the rule was last amended. An additional phrase was added to the last sentence to clarify from what amount you take the twenty percent which was inadvertently left out on the last amending of the rule.

G.3.d. is necessary and reasonable so that the amount of the relative contribution can be determined. This is a necessary and reasonable method of carrying out our statutory authority under M.S. 256.87, Subd. 1.

G.4.c. was amended by changing the word "alimony" to "child support" since there is no requirement under federal or state law that an absent parent pay alimony to the agency. However, there is a basis for child support going to the agency which is mandated under 45 CFR 302.32(a).

G.4.e. is authorized under 45 CFR 235.70(a)(2) which provides for prompt notice to IV-D for children on AFDC-FC. This provision allows IV-D to pursue paternity or collect support for children in foster care.

H.1.a.(2)(b) was changed for clarification purposes but does not change the meaning of this section. Children over 18 and not in school are no longer eligible for assistance as mandated by 45 CFR 233.10(b)(2)(ii)(a)(1) and M.S. 256.12, subd. 14.

H.1.a.(2)(h) was amended in conformance with a memo from an attorney in HEW's regional office to the Director of the regional office which was the basis for a stipulation in the Bolton vs. Likins case in the Eighth Circuit Court of Appeals which resulted in either parent in an AFDC-UF case to claim the exemption from WIN registration based on the care of a child under age six.

H.1.b. was amended in conformance with 45 CFR 233.100(a)(5)(i) which requires ineligibility of the entire family if the UF refuses to register or accept employment. An additional sentence in this section was clarified by inserting the words "over age 16 and not in school" which does not change the meaning of the provision. Children over age 16 and not in school are required to register for WIN in a WIN county as a condition of eligibility as mandated by 45 CFR 224.2D(b) and (1).

H.1.d. is necessary because of a change in the name of an agency. A grammatical change was also made which does not affect the meaning of the provision.

H.1.b.(1) is amended to conform to 45 CFR 233.100(a)(5)(i) which requires ineligibility of the entire family for family for failure to participate.

H.1.e.(2) is amended to clarify the meaning and not to alter it.

H.1.h. is a clarification of what expenses are disregarded, which did not change the intent of this section. There is also a grammatical change which did not change the meaning of the section.

H.2.a.(1) is necessary and reasonable to clarify the meaning of the section. Assistance must be to or on behalf of a child as authorized by 45 CFR 233.120 (b)(1).

H.2.a.(2) is again a clarification of the language which is found in 45 CFR 233.120 (b)(1)(i) which requires that a child lives or had been living with a specified relative.

H.2.c.(1) was amended by inserting "and the state standard for special needs items" (see E.2.) as the amount allowed in Emergency Assistance for special needs. Emergency Assistance is available for special needs when the allocated funds for special needs has been exhausted.

H.3.d.(1) was amended by eliminating the phrase concerning a rate for institutional maintenance by the state agency which is no longer applicable under DPW 204 (12 MCAR 2.204) which requires rates for foster care to be established in accordance with Rule 44 for all foster homes regardless of source. The

standards for foster care (FC) have also been increased in an amount equal to the cost of living in the allowance standards since the rule was last amended. The language concerning initial clothing allowance was also clarified.

H.3.d.(2) specifies that the maximum number of points that can be designated is 175. This statement is necessary and reasonable to avoid any confusion in adding up points on the difficulty of care standard and was inadvertently left out on the previous amending of the rule. The standards for the difficulty of care have also been increased in an amount equal to the cost of living increase in the allowance standard since the rule was last amended.

I.1.a. was amended by adding "upon signing a benefit assignment Form 1933" which is authorized under 45 CFR 250.31 and Minn. Statute 256B.042. Public Law 95-142 Section 11 specifically requires the signing of the form as a condition of eligibility.

I.2.a. was amended by inserting "unless served by the Battered Women Program" which is authorized under Chapter 428 Laws of 1977 and provides for GA to women who have been beaten by spouses or other male relatives or friends.

I.3. is necessary and reasonable under Minn. Statute 393.07 Subd. 1(b) which requires the county board to administer a program to assure protection for and financial assistance to children. This section requires referral of the case from Income Maintenance to Social Services so the case can be evaluated as to possible service needs.

J.3. is amended according to M.S. 15.0412 Subd. 4 which gives the effective date of the rule.

APPENDIX

AFDC Policy and Income Tax - Proposed Tax Obligation Policy

Child/Adult Standard

June 24, 1978
Date

Edward J. Dirkswager, Jr.
Commissioner
Department of Public Welfare

ATTORNEY GENERAL

ELLEN DUBUQUE
Special Assistant
Attorney General

December 26, 1978

296-1288

LEE E. SHEEHY
Special Assistant
Attorney General

In the Matter of the Proposed Adoption of Amendments to DPW 44

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be returned with the rules by you or your agency.

Finally, this office wishes to express concern with one provision of the rule. Specifically, Subdivision A (1) contains a reference to an agency "Policy Manual." This office is approving the provision on its face because the provision itself does not necessarily violate state law and the state Administrative Procedures Act; and, further, the "Policy Manual" has not been submitted for review to this office. However, this office wishes to warn the agency that its implementation of the "Policy Manual" concept may run afoul of state law. The Minnesota Supreme Court in McKee v. Likins, 261 N.W. 2d 566 (1977), concluded that "interpretative rules" must be promulgated under the procedures of the state Administrative Procedures Act. Agency implementation of the "Policy Manual" concept could well run afoul of this Court Opinion; and the agency should protect against such occurrence.

If you have any questions, do not hesitate to contact me.

LES/bw
Encl.
cc: Duane Harves
Chief Hearing Examiner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General

DATE: 12/22/78

FROM : Ellen C. Dubuque
Special Assistant
Attorney General

PHONE: 2418

SUBJECT: DPW Rule 44

Enclosed you will find a new original of page 1 of 12 MCAR 2.044 with one change in it. The change is the deletion of the very last sentence in section A.1. The sentence which has been deleted reads as follows:

> "However, it does contain the Department's interpretation of the Rule."

Also enclosed is the Amended Order of the Commissioner supporting the deletion of this sentence.

If you have any questions, please call me.

ECD/pas
Attachments

STATE OF MINNESOTA

COUNTY OF RAMSEY

EDWARD J. DIRKSWAGER, JR.

COMMISSIONER OF PUBLIC WeELFARE

In the Matter of the Proposed Amendment of Rule 44 of the Department of PublicWelfare Governing Aid to Families With Dependent Children Program.

AMENDMENT TO ORDER ADOPTING RULE

The Commissioner of Public Welfare hereby amends his Order Adopting Rule for DPW Rule 44, dated November 22, 1978. This amendment to the Order addresses section A.1. of the Rule and the Commissioner's Finding 1 in his Order. Further, this amendment is intended to supplement the Order Adopting Rule and no part of that Order is vacated by this amendment.

Paragraph A.1. of Rule 44 is hereby amended by deleting the last sentence in the paragraph. The sentence which shall be deleted is: "However, it does contain the Department's interpretaion of the Rule."

A.1. of Rule 44 shall therefore read as follows:

> This rule shall govern administration of the Aid to Families with Dependent Children (AFDC) program in Minnesota. The provisions of this rule are to be read in conjunction with Title IV-A of the Federal Social Security Act, Title 45 of the Code of Federal Regulations, Minn. Stat. Ch. 256, and other rules of the Department of Public Welfare pertaining to public assistance and the administration of Minnesota's state and local welfare departments. ("Local welfare department" or "agency" includes the county welfare department of those multi county welfare agencies established under Minn. Stat. § 393.01 (1974) or Minn. Stat. Ch. 402). The Commissioner of Public Welfare may issue instructions, bulletins, and manuals to the local welfare agencies to clarify the provisions of this rule (DPW 44 takes precedence over such documents) and may prescribe forms and procedures to be used in administration of this program. In order to assist others in interpretation of 12 M.C.A.R. 2.044, the Department of Public Welfare has issued, informally, an AFDC Policy Manual. The material in the Manual is not an official rule and does not have the force and effect of law.

The Commissioner's Finding 1 is hereby amended by addition of the following:

> In his Order Adopting Rule, dated November 22, 1978, the Commissioner adopted new language in paragraph A.1. of the Rule. The Commissioner finds that deletion of "However, it does contain the Department's interpretation of the Rule," which is the last sentence of that new language in paragraph A.1. of Rule 44, is necessary and reasonable so as to not mislead those who rely on the Rule. The purpose of a reference to the AFDC Policy Manual in the promulgated Rule is merely to give notice to those who make use of the Rule that a Policy Manual exists. The Department in no way wishes to give the impression that the contents of the AFDC Policy Manual takes precedence over the contents of the Rule. The Commissioner finds that the sentence could have given that impression and therefore should be deleted. The Commissioner further finds that this is not a substantial change from the section as originally proposed and further that this deletion clarifies the original intent.

IT IS THEREFORE ORDERED, that the Rule identified as Rule 44 of the Rules of the Minnesota Department of Public Welfare, as adopted on November 22, 1978, is hereby amended as set forth herein.

Dated: December 22, 1978

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Edward J. Dirkswager, Jr.
Commissioner

STATE OF MINNESOTA

COUNTY OF RAMSEY

EDWARD J. DIRKSWAGER, JR.

COMMISSIONER OF PUBLIC WELFARE

In The Matter of The Proposed Amendment of Rule 44 of The Department of Public Welfare Governing Aid to Families With Dependent Children Program.

ORDER ADOPTING RULE

The above-entitled matter was heard before Hearing Examiner Peter C. Erickson, of the State Office of Hearing Examiners on July 19 and 20, 1978, in Room 83, State Office Building, after proper notice as required by Minn. Stat. § 15.0412, subd. 4 (1977 Supp.) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

At said hearing the proposed amendments to Rule 44 as published at 2 State Register 1112 were considered. The following persons testified for the Department of Public Welfare: Barbara Stromer, Joel Kvamme and George Hoffman. The hearing continued until all interested groups and persons had an opportunity to be heard. Pursuant to order of the Hearing Examiner, the record was held open for twenty (20) days for the submission of written material.

Based upon all the records and proceedings, the Hearing Examiner made Findings of Fact, Conclusions and a Recommendation which are contained in the Report of Hearing Examiner dated October 12, 1978. Said Report is attached hereto as Exhibit 1.

Pursuant to the requirements of Minn. Stat. § 15.0412, subd. 4 (1977 Supp.) said Report was available to all affected persons for at least five (5) days.

Having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable

statutory standards and criteria, and having confirmed the need for the above captioned rules and the reasonableness thereof,

NOW THEREFORE, IT IS ORDERED,

That the Findings, Conclusions and Recommendation of the Hearing Examiner, as contained in the Report to the Hearing Examiner, are, with exceptions made below, hereby adopted and incorporated herein.

The Findings of Fact of the Hearing Examiner are enumerated 1 through 70 in his Report. The Commissioner does not accept the Hearing Examiner's Findings 9, 18 and 21 and makes his own Findings 1, 2 and 3 below. The Commissioner accepts but makes additional comments to Hearing Examiner Findings 10, 11, 18, 30, 31, 36, 41 and 67. The remaining Findings of the Hearing Examiner are accepted by the Commissioner and are incorporated herein. The Commissioner accepts the Hearing Examiner's Conclusions and Recommendation except insofar as they relate to Findings 9, 18 and 21.

The Commissioner of Welfare, based upon all the records and proceedings herein, makes the following:

FINDINGS OF FACT

1. The Hearing Examiner, in Finding 9, found that a provision in paragraph A.1. of the Rule referring to the State AFDC Policy Manual was inappropriate because it implied that a Policy Manual overrides the language of a duly promulgated rule. The Commissioner agrees that if a provision in the rule implied that a Manual might override the language of a duly promulgated rule, such a provision would be inappropriate. However, the Commissioner rejects the Hearing Examiner's Finding 9 and finds that it is necessary and reasonable to make a statement in the Rule which

gives the public notice that an informal Departmental interpretation of the Rule is available for reference. Therefore, the Commissioner makes the following amendment to that provision which meets the Hearing Examiner's objections and clarifies the implications of the provision:

> In order to assist others in interpretation of 12 M.C.A.R. 2.044, the Department of Public Welfare has issued, informally, an AFDC Policy Manual. The material in the Manual is not an official rule and does not have the force and effect of law. However, it does contain the Department's interpretation of the rule.

The Commissioner finds that this is not a substantial change from the section as originally proposed and further that this amendment clarifies the original meaning.

2. In Finding 18, the Hearing Examiner found that the first sentence of paragraph C.4. of the Rule had been added to paragraph C.3. The Commissioner rejects this Finding as error. The sentence was not added to C.4. as was stated in the Department's Statement of Need. The underlying necessity for the amendments to both C.3. and C.4. is to bring the Rule into compliance with Minn. Stat. § 256.73, subd. 4 as it was amended in 1977. The 1977 amendment to the law provides that the county of financial responsibility for the payment of assistance shall be the county in which the child is residing at the time of application. The deletion of the first sentence of C.4. has the effect of bringing applications on behalf of an unborn under the same rule. This is reasonable and necessary since an unborn child is also a dependent child under the statute. The amendments to C.3. were intended to give effect to the statutory amendment with regard to the unborn as well as all other dependent children. The amended portion of C.3. which attempts this states: "This shall also apply to applications for AFDC-Unborn (UB). (See D.1.)" The Commissioner finds that this sentence is unclear in intent and therefore finds

that C.3. of the Rule should be amended as follows:

> The county of financial responsibility for an AFDC grant shall be the county where the dependent child is residing as of the date the application is signed. The county of financial responsibility for an AFDC-Unborn (UB) grant shall be the county where the mother is residing at the time the application is signed. (See D.1.). . . .

The Commissioner finds that this amendment is not a substantial change. No meaning or intent has been altered. The amendment is necessary to give clarity to the Rule while at the same time bringing it into compliance with the authorizing legislation.

3. In Finding 21, the Hearing Examiner found that paragraph D.3.a. of the Rule was unclear as originally amended because it implied that children in parochial or private schools would not be eligible for assistance for special educational needs. The Commissioner rejects Hearing Examiner's Finding 21 and finds that paragraph D.3.a., as originally amended, should be adopted as part of the Rule. Paragraph D.3.a. addresses an exception to the general rule that a child must reside at home to be eligible for assistance, 45 C.F.R. § 233.90(c)(v)(B). The amendment allows <u>some</u> children who reside away from home to remain eligible. The children who remain eligible are those who have "special educational needs" as defined by the Rule, but whose "needs" cannot be met by the local public school district. If the child's "special educational needs" cannot be met by the local public school district and the child attends a school which requires that he/she reside away from home, he/she is still eligible for assistance under this Rule. Obviously, if the needs <u>can</u> be met by a <u>local</u> private or parochial school and the child resides at home while attending one of these, he/she is still eligible. The Rule should not and does not, as a condition of eligibility, force attendance at a local private or parochial school. This paragraph does not

represent the addition of another eligibility requirement. Instead it represents a liberalization of the federal requirements that a child reside in the home. For these reasons, the Commissioner finds that paragraph D.3.a., as originally amended, is necessary, reasonable and in conformance with federal law. Furthermore, the amendment represents only a clarification of the section as previously promulgated and is not a change in its meaning or effect.

The following are Findings which the Commissioner has made in response to recommendations for further amendment made by the Hearing Examiner in his Report. In all cases, the Commissioner makes further amendments in accordance with the Findings of the Hearing Examiner and additional Findings have been made where necessary.

4. In Finding 10, the Hearing Examiner found that the last sentence in paragraph B.1. was unclear and therefore not reasonable. The Examiner also found that the Department of Public Welfare should clarify that sentence before taking final action on the Rule. The provision of B.1. which the Hearing Examiner found to be unclear involves identification of those persons required to sign an application for AFDC-Foster Care. The Commissioner finds that the last sentence in B.1. of the Rule should be amended as follows:

> If the application is for AFDC-Foster Care (FC), it shall be signed in accordance with this section, except that the Agency, or its designee, may also sign in lieu of the aplicant, his/her authorized representative or someone acting responsibly for him/her.

This amendment is an insubstantial change which adds clarity to the Rule.

5. The Hearing Examiner in Finding 11 recommended that B.4.a. of the Rule be amended by adding the sentence: "An applicant may voluntarily withdraw his/her application at any time." The

Commissioner finds that this option is implicit in the Rule; however, the Commissioner finds that amending the Rule by adding this sentence will not substantially change the Rule but will make the Rule more clear. Therefore, the Commissioner finds that section B.4.a. should be amended as recommended by the Hearing Examiner.

6. The Hearing Examiner in Findings 30 and 31 found that in paragraphs D.12.a.(3)(a) and (b) of the Rule, the inclusion of mobile homes in the real property value limit was in conflict with Minn. Stat. § 256.73, subd. 2(2). The Hearing Examiner recommended that the reference to mobile homes in these sections should be deleted. The Commissioner concurs with the Hearing Examiner in this respect, and finds that reference to mobile homes in both paragraphs D.12.a.(3)(a) and (b) should be deleted.

The Commissioner finds that this amendment by deletion is necessary and reasonable to bring the Rule into compliance with the authorizing state law.

7. In Finding 36, the Hearing Examiner found that the provision in paragraph D.12.a.(4)(e)(i) was necessary and reasonable under the applicable state statute which is clear that only automobiles with a market value of $1650 or under are exempt. The Hearing Examiner also found that the Rule is not clear as presently written regarding whether equity of the automobile is added to other personal property and recommended that the Department of Public Welfare redraft the sentence to make the provision more clear. The Commissioner finds that this section should be amended as follows:

> If the market trade-in value exceeds $1650 and none of the exceptions are applicable, the automobile's equity (when added to the value of other non-exempt personal property owned by the recipient) must be within the personal property limits for the family. . . .

The Commissioner finds that this amendment is not a substantial change, clarifies this section of the Rule, and is a

necessary and reasonable means to implement state and federal legislation.

8. In Finding 41, the Hearing Examiner found that paragraph D.12.b.(7) was unclear and further that the Department had used the word "may" to grant itself discretion without specific limitation. The Commissioner finds that redrafting this section will not be a substantial change, will clarify exactly what discretion the Agency has, and eliminate the use of the word "may." Therefore, the Commissioner finds that the section should be amended as follows:

> Income averaging shall involve use of three months of income to establish assistance for three months; actual income variations shall be ignored when income averaging is used unless a significant change requires a stop in the averaging cycle. Significant changes are: A decrease in total income (disregard, available income and grant) to less than the need standard; an increase in net income which would result in ineligibility; termination of employment; a change in net income totalling more than a $50 difference from the average in a given month, except when the difference is due to calendar fluctuations causing receipt of an extra paycheck, and except when the agency reconciles the budget at the end of the averaging period. When income is averaged or budgeted monthly, monthly equivalent income shall be established by one of the following methods: by multiplying weekly income by 4.3, biweekly income by 2.16, semi-monthly income by 2, or by using any method resulting in an accurate reflection of total monthly income.

The Commissioner finds that the above amendment is necessary and reasonable as it is consistent with but clarifies the original amendment. Further, the above amendment meets the objections of the Hearing Examiner in that it eliminates the use of the word "may" and makes agency discretion specific and limited. The Commissioner also finds the amendment is not a substantial change.

9. In Finding 67, the Hearing Examiner found that the use of the word "may" in section H.2.b.(2) was a grant of discretion to the Agency without a clear statement as to the limits of that discretion. The Commissioner agrees with the Hearing Examiner in this regard and finds that section H.2.b.(2) should be amended

as follows:

> . . . in such cases, the lost or stolen AFDC funds shall be replaced in accordance with the provisions of section F.1. of this Rule.

The Commissioner finds that this amendment is not a substantial change in that it merely references another section of the Rule which governs replacement of lost or stolen funds and clarifies the extent of the agency discretion in these situations.

10. The Hearing Examiner made several findings which included typographical errors. The Commissioner accepts these Hearing Examiner Findings but finds the errors should be corrected as follows:

A. H.E. Finding 39:

D.12.b.(2)(v) should be: D.12.b.(2)(w).

B. H.E. Finding 42:

D.12.b.(8)(b)(7) should be: D.12.b.(8)(b)(i).

C. H.E. Finding 53:

F.1.a.(i) should be: F.1.a.(1).

D. H.E. Finding 63:

H.1.a.(2)(6) should be: H.1.a.(2)(b).

11. Subsequent to the hearing, the Department discovered a number of typographical errors in the Rule. Notice of these errors was sent to the Hearing Examiner on August 28, 1978. A copy of the notice is attached hereto as Exhibit 3. The Commissioner finds that these errors should be amended as follows:

H.3.d. Age 12-14 Initial Clothing should read 193, not 192.

H.3.d. Difficulty of Care Schedule and Rates. Point 150 on daily rate should read 12.30, not 12.00.

H.3.d. Difficulty of Care Schedule and Rates. Point 155 on monthly rate should read 380, not 362.

The Commissioner finds that these corrections are insubstantial changes in the Rule, are made solely to reflect actual rates and schedules, and are necessary and reasonable for clarity.

12. Subsequent to the hearing, the Department found that in a number of sections of the Rule, the term "Department of Employment Services" had been amended to "Department of Economic Security." The change was made to conform with the statutory change in the Department's name. However, the new equivalent (for purposes of Rule 44) to "Department of Employment Services" is, in reality, the "Job Service Office of the Department of Economic Security." Therefore, the Commissioner finds that the following sections should be further amended to read " . . . Job Service Office of the Department of Economic Security. . . ."

D.10.a.(7)

D.10.d.

H.1.c.(3)

H.1.d.

This further amendment is necessary and reasonable to make the Rule clear and is not a substantial change.

13. Subsequent to the Hearing, the Department found that paragraph D.12.b.(8)(f) had been amended with regard to documentation of business expenses without making reference to D.12.b.(8)(d), thus making the Rule unclear and creating an apparent conflict. D.12.b.(8)(d), which is not presently being amended, provides that capital expenditures and depreciation are not business expenses. To this extent it limits the use of IRS Schedule "C." Therefore, the Commissioner finds that paragraph D.12.b.(8)(f) should be amended as follows:

> Income from child care in the home shall be 40% of gross receipts. The client may rebut this presumption by documenting actual business expenses, in conformance with IRS Schedule "C" and the limitations of D.12.b.(8)(d) in which case income shall be gross receipts minus actual business expenses.

The Commissioner finds that the above amendment is necessary and reasonable as it is consistent with but clarifies the original amendment. The Commissioner also finds the amendment is not a substantial change.

IT IS FURTHER ORDERED, that this Rule identified as Rule 44 of the Rules of the Minnesota Department of Public Welfare is adopted this 22 day of November, 1978, and after this day Rule 44 shall read in its entirety as set forth in the attached Exhibit 2, pursuant to the authority vested in me, and pursuant to Minn. Stat. Chapters 15 and 256.

Dated:

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

Edward J. Dirkswager, Jr.
Commissioner

DPW Amendments Proposed At Hearing

The Department has distributed and entered into evidence at the hearing on July 19, 1978 the following additional non-substantive changes to the proposed amendments to 12 M.C.A.R. 2.044.

Section A.1.	Add as the concluding sentence "Interpretation of 12 M.C.A.R. 2.044 shall be considered in conjunction with the State AFDC Policy Manual which details the State plan of operation."
Section A.5.	Delete.
Section B.1.	Delete the sentence "An applicant may be assisted, if he/she so desires, by an individual of his/her choice whome he/she has specified in writing (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such an individual(s) in contacts with the agency and when so accompanied may also be represented by them."
Section B.9.	Amend to read: "Because of the complexity of the welfare system applicants and recipients may have someone act as an advocate to ensure that their legal, civil, and human rights are upheld or have someone assist them in the application, redetermination, or fair hearing processes or in any other contacts with the agency. The applicant or recipient may be represented by an individual (who need not be a lawyer) of his/her choice whom he/she has specified in writing. Each local agency employee is to ensure the rights and benefits of all applicants and recipients.
Section B.10.	Amend to read: "The client shall be responsible for informing the agency within ten days of receipt or by the 5th of the following month whichever is earlier, of changes in circumstances and/or income. Such reports shall include new sources or amounts of income. The local agency shall use this report to determine continued eligibility or the amount of assistance for the next subsequent month unless income averaging is used.

Section D.9.c.(1)	Amend to read: "The applicant/recipient shall assign to the State his/her rights to any support from any other person. The assigned rights shall include support owed to the applicant/recipient on his/her own behalf and support owed on behalf of any other family member whose needs are included in the AFDC grant. The assignment shall not give to the State the right to agree to a reduction in the support being assigned or to a lump sum compromise or settlement of support due in the future. The maximum amount of the assigned support that shall be retained by the State shall be an amount equal to the total assistance expenditures."
Section D.12.a.(8)	Amend to read: "...any other members are eligible for Minnesota Supplemental Aid or General Assistance, the property limitations in the program involved that has the least restrictive maxima will apply to the extent allowed by law."
Section D.12.b.(1)	Delete the last sentence.
Section D.12.b.(3)(a)	Delete, and renumber ensuing sections.
Section D.12.b.(8)(h)	Delete the words "the amount deducted".
Section D.12.b.(9)(a)	Amend to read: "...two percent of market value (whichever is less) for upkeep and repairs and taxes, insurance, utilities and interest on principal payments shall be deducted".
Section D.12.b.(9)(b)	Amend to read: "...windfalls shall be unearned..."
Section E.2.a.	Amend second full sentence to read: "Major home repairs allowed as special need items shall include repairs to the home's roof, foundation, wiring, heating system, chimney, and plumbing."

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JUN 5 1978
OFFICE OF HEARING
EXAMINERS

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rule be held in the State Office Building, Room 83, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota, 55155, on July 19, 1978 commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

EDWARD J. DIRKSWAGER, JR.

Date: June 1, 1978

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JUN 16 1978
OFFICE OF HEARING
EXAMINERS

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the State Office Building, Room 83, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota, 55155, on July 19, 1978, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8118, either before the hearing or within five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner.

The Aid to Families with Dependent Children (AFDC) Program provides maintenance and medical care to families as a result of death, absence or incapacity of a parent or the unemployment of the father. The Amendments to Rule 44, if adopted, would incorporate various changes in federal and state law, court decisions and change department policy into the existing rule. Provisions of the amended rule include: the addition of a provision concerning advocacy to the application process; a provision requiring local agencies to act upon an existing application prior to considering a reapplication; a provision requiring income maintenance to refer to social services cases of child abuse; a change in residency requirements from twelve to two months and accompanying changes in service and financial responsibility; a definition of eligible relatives; a change in law allowing concurrent receipt of unemployment insurance and AFDC in the unemployed fathers program; a change in the sanctions required for failure to register and/or participate in the unemployed fathers program; an increase in real property standards from $7,500 to $15,000; a change in law allowing the exemption of an automobile up to $1650 in value; a provision for liberalizing property limitations to the least restrictive limits when some members are eligible for AFDC and other members are eligible for various assistance programs; a new method for determining tax obligation and a change in the treatment of tax refunds; a revised method for determining work expenses which allows using a percentage of gross income up to a maximum; a revised method for determining income from child care using a percent of gross income; an increase in boarder and roomer allowances; an increase in the amount deducted from rental income for upkeep and repairs; a provision requiring clients to report new sources or amounts of income within ten days; a change in the family allowance standard from family-child to a child-adult standard; a definition of special needs (formerly supplements) and the inclusion of a state standard for special needs; a provision requiring payments to be made at the address where the recipient resides unless otherwise approved by the local agency; a provision which lists and defines appealable issues; a provision defining fraud, assigning responsibility for taking and reporting actions and outlining available recovery methods; a provision allowing recovery of over payments due to agency error; an increase in the relative responsibility scale and a provision allowing recovery only after a notice; a provision clarifying contribution in relative

responsibility; a provision allowing the unemployed father to claim the WIN exemption concerning a child under six; an increase in AFDC-foster care and difficulty of care rates; a provision requiring the local agency to refer cases of minor caretakers to social services; and numerous grammatical changes.

Copies of the proposed rule are now available and one free copy may be obtained by writing to Marcia Glass, Minnesota Department of Public Welfare, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, (612) 296-1383. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 256. A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone number (612) 296-5615.

Edward J. Dirkswager

EDWARD J. DIRKSWAGER, JR.
Commissioner

Dated: June 6, 1978

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JUN 8 5 1978
OFFICE OF HEARING
EXAMINERS

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

DIANE L. HENDERSON, being duly sworn on oath deposes and says:

1) That she is an employee of the Special Services Division of the Department of Public Welfare for the State of Minnesota.

2) That on the 9 day of June, 1978, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 9 day of June, 1978, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Diane Lyn Henderson

Subscribed and sworn to before me this 14th day of June 1978.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JUN 13 1978
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

CERTIFICATE OF DELIVERY
SECRETARY
OF STATE'S
LIST

I hereby certify that the attached 183 labels, 4 sheets constitute the complete list of persons, associations, and other interested groups who as of 9:45 o'clock A .M. this 9th day of ~~July~~ June, 1978, have requested pursuant to M.S. 1976 Sec. 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

BY

Cheri S. Matteson

RECEIVED
JUN 15 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

AFFIDAVIT OF MAILING

DIANE L. HENDERSON, being first duly sworn, deposes and says:

That on the 13 day of June, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Diane L. Henderson

Subscribed and sworn to before me this 14th day of June, 1978,

Notary Public,
Margaret Holt

My Commission expires,
Sept 22, 1984

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
My Comm. Expires Sept. 22, 1984

DPW #9

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC WELFARE

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULE 44 OF THE DEPARTMENT OF PUBLIC WELFARE GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

AFFIDAVIT OF ADDITIONAL MAILING

DIANE L. HENDERSON, being first duly sworn, deposes and says:

That on the 13 day of June, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to mailing the attached Notice of Hearing to all persons and associations listed on the Secretary of State's list, she also served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid to the following agencies:

All Minnesota County Welfare Departments
All Minnesota Human Service Boards
All Minnesota Area Mental Health Boards
All Minnesota State Hospitals
All Persons on the Attached List

Diane L. Henderson

Subscribed and sworn to before me
this 14th day of June
1978.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

Additional mailings of Notice of Hearing and Fiscal Statement

Mr. Gary Miller
Chief Investigator
Office of the Anoka County Attorney
Court House
Anoka, Mn. 55303

Mr. Richard Thachy
Assistant County Attorney
Office of the Anoka County Attorney
Court House
Anoka, Mn. 55303

Mr. Craig R. Clausen
Resources Examiner
Carver County Family Service Department
Court House
Chaska, Mn. 55318

Mr. Donald M. Iverson
Resources Examiner
Clearwater County Social Services
Box X
Bagley, Mn. 56621

Mr. Louis Anderson, Supervisor
Support and Collections Division
Crow Wing County Social Services Center
County Service Building
Brainerd, Mn. 56401

Sergeant Leonard Fox
Dakota County Sheriff's Office
Hastings, Mn. 55033

Mr. Richard F. Risley
Chief Investigator
Office of the Hennepin County Attorney
C-20 Government Center
300 South Sixth Street
Minneapolis, Mn. 55487

Mrs. Kay Kunkelberger
Chief Investigator
Office of the Ramsey County Attorney
938 Minnesota Building
4th and Cedar Streets
St. Paul, Mn. 55101

Mr. Michael McCauley
Assistant County Attorney
Office of the Ramsey County Attorney
938 Minnesota Building
4th and Cedar Streets
St. Paul, Mn. 55101

Mr. A. W. Schaffer
Resources Examiner
235 6th Street
Pine City, Mn. 55063

Mr. James Murray
Collection Supervisor
Olmsted County Department of Social Services
915 3rd Ave. SE
Rochester, Mn. 55901

Mr. Peter Kasel
Assistant County Attorney
Office of the McLeod County Attorney
Court House
Glencoe, Mn. 55336

Mr. William T. Raine
Child Support Unit
Martin County Human Service Center
Court House
Fairmont, Mn. 56031

Mrs. Arlene Sknock
Resources Examiner
Morrison County Social Services
Court House
Little Falls, Mn. 56345

Mr. Thomas F. Sjogren
Assistant County Attorney
Welfare Juvenile Division
Office of the St. Louis County Attorney
Duluth, Mn. 55805

Mr. P. L. Murphy
Resources Examiner III
Washington County Welfare Department
939 W. Anderson STreet
Stillwater, Mn. 55082

Mr. Larry Oberg, Supervisor
Wright County Support and Collections
P. O. Box 227
Buffalo, Mn. 55313

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC WELFARE

RECEIVED
JUN 13 1978
OFFICE OF HEARING
EXAMINERS

IN THE MATTER OF THE PROPOSED
ADOPTION OF THE AMENDMENTS
TO RULE 44 OF THE DEPARTMENT
OF PUBLIC WELFARE GOVERNING
THE AID TO FAMILIES WITH
DEPENDENT CHILDREN PROGRAM

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of the Hearing Examiner, 1745 University Avenue, St. Paul, Minnesota 55104 and in support thereof, the Department of Public Welfare will introduce the following evidence:

Testimony will be presented which will provide additional information regarding the authority, reasonableness and necessity of various amendments.

We may call one or more of the following expert witnesses to testify:

Robert C. Baird
Assistant Commissioner
Department of Public Welfare

Barbara T. Stromer
Director, Assistance Payments Division
Department of Public Welfare

Joel Kvamme
Acting Director, Operations Review Section
Department of Public Welfare

George Hoffman
Management Analyst
Department of Public Welfare

Daniel Haley
Fraud Consultant
Department of Public Welfare

Linda Ady
Acting Supervisor, Client Eligibility Unit
Department of Public Welfare

Chuck Schultz
Director, Office of Child Support
Department of Public Welfare

James Allard
Policy Specialist, Client Eligibility Unit
Department of Public Welfare

The above-named experts may explain the provisions of the proposed rule and why these provisions are necessary and reasonable.

We intend to introduce the following documentary evidence:

Case law
Millikan vs. Califano
Johnson vs. Likins
Bolton vs. Dirkswager, Jr.

Correspondence with federal authorities
Letters: August 21, 1975
June 14, 1976
October 5, 1976
November 2, 1976
January 19, 1977
January 27, 1977
February 11, 1977
July 12, 1977
July 27, 1977
August 4, 1977
August 8, 1977
October 13, 1977
October 18, 1977
October 27, 1977
November 30, 1977
December 7, 1977
December 22, 1977
February 15, 1978

DPW Studies
"Flat Rate for Expenses of Employment: Policy Option in AFDC"
"AFDC Policy and Income from Child Care"

We will be citing the following statutes and regulations:

Minn. Stat. Ch. 15 (as amended, 1977)
" " " 256
" " " 256B
" " " 393
" " " 471
" " " 626

Laws of Minnesota for 1977, Chapter 453

Code of Federal Regulations
45 CFR 205
" " 206
" " 224
" " 232
" " 233
" " 234
" " 235
" " 250
" " 302

Public Law
93-203
94-566
95-142

DPW Rules
Rule 53
Rule 204

Robert C Baird

Robert C. Baird, Assistant Commissioner

0-23-75

FISCAL EFFECTS OF PROPOSED CHANGES TO DPW 44: MINNESOTA AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

RECEIVED
JUN 14 1978
OFFICE OF HEARING EXAMINERS

The proposed rule contains three provisions which will have the effect of increasing costs; however, a fourth provision is estimated to produce a savings which will partially offset the increased costs.

I. Legislative Changes in Grant Standards

Fiscal Year	1977	1978	1979
Total Additional Cost (non-federal)	$64,746,454	$70,141,737	$74,924,845
State Share	31,589,853	37,741,321	43,954,907
County Share	33,156,601	32,400,416	30,969,938

The increased costs in fiscal years' 1977, 1978, 1979 are primarily the result of increases in grant standards by the Legislature in the fiscal years mentioned above. The amendment is made to bring the rule into conformance with Minnesota statute.

II. Child-Adult Standard

Implementation of the Child-Adult Standard will result in an annual increase in non-federal costs of $140,000 ($84,574.20 state, $56,382.80 county).

III. Flat Rate for Work Expenses

Based on samples of AFDC clients' actual work expenses, implementation of this provision will result in an annual increase in non-federal costs of $600,785.15 ($360,471.09 state, $240,314.06 county).

IV. Tax Obligation Tables

Implementation of this provision will result in a fiscal savings of non-federal dollars of slightly less than one-half million dollars per year over the current policy.

AMENDMENTS TO DPW RULE 44:
STATEMENT OF FISCAL IMPACT

The proposed rule contains three changes in policy which have fiscal impact.

A thorough consideration of fiscal implications is gained by framing the presentation in three parts.

I. Direct fiscal impact

The effect on pay-out costs (administrative and assistance costs) had by these changes without regard to any secondary effects is addressed under this category.

II. Secondary fiscal impact

Changes in a program have impact beyond the specific area in which change occurs. Changes also enable further and future change. Current changes also can represent prepatory action to address factors known or expected to be introduced in the future.

It is such effects of these policy changes which are categorized as secondary fiscal impact.

III. Overall fiscal gain/fiscal loss

In parts I and II, the effect on pay-out costs was the measure of fiscal impact. Involved in these policy changes is elimination of many underpayments to AFDC clients. If underpayments are eliminated, pay-out costs increase. It is important that total pay-out costs be identified (direct and secondary fiscal impacts). It is also important to recognize the extent to which pay-out costs are increased by elimination of undesired underpayments. A rather comprehensive consideration of fiscal impact is attempted in this third and summary category.

I. DIRECT FISCAL IMPACT

A. Child-Adult Standard

The child-adult standard will increase annual nonfederal costs by $90,822 ($54,493 state, $36.328 county).

B. Flat Rate For Work Expense

This provision will increase annual nonfederal costs by $600,785 ($360,471 state, $240,314 county).

C. Tax Obligation Policy

This change from existing policy will reduce annual nonfederal costs by slightly less than $500,000.

The direct fiscal impact of the above changes is a net increase in nonfederal costs of $191,607.

II. SECONDARY FISCAL IMPACT

The changes in policy will have fiscally-significant effects beyond the specific areas of program operations directly addressed by these policies.

A. Reduction of Erroneous Payments

The flat rate for work expenses will save administrative time and effort. Currently, itemized accounting of work expenses involves identification, reverification (often), and computation of the amount of each expense item in each employed AFDC case. This labor-intensive process will be replaced by a simply computed standard (10% of gross income). In computing direct costs, the fiscal measure of time saved was considered.

However, time saved will be applied to other operations. The treatment of work expenses is a component of a larger process involving the reporting and budgeting of all income and expenses. Up to 16% of all income reports now received from clients are not processed timely. Some 571 erroneous assistance payments result each month from budget factors not addressed by the flat rate. The vast majority of these errors (errors due only to untimely action) should disappear as a result of the increased time made available by the flat rate.

The fiscal impact of this secondary effect of the flat rate in annual nonfederal dollars is (assuming 90% of errors are eliminated):

$82.670 (overpayments eliminated)
- 41,300 (underpayments eliminated)
$41,370 (decrease in pay-out costs)

B. Additional Savings in Administrative Costs

Implementation of both the flat rate for work expenses and the tax obligation policy would enable rather immediate introduction of measures to reduce further the costs of operation.

These measures are:

1. Simplification of the standard income report.
2. Simplification of the standard budget worksheet.
3. Generation of tables displaying precalculated net income amounts at given levels of gross income. (Tables would display result from consideration/calculation of earned income disregard, tax obligation, work expenses. Currently, this is a multistep, manual calculation.)

All three measures are in draft stage and will be implemented shortly after implementation of the changed policies.

The cost savings are significant. Some $144,342 in the nonfederal share of administrative time would be released annually.

C. Deterance of Federal Fiscal Sanctions

The U.S. Department of Health, Education and Welfare (HEW) intends

to reintroduce fiscal sanctions based on the level of AFDC error rates (ineligibility and overpayments). HEW has formulated a proposed policy, but has not published proposed regulations.

It is very important that a state confine its error rate to or below the level tolerated in a fiscal sanction policy. The combined effect of direct and secondary impacts of these policy changes should be a reduction of over 10% in the total AFDC error rate. This reduction will help ensure no loss of federal funding for Minnesota's AFDC program (or reduce the extent of any federal funding which would be lost).

It is probable that federal fiscal sanctions will be a reality within the next year. No attempt has been made to express the fiscal significance of the contribution made by these changes in state policies to precluding/offsetting fiscal sanctions, as details of the federal strategy are still tentative. Thus, in this analysis, fiscal sanctions are only mentioned, not measured.

III. OVERALL FISCAL GAIN/FISCAL LOSS

In this section, the net fiscal impact on pay-out costs of the three policy changes is summed. Also, special attention is given to the impact on current underpayments to recipients.

The total impact of these policy changes on pay-out costs in annual non-federal dollars is:

Direct impact:	+191,607
Secondary impact:	-185,712
Total impact:	+ 5,895

Thus, in terms of measurable effects, these policy changes are expected to increase pay-out costs by $ 6 thousand annually to state and local governments.

However, it is important to note that underpayments which are now committed, but would be eliminated under the proposed policies, total to $74,394 in annual nonfederal dollars. If increased annual costs which stem from elimination of underpayments were not considered, the impact of the three policy changes on pay-out costs would be decreased costs of $68,499 per annum.

JK:rc

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC WELFARE

In the Matter of the Proposed
Amendment of Rule 44 of the
Department of Public Welfare
Governing the Aid to Families
With Dependent Children Program.

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, hearings were held on July 19 and 20, 1978, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. Sec. 15.052, subd. 3, was issued to the Department of Public Welfare on October 12, 1978; and

WHEREAS, the Department of Public Welfare has now determined to adopt rules; and

WHEREAS, the Department of Public Welfare has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing.

NOW, THEREFORE, upon receipt of this Report, the Department of Public Welfare has the responsibility of submitting the complete hearing record and the rules as adopted by the Agency to the Attorney General and to publish in the State Register.

Dated: December 4th, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General, Ellen Dubuque, do hereby declare that I have examined proposed Rule 44 and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

ELLEN DUBUQUE

Dated: December 7, 1978