

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 422 TEMP

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-29-83
DATE FOR REVIEW ____
DATE DUE 10-17-83

Adopted w/a hearing ____
Adopted w/o hearing ____
Temporary rule ✓ ____

Approved 10-17-83mjc Disapproved ____ Returned to Agency ____

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State ____ Revisor approved 10/6/83 disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 9.30.83 Date ? must have updated Order Adopting

N/A Notice of Intent to Solicit Outside Opinion

____ Order for rulemaking
____ date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
9.26.83 At least ~~30~~ 20 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.29.83 At least ~~30~~/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

____ Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

____ Certificate of Board's Resolution Adopting Rules

____ Order Approving Incorporation by Reference

____ Statement of Need and Reasonableness

____ Petition for Adoption of a Rule

____ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

____ Certificate of Compliance w/Rulemaking Procedures

____ Affidavit of Mailing Notice of Submission to Attorney General

____ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MARTHA CASSERLY
Special Assistant
Attorney General

DATE: October 17, 1983

FROM : PAUL N. HECKT PNH
Special Assistant
Attorney General

PHONE: 7-3864

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12 and 13.

As per our discussion earlier today, I am enclosing my Certificate of Compliance in the above-entitled matter.

Please be advised that no comments were received during the 20-day waiting period following the service of the Notice of Intention to Adopt Temporary Rules and the Proposed Temporary Rules to persons who had registered with the Department to receive notice of all rulemaking proceedings.

This will also confirm our understanding that, with the changes we discussed today, the above-entitled rules have been given final approval by the Administration Division of the Attorney General's Office. This will also confirm that the Department of Economic Security will send four (4) copies of the rules with said changes to your office within the next couple of days.

PNH/kts

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JUDITH WEHRWEIN
Legal Assistant
Department of Administration

DATE: September 27, 1983

FROM : PAUL N. HECKT PNH
Special Assistant
Attorney General

PHONE: 7-3864

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12 and 13.

Pursuant to Minn. Stat. § 14.32 (1982), please find enclosed the proposed temporary rules of the Office of Inter-Governmental Relations, Department of Economic Security. This submission includes the following documents:

1) Temporary Rule as Proposed. (One original plus four copies, one of which is for the Revisor's Office.)

2) Order Adopting Temporary Rules. (Exhibit H-3). (Original plus two copies.)

3) Order for Publication of Temporary Rule. (Letter dated September 26, 1983, from Barbara Beerhalter to Ted Martinez, certifying that the Request for Comment was intended to serve as an Order for Publication.) (One original.)

4) Rule as Published in State Register. (One copy.)

5) Findings of Fact and Conclusions. (One original.)

6) Written comments. (One original.)

7) Certificate. (Exhibit E.) (One original.)

8) Affidavit of Mailing. (Exhibit F.) (One original.)

As we discussed in our conversations on September 26, 1983, this submission should be considered a preliminary submission, pending my delivery to you of a Certificate of Compliance. As I indicated, I cannot complete that document until October 17, 1983, which is 20 days after the date of mailing of the proposed temporary rules and the notice of intention to adopt temporary rules to persons who have registered with the Department of Economic Security to receive notice of all rulemaking proceedings. Since the agency will be operating without finally approved rules

in the interim, it is imperative that the Attorney General approve these rules as soon as possible following receipt of my Certificate of Compliance. In other words, I would appreciate it if you could review all the other documents in advance of October 17, 1983. This should put you in the position of approving the entire rules package on that date, as soon as you receive my Certificate of Compliance.

If you have any questions or comments, please call me or contact Jim Haynes(7-2809).

PNH/kts
Attachments

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: BARBARA BEERHALTER, Commissioner

DATE: 10/17/83

Attn: PAUL HECKT
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Legal Assistant

PHONE: 296-4347

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Procedure to Implememt the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12, and 13.

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. Please 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 stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
MJC/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Economic Security

Adopted Temporary Rules Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12, and 13

Temporary Rules as Adopted

8 MCAR S 4.0101 [Temporary] General assistance; grants and allowances.

A. Purpose. These rules clarify and reflect interpretation of those portions of Laws of Minnesota 1983, chapter 312, article 8 whose implementation are the sole responsibility of the Department of Economic Security or the joint responsibility of the Department of Economic Security and the Department of Public Welfare. Nothing in these rules shall preclude an individual from participating in the full range of services of the Department of Economic Security.

B. Local agency. As used in this rule "local agency" means the county welfare boards in the several counties of the state, except that it may also include any multi-county welfare boards or departments if they have been established in accordance with law.

C. Available for work. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.111, subdivision 1, an individual is not available for work ~~for the purposes of Minnesota Statutes, section 256D.111, subdivision 1,~~ with respect to any ~~week which occurs in a~~ period when the individual is a full-time student in attendance at, or on vacation from, an established post-secondary school, college, or university unless in a vocational-technical training program for economically disadvantaged persons under the Federal Job Training Partnership Act or the Work Incentive Program. Available for work means available for full-time work unless the individual's health would limit availability to less than full-time work.

D. Reasonable reporting. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.111, subdivision

1, "reasonable reporting" means the recipient ~~will~~ shall report at least monthly to the Department of Economic Security office with which the recipient is registered ~~or as provided in the recipient's~~ unless the employability development plan requires more frequent reporting. The method of reporting, whether in person, by telephone, or by mail, shall be as prescribed by the Department of Economic Security. The reporting shall be in accordance with the format provided by the Department of Economic Security.

E. Job search requirements. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.111, subdivision 1, "job search requirements" means the conditions of an employability development plan prepared by the Department of Economic Security in consultation with the recipient tailored to local labor market conditions and the recipient's skills, knowledge, and abilities, and designed to result in the recipient obtaining employment.

F. Suitable employment. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.111, subdivision 1, "suitable employment" means any job provided through the Minnesota Emergency Employment Development Act, Minnesota Statutes, sections 268.671 to 268.686 or any employment which pays at least the applicable minimum wage, meets all required health and safety standards, and which the individual is physically and mentally able to perform.

G. Unemployable. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.111, subdivision 2(k), "unemployable" describes a recipient who:

1. during the normal course of an employment application interview is considered by the Department of Economic Security to be unable to meet employer requirements for jobs which are the least competitive and the least demanding; and

2. has undergone further evaluation and assessment which confirm limitations which cannot be sufficiently corrected through available job training or other employability development programs.

A determination of unemployability shall be made independent of the existence of job openings. The determination will remain in effect until the causes of the unemployability have been removed, but in no case shall the determination of unemployable remain in effect more than one year.

H. Noncompliance. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.111, subdivision 4, "noncompliance" means that a recipient has failed to comply with the requirements of Minnesota Statutes, section 256D.111, subdivision 1. In the absence of good cause, a determination of noncompliance ~~may~~ shall be established with respect to one of the following:

1. failure to be available for work;

2. failure to comply with reasonable reporting or job search requirements;

3. failure to accept an offer of suitable employment; or

4. voluntary termination from a Minnesota Emergency Employment Development job or other suitable employment.

A final determination of failure to comply with the requirements in Minnesota Statutes, section 256D.111, subdivision 1, shall be established in accordance with notice, hearing, and appeal rights and procedures applicable to the Work Incentive Program pursuant to Minnesota Statutes, section 256.736, subdivision 4, clause (4).

Hearings on the determination of noncompliance must be conducted in accordance with the procedures in the Department of Economic Security, Hearing Rules of Practice, Governing Administrative Hearings and Appeals Procedures and Requirements under the Work Incentive Program (revised April 1983), which are hereby incorporated by reference.

Following a final determination of noncompliance, the commissioner of the Department of Economic Security shall certify in writing to the local agency that a recipient has failed to comply with the requirements of Minnesota Statutes, section 256D.111, subdivision 1. A copy of the written certification shall be given to the recipient.

Once a final determination of noncompliance has been made, the commissioner of the Department of Economic Security shall terminate the recipient's cash allowance. A recipient who has been determined noncompliant may requalify for the cash allowance following a period of disqualification pursuant to 12 MCAR S 2.05504 J. and referral by the local agency to the Department of Economic Security pursuant to 12 MCAR S 2.05504 B. An individual who has been sanctioned from another grant program will not be eligible for the cash allowance until conditions of that sanction have been satisfied pursuant to 12 MCAR S 2.05505.

I. Not able to successfully perform job. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 256D.112, clause 1, an individual will be considered "not able to successfully perform a job" available through the jobs program if:

1. Following placement in a job reasonably compatible with the individual's skill level and using the same corrective steps as the employer would normally use with other employees in order to improve performance, the employer determines that the individual is unable to carry out tasks required in the job obtained through the Minnesota Emergency Employment Development program; or

2. The individual presents medical evidence from a licensed medical authority that the individual is temporarily or permanently unable to carry out the tasks required in the job obtained through the Minnesota Emergency Employment Development program.

J. Unlikely to secure job. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 268.80, an individual will be considered "unlikely to secure a job" through the jobs program because of ~~conditions including, but not limited to,~~ the following conditions:

1. The individual has inadequate preparation or job experience for any of the jobs available through the Minnesota Emergency Employment Development program; or

2. Minnesota Emergency Employment Development jobs are unavailable in locations which, for a one-way trip under normal commuting circumstances, are accessible to the individual within one hour, and the individual elects to withdraw from the program for this reason.

K. Application process. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 268.80, "application process" means the procedure through which an individual makes a formal request to the commissioner of the Department of Economic Security for services under the Minnesota Emergency Employment Development jobs program.

Persons found eligible for the Minnesota Emergency Employment Development program must be referred to an employment administrator for program services. The referral must be in writing and include the address of the employment administrator to which the applicant is being referred.

If a person contests a finding by the Department of Economic Security of the ineligibility for the cash allowance or the amount of the allowance, the person's application will be referred to an official designated by the commissioner of economic security for a redetermination of eligibility. If the individual is then found eligible, payment of the cash allowance provided under Minnesota Statutes, section 268.81, if any, shall be computed to cover the time period starting with the date of application to the Department of Economic Security, or if the applicant was not eligible on that date, the subsequent date on which the applicant first became eligible.

Appeals resulting from a redetermination of eligibility will be handled in accordance with procedures under Minnesota Statutes, section ~~256D.10~~ 256.045.

L. Allowance. ~~As used in~~ For the purpose of implementing Minnesota Statutes, section 268.81, "allowance" means the cash amount paid by the commissioner of the Department of Economic Security to individuals satisfying the eligibility standards in Minnesota Statutes, section 256D.01 to 256D.21, who are accepted for participation in the Minnesota Emergency Employment

Development jobs program.

The commissioner of the Department of Economic Security shall pay allowances to persons referred by the local agency in accordance with the assistance standards established by the commissioner of public welfare ~~for the general assistance program~~ pursuant to 12 MCAR S 2.05503 A. The initial allowance from the commissioner of the Department of Economic Security ~~will~~ shall be paid upon the expiration of the period covered by the one month grant from the local agency. The payments ~~must~~ shall be made within ten working days following the ~~recipient's acceptance into the Minnesota Emergency Employment Development program~~ date of receipt of the application for the cash allowance by the Department of Economic Security provided that in accordance with the foregoing sentence, in no case will the payment be made before the expiration date of the one month grant from the local agency. Subsequent payments will be made at one month intervals.

The Department of Economic Security ~~must~~ shall make eligibility determinations pursuant to the standards of Minnesota Statutes, sections 256D.01 to 256D.21, for individuals applying to the Department of Economic Security for services under the Minnesota Emergency Employment Development program who were not referred by the local agency. Eligibility for the allowance shall be made within three working days following receipt of the application. Persons satisfying the eligibility standards set forth in Minnesota Statutes, sections 256D.01 to 256D.21 and accepted for participation in the Minnesota Emergency Employment Development program ~~must~~ shall be paid a cash allowance by the commissioner of the Department of Economic Security. The initial payment shall be made within ten working days following receipt of the application or, if the applicant is not eligible on that date, within ten working days following the date that the applicant first becomes eligible. The allowance ~~will~~ shall be paid in accordance with the assistance standards established by the commissioner of public welfare ~~for the general assistance program~~ pursuant to 12 MCAR S 2.05503 A.

and shall not exceed those amounts.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 24 1983 4:07 P.M.
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
October 17 1983
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
~~SPECIAL ASSISTANT ATTORNEY GENERAL~~
Legal Assistant

Exhibit H-3

STATE OF MINNESOTA

DEPARTMENT OF Economic Security

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing The procedure to implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12 and 13.

ORDER ADOPTING TEMPORARY RULES

The above-entitled matter was published in the State Register on August 29, 1983, as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5. After affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Procedures to implement the Work Requirements of Laws 1983, Chapter 312, Article 8, are adopted this 30 day of September, 1983, Section 10-13 pursuant to authority vested in me [the Board] by Minnesota Statutes section 268.021.

STATE OF MINNESOTA

Barbara Beerhalter

Barbara Beerhalter

COMMISSIONER OF Economic Security

Minnesota Department of Economic Security

390 North Robert Street ● St. Paul, Minnesota 55101

September 26, 1983

COMMISSIONER'S OFFICE

Phone: (612) 296-3711
Teletypewriter Number: 612/297-3944

Dear Interested Party:

As a registrant with the Department of Economic Security to receive notice of any rule making proceedings, we are sending you a notice of intent to adopt temporary rules. We are also including a copy of the proposed rules.

Pursuant to Minnesota Statutes, Section 14.30, you have until October 17, 1983 to submit written comments on the proposed rules.

Please send your written comments to:

James L. Haynes
Office of Intergovernmental and Community Relations
Minnesota Department of Economic Security
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Sincerely,

Barbara Beerhalter

Barbara Beerhalter
Commissioner

Department of Economic Security

Proposed Temporary Rules Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12, and 13.

Request for Public Comment

Notice is hereby given that the Minnesota Department of Economic Security has proposed the following temporary rules for the purpose of implementing the work requirements of The General Assistance Grants and Allowances program pursuant to Laws 1983, Chapter 312, Article 8. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rules for 20 days immediately following publication of this material in the State Register by writing to:

James L. Haynes
Office of Intergovernmental and Community Relations
Minnesota Department of Economic Security
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Authority for the adoption of these rules is contained in Laws 1983, Chapter 312, Article 8, Sections 10, 12, and 13, and Minnesota Statutes, Section 268.021. The proposed temporary rules may be revised on the basis of the comments received. Any written material received will become a part of the record in the final adoption of the temporary rules. As required by the Administrative Procedure Act, these temporary rules will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

August 8, 1983

Barbara Beerhalter
Commissioner

In the Matter of the Proposed Adoption
of the Rules of the State of Minnesota
Governing the procedure to implement the
Work requirements of Laws 1983, Chapter 312,
Article 8, Sections 10, 11, 12, and 13.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA

COUNTY OF RAMSEY

James Haynes, being first duly sworn deposes and says:

That on the 26 day of September, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Temporary Rules by depositing in the State of Minnesota Central Mail System for the United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department of Economic Security. A copy of the proposed temporary rules was also included.

James Haynes
Department of Economic Security

Subscribed and sworn to before me
this 26 day of September, 1983.

L E Kelly
Notary Public Ramsey County
My Commission expires Aug 12, 1984

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption
of Rules of the State of Minnesota
Governing the procedure to implement the
Work Requirements of Laws 1983, Chapter 312,
Article 8, Sections 10, 11, 12, and 13.

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 14.30, that their names be placed on file with and maintained by the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department of Economic Security is accurate and complete as of 5:00 P.M., this 26 day of September, 1983.

Mary Ellen Kennen

Department of Economic Security

Minnesota Department of Economic Security

390 North Robert Street ● St. Paul, Minnesota 55101

COMMISSIONER'S OFFICE

Phone: 296-3711
Teletypewriter Number: 612/297-3944

September 26, 1983

HAND-DELIVERED

Mr. Ted Martinez
Special Assistant Attorney General
Office of the Attorney General
Administration Division
204 Administration Building
50 Sherburne Ave
St. Paul, Minnesota 55155

Re: Proposed Temporary Rules Governing the Procedure to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12 and 13.

Dear Mr. Martinez:

This is to certify that the attached Request for Comment was also intended to serve as an Order for Publication within the meaning 1 MCAR § 1.204(D).

Respectfully submitted,

Barbara Beerhalter

BARBARA BEERHALTER, Commissioner
Department of Economic Security

Attach.

Department of Economic Security

Proposed Temporary Rules Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12, and 13.

Request for Public Comment

Notice is hereby given that the Minnesota Department of Economic Security has proposed the following temporary rules for the purpose of implementing the work requirements of The General Assistance Grants and Allowances program pursuant to Laws 1983, Chapter 312, Article 8. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rules for 20 days immediately following publication of this material in the State Register by writing to:

James L. Haynes
Office of Intergovernmental and Community Relations
Minnesota Department of Economic Security
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Authority for the adoption of these rules is contained in Laws 1983, Chapter 312, Article 8, Sections 10, 12, and 13, and Minnesota Statutes, Section 268.021. The proposed temporary rules may be revised on the basis of the comments received. Any written material received will become a part of the record in the final adoption of the temporary rules. As required by the Administrative Procedure Act, these temporary rules will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

August 8, 1983

Barbara Beerhalter
Commissioner

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Economic Security

Proposed Temporary Rule Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12, and 13

Request for Public Comment

Notice is hereby given that the Minnesota Department of Economic Security has proposed the following temporary rule for the purpose of implementing the work requirements of The General Assistance Grants and Allowances program pursuant to Laws 1983, Chapter 312, Article 8. All interested persons are hereby afforded the opportunity to submit written comments on the proposed temporary rule for 20 days immediately following publication of this material in the *State Register* by writing to:

James L. Haynes
Office of Intergovernmental and Community Relations
Minnesota Department of Economic Security
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Authority for the adoption of this rule is contained in Laws of 1983, chapter 312, article 8, sections 10, 12, and 13, and Minnesota Statutes § 268.021. The proposed temporary rule may be revised on the basis of the comments received. Any written material received will become a part of the record in the final adoption of the temporary rule. As required by the Administrative Procedure Act, this temporary rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

August 8, 1983

Barbara Beerhalter
Commissioner

Temporary Rule as Proposed (all new material)

8 MCAR § 4.0101 [Temporary] General assistance; grants and allowances.

A. Purpose. These rules clarify and reflect interpretation of those portions of Laws of Minnesota 1983, chapter 312, article 8 whose implementation are the sole responsibility of the Department of Economic Security or the joint responsibility of the Department of Economic Security and the Department of Public Welfare. Nothing in these rules shall preclude an individual from participating in the full range of services of the Department of Economic Security.

B. Local agency. As used in this rule "local agency" means the county welfare boards in the several counties of the state, except that it may also include any multi-county welfare boards or departments if they have been established in accordance with law.

C. Available for work. As used in Minnesota Statutes, section 256D.111, subdivision 1, an individual is not available for work for the purposes of Minnesota Statutes, section 256D.111, subdivision 1, with respect to any week which occurs in a period

when the individual is a full-time student in attendance at, or on vacation from, an established school, college, or university unless in a vocational-technical training program for economically disadvantaged persons under the Federal Job Training Partnership Act or the Work Incentive Program. Available for work means available for full-time work unless the individual's health would limit availability to less than full-time work.

D. Reasonable reporting. As used in Minnesota Statutes, section 256D.111, subdivision 1, "reasonable reporting" means the recipient will report at least monthly to the Department of Economic Security office with which the recipient is registered or as provided in the recipient's employability development plan. The method of reporting, whether in person, by telephone, or by mail, shall be as prescribed by the Department of Economic Security. The reporting shall be in accordance with the format provided by the Department of Economic Security.

E. Job search requirements. As used in Minnesota Statutes, section 256D.111, subdivision 1, "job search requirements" means the conditions of an employability development plan prepared by the Department of Economic Security in consultation with the recipient tailored to local labor market conditions and the recipient's skills, knowledge, and abilities, and designed to result in the recipient obtaining employment.

F. Suitable employment. As used in Minnesota Statutes, section 256D.111, subdivision 1, "suitable employment" means any employment which pays at least the applicable minimum wage, meets all required health and safety standards, and which the individual is physically and mentally able to perform.

G. Unemployable. As used in Minnesota Statutes, section 256D.111, subdivision 2(k), "unemployable" describes a recipient who:

1. during the normal course of an employment application interview is considered by the Department of Economic Security to be unable to meet employer requirements for jobs which are the least competitive and the least demanding; and

2. further evaluation and assessment confirm limitations which cannot be sufficiently corrected through available job training or other employability development programs.

A determination of unemployability shall be made independent of the existence of job openings. The determination will remain in effect until the causes of the unemployability have been removed, but in no case shall the determination of unemployable remain in effect more than one year.

H. Noncompliance. As used in Minnesota Statutes, section 256D.111, subdivision 4, "noncompliance" means that a recipient has failed to comply with the requirements of Minnesota Statutes, section 256D.111, subdivision 1. In the absence of good cause, a determination of noncompliance may be established with respect to the following:

1. failure to be available for work;

2. failure to comply with reasonable reporting or job search requirements;

3. failure to accept an offer of suitable employment; or

4. voluntary termination from a Minnesota Emergency Employment Development job or other suitable employment.

A final determination of failure to comply with the requirements in Minnesota Statutes, section 256D.111, subdivision 1, shall be established in accordance with notice, hearing, and appeal rights and procedures applicable to the Work Incentive Program pursuant to Minnesota Statutes, section 256.736, subdivision 4, clause (4).

Hearings on the determination of noncompliance must be conducted in accordance with the procedures in the Department of Economic Security, Hearing Rules of Practice, Governing Administrative Hearings and Appeals Procedures and Requirements under the Work Incentive Program (revised April 1983).

Following a final determination of noncompliance, the commissioner of the Department of Economic Security shall certify in writing to the local agency that a recipient has failed to comply with the requirements of Minnesota Statutes, section 256D.111, subdivision 1.

Once a final determination of noncompliance has been made, the commissioner of the Department of Economic Security shall terminate the recipient's cash allowance. ✳

I. Not able to successfully perform job. As used in Minnesota Statutes, section 256D.112, clause 1, an individual will be considered "not able to successfully perform a job" available through the jobs program if:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

1. Following placement in a job reasonably compatible with the individual's skill level and using the same corrective steps as the employer would normally use with other employees in order to improve performance, the employer determines that the individual is unable to carry out tasks required in the job obtained through the Minnesota Emergency Employment Development program; or

2. The individual presents medical evidence from a licensed medical authority that the individual is temporarily or permanently unable to carry out the tasks required in the job obtained through the Minnesota Emergency Employment Development program.

J. Unlikely to secure job. As used in Minnesota Statutes, section 268.80, an individual will be considered "unlikely to secure a job" through the jobs program because of conditions including, but not limited to, the following:

1. The individual has inadequate preparation or job experience for the jobs available through the Minnesota Emergency Employment Development program; or

2. Minnesota Emergency Employment Development jobs are unavailable in locations which, for a one-way trip under normal commuting circumstances, are accessible to the individual within one hour.

K. Application process. As used in Minnesota Statutes, section 268.80, "application process" means the procedure through which an individual makes a formal request to the commissioner of the Department of Economic Security for services under the Minnesota Emergency Employment Development jobs program.

Persons found eligible for the Minnesota Emergency Employment Development program must be referred to an employment administrator for program services. The referral must be in writing and include the address of the employment administrator to which the applicant is being referred.

If a person contests a finding by the Department of Economic Security of the ineligibility for the cash allowance or the amount of the allowance, the person's application will be referred to an official designated by the commissioner of economic security for a redetermination of eligibility. If the individual is then found eligible, payment of the cash allowance provided under Minnesota Statutes, section 268.81, if any, shall be computed to cover the time period starting with the date of application to the Department of Economic Security, or if the applicant was not eligible on that date, the subsequent date on which the applicant first became eligible.

Appeals resulting from a redetermination of eligibility will be handled in accordance with procedures under Minnesota Statutes, section 256D.10.

L. Allowance. As used in Minnesota Statutes, section 268.81, "allowance" means the cash amount paid by the commissioner of the Department of Economic Security to individuals satisfying the eligibility standards in Minnesota Statutes, section 256D.01 to 256D.21, who are accepted for participation in the Minnesota Emergency Employment Development jobs program.

The commissioner of the Department of Economic Security shall pay allowances to persons referred by the local agency in accordance with the assistance standards established by the commissioner of public welfare for the general assistance program. The initial allowance from the commissioner of the Department of Economic Security will be paid upon the expiration of the period covered by the one month grant from the local agency. The payments must be made within ten working days following the recipient's acceptance into the Minnesota Emergency Employment Development program provided that in accordance with the foregoing sentence, in no case will the payment be made before the expiration date of the one month grant from the local agency. Subsequent payments will be made at one month intervals.

The Department of Economic Security must make eligibility determinations pursuant to the standards of Minnesota Statutes, sections 256D.01 to 256D.21, for individuals applying to the Department of Economic Security for services under the Minnesota Emergency Employment Development program who were not referred by the local agency. Persons satisfying the eligibility standards set forth in Minnesota Statutes, sections 256D.01 to 256D.21 and accepted for participation in the Minnesota Emergency Employment Development program must be paid a cash allowance by the commissioner of the Department of Economic Security. The allowance will be paid in accordance with the assistance standards established by the commissioner of public welfare for the general assistance program.

Department of Economic Security

Proposed Temporary Rule Governing the Definition of "Economically Disadvantaged" in Laws 1983, chapter 312, article 6, section 2

Notice of Intent to Adopt Temporary Rule

Notice is hereby given that the State of Minnesota proposes to adopt the above-entitled temporary rule pursuant to Minnesota Statutes § 268.021.

STATE OF MINNESOTA
DEPARTMENT OF ECONOMIC SECURITY

IN THE MATTER OF THE PROPOSED ADOPTION OF TEMPORARY RULES GOVERNING THE PROCEDURES TO IMPLEMENT THE WORK REQUIREMENTS OF LAWS 1983, CHAPTER 312, ARTICLE 8, SECTIONS 10, 11, 12 and 13

FINDINGS OF FACT AND CONCLUSIONS

The Commissioner published notice of proposed temporary rules on the above entitled matter in the State Register on August 29, 1983. After affording all interested and affected persons an opportunity to submit comments for 20 days after the notice and reviewing and considering the comments, I find the following:

1. In 8MCAR §4.0101 C. (temporary) of the proposed rule (page 1, lines 26 and 27) the Department included language that suggests that the "availability for work" would be determined on a weekly basis. The intent of the language is to indicate that an individual is not available for work during any period when an individual is a full time student, with the exceptions specified. The Jobs Now Coalition suggested the deletion of "weeks which occurs in a" on lines 26 and 27. The Commissioner agrees that the suggested change makes the rule clearer. p. 1

2. In 8MCAR §4.0101 C. (temporary) of the proposed rule (page 1, line 28) the Department included "established school" in the list of institutions wherein full time attendance would define one as not available for work. One commentor, the Jobs Now Coalition, suggested that "school" be replaced with "post-secondary school" because an adult GA recipient who is 18 years old may still be in high school. Under the original language such an individual could be found noncompliant pursuant to 8 MCAR §4.0101 H. 1. Since this is contrary to the intent of the law, the Commissioner agreed with the commentor and inserted "post-secondary" before school. p. 1

3. In 8MCAR §4.0101 D. (temporary) of the proposed rule (page 2, lines 3 and 4) the Hennepin County Bureau of Social Services commented that it is not clear whether the recipient's employability development plan would result in the client reporting more or less frequently than once per month. The Commissioner

agrees that the language is unclear. The confusing language is deleted and replaced with "unless the employability development plan requires more frequent reporting".

4. In 8 MCAR §4.0101 F. (temporary) of the proposed rules (page 2, line 16) the Jobs Now Coalition comments that jobs provided through the MEED Act are suitable employment. The Commissioner agrees to expand the definition of "suitable employment" by adding "job provided through the Minnesota Emergency Employment Development Act, Minnesota Statutes, Section 268.60 to 268.77 or any".

5. In MCAR §4.0101 F. (temporary) of the proposed rules (page 2, line 29) the Hennepin County Bureau of Social Services comments that the definition of "unemployable" should be expanded to include individuals who are unable to find or retain work because of advanced age. This category of individuals is exempted from mandatory work requirements pursuant to Section 256D.111 subdivision 2 (k). The Commissioner agrees that inclusion of this category of individuals in the definition of "unemployable" is consistent with both the Statute and the Department of Public Welfare proposed temporary rule 12MCAR §2.05504 L.8.

not amended

6. In 8MCAR § 4.0101 H (temporary) of the proposed rule (page 3, line 26) the Jobs Now Coalition commented that the recipient should be given a written certification of noncompliance. The Commissioner agrees with the comment and adds a sentence "A copy of the written certification shall be given to the recipient."

line 30

7. In 8MCAR §4.0101 H. (temporary) of the proposed rule (page 3, lines 27-29), the original language describing the termination of the cash allowance payment makes no provisions for the recipient to requalify for the cash allowance. In a comment from the Department of Public Welfare it was suggested that the same standards for requalification for the cash allowance should apply as for individuals requalifying for GA benefits pursuant to 12 MCAR §2.05504 J. The Commissioner agrees with the comment and adds a sentence, "A recipient who has been determined noncompliant may requalify for the cash allowance following a period of disqualification pursuant to 12 MCAR §2.05504 J. and referral by the local agency to the Department of Economic Security pursuant to 12 MCAR §2.05504 B." The Department of Public Welfare comment also says that a person who has been sanctioned from another grant program should not be eligible for the cash allowance until the conditions of the sanction have been satisfied pursuant to 12MCAR 2.05505. The Commissioner agreed with the comment and added appropriate language.

8. In 8MCAR §4.0101 J. (temporary) of the proposed rule (page 4, lines 17 - 20) the original language suggests that if a MEED job is not available in locations that are reached by a person within one hour under normal commuting circumstances, the person is unlikely to secure a job. The Jobs Now Coalition commented that such language is not appropriate because some MEED participants might elect to undertake a long drive or relocate to get to a job. The Commissioner agrees with that comment and adds a clause "and the individual elects to withdraw from the program for this reason".

9. In 8MCAR §4.0101 K. (temporary) of the proposed rule (page 5, line 9), the original language incorrectly cited the appeals provision as Section 256D.10. In a comment from the Department of Public Welfare it was pointed out that the correct citation is Section 256.045. The Commissioner agrees with the comment and made those changes.

10. In 8MCAR §4.0101 K. (temporary) of the proposed rule (page 5, line 9), the original language incorrectly cited the assistance standards. This was identified in a comment from the Department of Public Welfare. The Commissioner agrees with the comment. The phrase "for the general assistance program" was deleted and the words "pursuant to 12MCAR §2.05503 A." added.

11. In 8MCAR §4.0101 K. (temporary) of the proposed rule (page 6, line 7) the original language incorrectly cited the assistance standards. In a comment from the Department of Public Welfare the proper citation is given as 12MCAR §2.05503 A. The Commissioner agrees with the comment and adds the appropriate language for the citation. An additional clause "and shall not exceed those amounts" is added for clarity.

Following a comment from the Department of Public Welfare that the proposed temporary rule should clarify the sharing of information, the Commissioner has added a new paragraph 8MCAR §4.0101 M. The new paragraph follows:

12. M. Data Sharing. Data on individuals collected, maintained, or used by the Department of Economic Security, the employment administrators, the coordinator of the MEED program, and the state and local welfare agencies pursuant to Laws, 1983, Chapter 312, Article 8, may be shared among these agencies for the purpose of monitoring the eligibility of data subjects for assistance programs, or for any employment or training program administered by those agencies.

13. As a result of the Department's review of the proposed temporary rules and the comments received, the Department has made several minor changes to correct problems of grammar, spelling or lack of clarity of language. These changes did not alter the substance of the rules. The changes are as follows:

    8 MCAR §4.0101 D. (page 2, line 1)
    8 MCAR §4.0101 H. (page 3, line 21)
    8 MCAR §4.0101 J. (page 4, line 15)
    8 MCAR §4.0101 L. (page 4, lines 24 and 31)
    8 MCAR §4.0101 L. (page 6, lines 3, and 5)

14. All comments concerning the proposed temporary rules received within the period allowed by law were considered by the Department.

15. The changes made to the proposed temporary rule are not substantive changes.

CONCLUSIONS

I hereby conclude that:

1. The Commissioner has statutory authority to promulgate these rules.
2. Proper notice of the Department's intent to adopt the proposed above-captioned temporary rules was given as required by law, and all interested persons were afforded an opportunity to submit comments on the proposed temporary rules.
3. All modifications made to the proposed temporary rule are supported by views submitted to the Department, and are not substantial changes.
4. The temporary rules, as modified, are necessary and reasonable.
5. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.
6. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.
7. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

Dated

STATE OF MINNESOTA

Barbara Beerhalter

BARBARA BEERHALTER
COMMISSIONER
DEPARTMENT OF ECONOMIC SECURITY

In the Matter of the Proposed Adoption of Temporary Rules Governing the Procedures to Implement the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12 and 13.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Paul N. Heckt, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Paul N. Heckt

Special Assistant
Attorney General

State of Minnesota
Department of Economic Security

Dated: October 17, 1983.