

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1089

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-8-84 (10-26-84)
DATE FOR REVIEW
DATE DUE 10-22-84

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

Approved (as subsequently approved 11-5-84) 10-30-84 MC Disapproved 10/22/84 Returned to Agency

Resubmitted 10/26/84 Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 10/31/84 Revisor approved 10/25. disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 10.8.84 (10.26.84) Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavits of Mailing Notice or rulemaking
8.29.84 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.3.84 At least ~~30~~/20 25 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

✓ Comments to Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT Human Services

Office Memorandum

TO: Martha J. Casserly
Special Assistant Attorney General

DATE: October 26, 1984

FROM: Dorothy Mosso
Rulemaking Unit

PHONE: 296-1545

SUBJECT: IN THE MATTER OF THE PROPOSED ADOPTION OF THE EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN

Attached, please find the emergency rules governing the Aid to Families with Dependent Children program. Based on your recommendations of October 22, 1984, the rules have been modified. Also attached is the supplemental Order Adopting signed by Commissioner Levine, the Affidavit of Mailing Notice of Submission to the Attorney General, and the Statement of Compliance with Rulemaking Procedures. Please do not hesitate to contact me if you have any further questions.

To: Marty.
Date: 10/18/84
Re: DHS — AFDC.

Rules as Adopted

p. 7, line 32. 0071 subp. 4
p. 10, line 24. 0081 G.
Both these sections include the phrase "include but are not limited to" without standards for what else might be included.

p. 10, line 4. 0081 E (3)
The first clause of this section reads as if "of" should be inserted after "as"

p. 24, line 21. 0339 subp. 3
"efforts" appears superfluous or out of place or in need of additional language, such as "demonstrate that despite efforts ..."

2 challenges - Sub 4)
- add'l burden
- discretionary
- not supported

9500.0339 Subp 3

proposed -1. where pymt of shelter appears beyond ability of applicant to pay, may condition rqmt that applicant move to afford hsing

2. if rqmt imposed, local ag must identify 1 or more hses in community w/ result in 20% reduction

Adopted 1 - same

2. if applicant demonstrates unable to secure habitable hsing on own, local ag cannot rqe move unless 1 or more hsing w/ 20% reduction

before	after
1. ~~con~~ circumstances/condition	1. Circumstances/condition
2. ag must specify (5)	2. if appl demon unable, ag cannot rqe move unless (5)
1. if beyond ability ... may condition ¶ to move	1. if beyond ability ..... may condition ¶ to move
2. if impose, (5) must be met	2. if ¶ demonstrates can't do on own, then ag can't impose unless .....

habitable -- upto code
avail
20%
cost effective
community

non rule

(A.) not ~~apply~~ approve / policy /
public
they do have implications to guide

.0351 / sup 2 D

cannot statement of law wh/ will govern people decision but doesn't have force + effect of law

does not say policy
~~& mandatory~~ times

can you include

if want to advise

(B) ? / law is clear is law reas
↳ AG should look at reasonableness
max min period
↳ DoRB if areas of give assurances

what is scope

is it no arrears pd unless indep

made down to cove policy
is it ~~policy~~ maybe a but made it incr

(a) substantial △ (c) what is demonstrate effort "vague"

(b) supported by record

(3) "demonstrate efforts" .... not specific as to what involves

"unable" .. argmt that if π is physically unable

ag is rqed to do nonthing anything

no qmt if it must

"habitat housing" doesn't mean 30% etc unless community

(how can prove something is unhabitable "

how determine whether hsing is habitable

nothing protects applicant from "demonstrat

habitable 5'1. is enough

"can demonstrate" why △? can it

is different → "specify" demonstrate

DP recess

Shifts burden

Patty

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Leonard Levine, Commissioner
Department of Human Services

DATE: October 30, 1984

ATTN: John Kirwin

FROM : Special Assistant Attorney General
Martha J. Casserly MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Emergency Rules Governing Aid to Families with Dependent Children Chapter 9500, Parts 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330.

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.

MJC:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Human Services

Adopted Emergency Rules Governing AFDC

Emergency Rules as Adopted

9500.0031 [Emergency] STATE AND FEDERAL COOPERATION.

Notwithstanding any provisions of parts 9500.0010 to 9500.0370, administration of the AFDC program in parts 9500.0051 [Emergency]; 9500.0071 [Emergency]; 9500.0081 [Emergency]; 9500.0091 [Emergency]; 9500.0111 [Emergency]; 9500.0331 to 9500.0339 [Emergency]; and 9500.0351 to 9500.0353 [Emergency] shall be subject to changes in federal or state law.

9500.0051 [Emergency] CLIENT RESPONSIBILITIES.

Subpart 1. **General information.** Applicants and recipients of AFDC shall provide all information necessary to determine initial and ongoing eligibility. This shall include information requested at the time of application, at the time a redetermination or household report form is due, and if the case is randomly selected for a quality control review. This responsibility also requires a timely report of any change in income and household circumstances which affect eligibility.

Subp. 2. **Applicant responsibility.** All applicants for assistance shall provide information necessary to determine initial eligibility. Applicants are required to verify or authorize the local agency to verify those statements on the application identified by these parts as necessary to the determination of initial eligibility. An applicant shall promptly report any changes in circumstances which may affect eligibility while his or her application is pending a determination of eligibility. The failure of an applicant to promptly provide necessary information may result in a delay in receiving initial benefits or a denial of his or her application.

Subp. 3. **Recipient responsibility.** All recipients of assistance shall provide a regular report concerning his or her household income and other circumstances of eligibility. A

recipient shall report changes in income and other circumstances which may affect their eligibility within ten days of their occurrence or within eight calendar days of the end of a reporting period, whichever occurs earlier. When the eighth calendar day of the month falls on a weekend or holiday, the first working day of the local agency that follows the eighth calendar day shall be established as the date on which this report is due. All recipients shall receive a monthly household report form except that quarterly household report forms shall be received when the United States Secretary of Health and Human Services waives the monthly reporting requirement or ~~provides~~ allows alternative direction for certain specified categories of recipients.

Subp. 4. **Report form.** A recipient's responsibility for completion of the required report form requires that the recipient provide a completed report form by the eighth calendar day of the month following the period covered by the form. ~~The caretaker shall sign and date the report form~~ A report is complete if it is signed and dated by the caretaker no earlier than the last day of the reporting period, ~~answer~~ answers all questions necessary to determine payment eligibility, and ~~include~~ includes verification of earned income. A delay in the submission of the completed form may cause a delay in receiving AFDC payment in the month following the month in which the report was due. A delay without good cause in providing a completed form must result in the following penalties:

A. if the completed form is received by the local agency after the eighth calendar day of the month following the period covered by the form, ~~the delay in providing the completed form may also cause a delay in receiving AFDC payment in the month following the month in which the report was due;~~ and if the delayed report included earned income, the recipient shall lose the work expense, dependent care expense, and work incentive disregards in the payment month corresponding to the last month covered by the household report form; and

B. if the completed form is received by the local

agency on or after the first day of the month following the month in which the report is due, assistance shall be terminated; if further assistance is required, a reapplication shall be required and payment eligibility shall be prorated from the date of reapplication or the date all other eligibility factors are met, whichever is later; and if reapplication is made during the initial month of termination, the client shall also be subject to the loss of all earned income disregards.

Subp. 5. **Qualifications.** The following qualifications must apply to the penalties in subpart 4:

A. If a client has earned income and submits an incomplete household report form on or prior to the eighth calendar day of the month in which the report is due, the client shall be granted an additional eight calendar days from the date that the local agency remailed the form to complete those portions related to earned income identified as incomplete. If received by the local agency on or before the eighth day, the penalties for loss of earned income disregards shall not apply.

B. If a client provides an incomplete household report form prior to the last working day of the month on which a ten-day notice of termination can be issued for failure to provide a completed household report form, the local agency shall return the incomplete form with the incomplete portions identified on or before the ten-day notice deadline or that termination notice shall be regarded as invalid and reapplication and proration of benefits cannot be imposed by the local agency.

C. Good cause exemptions from application of either penalty shall be granted if the following factors, singly or in combination, caused the recipient to miss the deadlines for providing a completed form:

(1) the local agency failed to accurately identify those items that were incomplete;

(2) the receipt of the ~~form was unduly delayed within the postal system;~~ forms postmarked the day prior to the deadline, but which were received by the local agency two or

more agency working days after they were postmarked, shall be presumed to be unduly delayed;

(3) the employer delayed completion of employment verification;

(4) the local agency failed to provide needed assistance to the recipient in the completion of the form;

(5) the recipient did not receive a report for completion because of agency error or because of a reported change of address; or

(6) illness, physical or mental incapacity, or some other circumstances that could not have been avoided by the recipient through the exercise of reasonable care caused the recipient to be unable to provide a completed form in a timely manner; and these factors, singly or in combination, caused the recipient to miss the deadlines for providing a completed form.

Subp. 6. Changes in status. Recipients of assistance shall report all changes which produce a change in AFDC eligibility within ten days of their occurrence if those changes produce a change in AFDC eligibility and the occurrence of these changes precedes or by the eighth day following the last day of the report period in which such change occurred by ten or more calendar days, whichever is earlier. These reports shall be made in writing or in person. Failure to report these changes within ten calendar days may result in an overpayment. If the local agency could have reduced or terminated payment for one or more payment months if the delay had not occurred, a determination shall be made if a proper notice could have been issued on the day that the change occurred and each month's overpayment subsequent to that notice shall be regarded as a client error overpayment. The changes which must be reported within ten days include:

A. initial employment;

B. initial receipt of unearned income;

C. any significant, recurring change in net earned or unearned income;

D. receipt of a lump sum;

E. resources exceeding AFDC limits;

F. change in the physical or mental status of an incapacitated parent;

G. change in the status of an unemployed parent;

H. change in the status of the absent parent, change in the household composition to include departures from and returns to the home of AFDC eligible members, or change in custody;

I. marriage or divorce of an assistance group member;

J. death of a parent or child;

K. change in address or residence for the assistance unit;

L. sale, purchase, or other transfer of property; and

M. change in school attendance for a member of the AFDC assistance unit.

All changes in circumstances which require reporting within ten days shall also be reported on the household report form for the period in which those changes occurred.

Subp. 7. **Cooperation with quality control review.** Recipients shall cooperate with the state agency's quality control review process by providing information necessary for verifying eligibility for and the amount of AFDC. Cooperation in the quality control review process is a requirement for continued eligibility and includes:

A. agreeing to a personal interview with the quality control staff person at a mutually acceptable time and location; and

B. assisting the quality control staff person in securing verifications necessary to establish program and payment eligibility for the month of review, provided verifications do not duplicate what is already in the case record and do not cause the recipient to incur an expense in securing those verifications.

Failure to cooperate with the quality control review process without good cause will result in termination of assistance. A person shall have good cause under this subpart

if the person's refusal to cooperate stems from a diagnosis of mental illness or a physical disability or illness of such severity and duration that it precludes them from participating within the period the quality control unit has allotted to complete their review process.

9500.0071 [Emergency] CONTINUED ABSENCE OF A PARENT.

Subpart 1. **Definitions.** The definitions contained in items A ~~through~~ to I apply to this part and have the meanings given them.

A. "Absent parent" means ~~an otherwise eligible~~ a child's natural or adoptive father or mother who does not live at the child's home.

B. "Care" means regular and ongoing planning and provision of services to a child, such as feeding, dressing, and cleaning.

C. "Custodian" means the person who has the physical custody of the child at any particular time.

D. "Guidance" means regular and ongoing planning and provision of services to the child, such as supervision, training, discipline, and help with school work on a regular basis.

E. "Home" means the primary place of residence used by an individual as a the base for day-to-day living and does not include residences used primarily to establish AFDC eligibility.

F. "Joint legal custody" means a court order under which both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

G. "Joint physical custody" means a court order under which the routine daily care and control of the child is shared between both parents.

H. "Support" means financial assistance paid by the absent parent on behalf of a child which is equal to or greater than the children standard of the AFDC family allowance.

I. "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, and National Oceanographic and Atmosphere Administration.

Subp. 2. ~~Eligibility~~ Continued absence. Continued absence of a parent shall exist when the parent resides out of the home of the child and the absence interrupts or terminates the absent parent's support, care, or guidance of the child. To qualify for AFDC, a child must meet all other eligibility conditions.

There is no minimum time period used to establish absence of a parent. The absence may be permanent or temporary, and a temporary absence may be of a known or indefinite duration.

Two exceptions shall apply when eligibility based on parental absence is determined:

A. Eligibility based on the absence of a parent from the home shall not exist when the parent is absent solely by reason of active duty in the uniformed services of the United States.

B. Eligibility shall exist when a parent is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday. No provision may be made for the offender's needs in computing the amount of the assistance payment.

Subp. 3. Visitation. Regular or sporadic visitation by an absent parent shall not constitute the provision of care or guidance.

When the frequency of the absent parent's presence in the child's home causes the local agency to question whether absence exists, the issue shall be resolved by determining whether the absent parent ~~maintains~~ lives in a home apart from the home of the child.

Subp. 4. Evidence of a home. Evidence of a home includes, but is not limited to, where a person keeps the majority of personal belongings; the amount of time spent there as opposed to other residences; the address given to a current employer; the address given for current school registration; the mailing

address for government benefits which require mailing to the current address; the address recently used to apply for credit; the address for service of legal documents; the address the individual has given to monthly creditors or utility companies as a current address; vehicle registration, driver license, or post office address which has been changed since the absence; and the frequency, type, and length of absences. Each item of evidence shall be evaluated together with other items in determining the home. No item shall be considered conclusive.

Subp. 5. **Shared custody.** This part applies to both formal and informal custody arrangements.

The language of a court order that specifies joint legal or physical custody shall not, in and of itself, preclude a determination that a parent is absent. Absence shall be determined based on the actual facts of the absence and according to this part.

A. In situations where the physical custody of a child alternates between parents from month to month, each parent may be eligible only for the months the child's home is with that parent.

B. In situations where the child spends time in each of the parent's homes within a month, the child's home shall be considered that home in which the majority of the child's time is spent.

When this time is exactly equal within a month, or if the parents alternately live in the child's home within a month, the child's home shall be with that parent who is applying for assistance, unless the child's needs for the full month have already been met through the provision of AFDC to the other parent for that month.

Subp. 6. **Special circumstances.** A child shall be considered deprived of the support, care, or guidance of a parent if:

A. paternity has not been acknowledged or adjudicated;

B. a child has been adopted by a single parent; or

C. a child is born from artificial insemination to an

unmarried mother.

Subp. 7. **Substitute parent.** The determination of whether a child has been deprived of parental care or support by reason of the absence of a parent from the child's home shall only be made in relation to a child's natural or adoptive parent. Under this requirement, the inclusion in the home of a "substitute parent" or any other such individual is not an acceptable basis for a finding of ineligibility.

Subp. 8. **Return of parent to child's home.** When the client states that financial need exists, eligibility shall continue at the same payment level for one month following the month in which the absent parent returns home. During this period, the local agency shall inform the family about other bases of eligibility for AFDC and offer an application.

9500.0081 [Emergency] ELIGIBILITY FACTOR: UNEMPLOYED PARENT (AFDC-UP).

An unemployed parent is a parent:

A. whose family is in need;

B. whose unemployment is not the result of participation in a labor dispute;

C. who works less than 100 hours per month or exceeds that standard for a particular month if work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for two prior months and is expected to be under the standard for the next month;

D. who has not quit or refused a bona fide offer of employment or training for employment for good cause in the last 30 days;

E. who has not been fully employed during the 30-day period preceding the receipt of AFDC-UP;

(1) when employment is less than 100 hours in the month employment is lost but was 100 or more hours in the preceding month, the last day of the preceding month shall be considered the last day of full employment; or

(2) when employment is 100 hours or more in the

month employment is lost, the day employment is lost shall be considered the last day of full employment; and

(3) ~~upon completion of the 30-day waiting period,~~ eligibility shall be established as the day of application, ~~the day~~ 30 days following the last day of full employment, or the day all other eligibility factors are met, whichever is later;

F. who is currently registered with WIN or the local job service office of the Department of Economic Security and is available for training and/or employment or qualifies for an exemption from registration with WIN; when exemption from WIN registration exists, the requirement for current registration shall be met by the other parent unless that parent also qualifies for exemption from registration;

G. who has:

(1) worked at least six quarters during any 13 calendar quarter period ending within one year prior to the quarter of application for AFDC-UP; earned the equivalent of not less than $50 per quarter during this period; under this subitem, compensation for this work may be in United States dollars or in a foreign currency which purchases goods and services equal to or exceeding $50 in United States currency, and may be in the form of cash compensation or in the form of goods and/or services of a fair market value equivalent to $50; alternatives to cash compensation include, but are not limited to, the fair market value in the United States of food, shelter, personal items, and medical care that was provided; and that work performed shall include the labor or services rendered, to an employer or through self-employment that was necessary to secure that compensation; that the administering authority shall ordinarily verify such employment by contacting the individuals for whom the work was performed; and that when such verification is not readily available, the administering authority shall accept a personal affidavit from the applicant as a satisfactory substitute for such verification; that cooperation in the WIN program or a community work experience program shall qualify as a quarter of work under this subitem; or

(2) received or could have qualified for unemployment compensation during the year prior to application for AFDC-UP, or could have qualified if the work performed had been covered by unemployment compensation; and

H. who has earned the greater amount of income during the 24 months immediately preceding the month of application for AFDC-UP; when there are no earnings or when earnings are identical for each parent, the applicants may designate the principal wage earner and that designation may not be transferred upon determination of eligibility.

9500.0091 [Emergency] STEPPARENT.

Subpart 1. Income. A stepparent is required to support his or her spouse and his or her stepchildren who reside with the stepparent. If a stepparent and natural parent do not have sufficient income to meet the needs of their common and separate children, AFDC eligibility shall exist for the natural parent and his or her separate children when all other eligibility factors are met. When two parents have a common child and at least one separate child residing with them, they may elect to seek eligibility on the basis of unemployed parent or incapacitated parent or they may elect to have the needs of the natural parents and his or her separate children met on the basis of continued absence. The local agency shall explain this option and its effects when the option is available. When there are no common children who reside with the parent and stepparent, eligibility for AFDC shall only exist on a stepparent basis.

Stepparent eligibility shall exist for:

A. A single household grant that includes the needs of the natural parent and his or her separate children. This eligibility shall be available when the natural parent and the stepparent do not have common children who reside with them; when they do have common children who reside with them and elect not to receive or do not qualify for AFDC-UP or AFDC-IP eligibility; or they only have separate children in residence and elect to have one parent and his or her children excluded

from the AFDC grant.

B. A combined household grant that includes the needs of both parents and their separate children who reside with them. This eligibility shall be available when each parent has separate children who reside with them; any common children who reside with them are excluded from the combined stepparent grant.

Subp. 2. **Eligibility for a single household grant.** If the combined net income of the natural parent and the stepparent does not equal the combined need for both parents and their common and separate children who reside with them, as defined by AFDC payment standards, and all other eligibility factors are met, AFDC eligibility exists on the basis of need for both the natural parent and his or her separate children. A gross income test shall be applied which includes the gross income of the natural parent and the net income of the stepparent.

A. To determine the net income available to the natural parent and his or her separate children, the deductions made from the stepparent's income shall be those available to AFDC recipients with the exception of the work incentive disregard and dependent care deductions. Additionally the following deductions shall be allowed to determine the income that is available:

(1) expenses paid in the budget month by the stepparent to persons who reside out of the home and are or could be dependents for federal tax purposes;

(2) alimony or child support for persons who reside out of the home when those payments are paid during the budget month by the stepparent;

(3) an allocation for the need of the stepparent at the level of the second adult AFDC payment standard; and

(4) an allocation to the need of any common and separate children of the stepparent if they are under the age of 21; if, they reside with the natural parent and the stepparent, and if they have insufficient personal income to meet their need.

The amount of this allocation to the common and separate children of the stepparent equals the difference between the

AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

B. The net income of the stepparent, after application of these deductions, shall be considered available to the natural parent and his or her separate children in determining AFDC eligibility and payment level. If the gross income test is met, the deductions from the income of the natural parent shall include:

(1) allowances at the AFDC level for work expenses and child care costs;

(2) an allocation to the stepparent up to the second adult AFDC payment standard to cover the portion of the stepparent's need that is unmet after allocating the net income of the stepparent to his or her own need; and

(3) an allocation to the need of any common children and separate children of the natural parent who are not included in the AFDC assistance unit if they:

(a) are under the age of 21;

(b) reside with the natural parent and the stepparent;

(c) have insufficient income to meet their needs; and

(d) have any portion of their need unmet after allocating the net income of the stepparent; only the unmet portion of their need is met by allocating income from the natural parent.

The amount of this allocation to the common and separate children of the natural parent that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

(4) If eligibility exists, a deduction shall be allowed for the work incentive disregard when eligibility for this disregard is still available; the amount of the work

incentive disregard is deducted from the balance of the gross employment income of the natural parent after deductions for the work expense and the child care allowance have been made.

Subp. 3. **Eligibility for a combined household grant.** When a husband and wife each have separate children who reside with them and for whom they apply for AFDC, the needs of both parents and the separate children shall be combined into one assistance unit, and they shall receive a single grant with either parent as the payee. Eligibility for AFDC is determined by combining the gross income of the husband and wife and applying the gross income test. If eligibility exists, deductions are allowed for:

A. a work expense against the separate gross employment incomes of the husband and wife;

B. child care expenses against the separate remaining employment income of whichever spouse's employment requires the incurrence of that expense; if both spouses incur the expense, the total expense is divided equally and deducted equally from each spouse's gross employment income;

C. an allocation for the need of any common children and separate children not included in the AFDC assistance unit, except that allocation to the need of separate children shall only be made from the income of the natural parent of those separate children, if they:

(1) are under the age of 21;

(2) reside with their parent and stepparent; and

(3) have insufficient income to meet their needs.

The amount of the allocation to the common children and the separate children of the husband and wife that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

D. If eligibility exists, a deduction shall be allowed for the work incentive disregard for each parent, when eligibility for this deduction is still available; the amount of the work incentive disregard is deducted from the balance of

employment income of each parent after deductions for the work expense and dependent care have been made; this allowance is then applied to the incomes of the parents that qualify for it before allocations are deducted from his or her income.

9500.0111 [Emergency] EMPLOYMENT EXPENSE DEDUCTIONS AND DISREGARDS.

Subpart 1. Self-employment expense deductions. The following expenses shall be deducted from self-employment income to determine gross earned income:

A. All business expenses with the following exceptions:

(1) purchase of capital equipment and payment on the principal of loans for capital assets;

(2) depreciation;

(3) amortization;

(4) the wholesale cost of items purchased, processed, or manufactured which are being carried as unsold inventory (a deduction for the cost of those items shall be allowed at the time they are sold);

(5) transportation costs which exceed 13 cents a mile unless higher reasonable expenses in excess of those costs have been documented, and costs for mileage to and from the place of employment;

(6) salaries and other employment deductions made for members of the AFDC assistance unit or residents of the AFDC household for whom the employer is legally responsible;

(7) monthly expenses in excess of $69 for each roomer, monthly expenses in excess of $84 for each boarder, and monthly expenses in excess of $153 for a roomer-boarder;

(8) annual expenses in excess of $101 or two percent of market value, whichever is less, as a deduction for upkeep and repair against rental income;

(9) any expenses not admitted by the Internal Revenue Service for self-employment income or, if admitted, that have the effect of subsidizing business endeavors of recipients with AFDC funds.

B. Business income which is escrowed in a month for future employee FICA and employee tax withholding.

C. A 60 percent flat deduction from the gross receipts for child care performed in the recipient's home; a client may elect to have actual child care expenses, as defined in subpart 1, item A, deducted.

Subp. 2. **Employment disregards.** A deduction shall be made for all allowed disregards from the amount of gross earned income. Gross earned income is all self-employment income less any allowable business expenses as outlined in subpart 1 and all salaried income before application of mandatory and voluntary deductions, except that self-employment losses shall not be used to offset salaried earnings. The following disregards shall be deducted from gross earned income:

A. A $75 monthly work expense, whether employment is part or full time.

B. A monthly allowance for dependent care costs actually paid, not to exceed $160 per dependent when employment equals or exceeds 30 hours per week or not to exceed $159 per dependent when employment is less than 30 hours per week.

C. Subject to AFDC federal program limitations, an allowance for a $30 and one-third work incentive for each eligible recipient. This disregard shall apply against the balance of gross earned income which remains after deductions for the work expense and dependent care have been allowed.

9500.0331 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency].

Subp. 2. **Applicant.** "Applicant" means an individual who submits a written request for emergency assistance.

Subp. 3. **Available resources.** "Available resources" means those assets owned by the applicant that are liquid or can be liquidated within the time necessary to avoid or promptly alleviate destitution, together with all other sources of income or of public funds for which the applicant is eligible and

contributions from financially responsible relatives living in the home.

Subp. 4. **Balloon payment.** "Balloon payment" means an amount of money required to be paid on a specific date according to the terms of a contract for deed or mortgage loan agreement and that exceeds the monthly contract for deed or mortgage payment.

Subp. 5. **Basic need items.** "Basic need items" means subsistence items necessary for life and health, including food, safe drinking water, habitable shelter, clothing, medical care; the companion items necessary to assure these needs, including heating fuel, electricity, essential household appliances and furnishings, caregiving services to children and incapacitated adults, transportation necessary for medical care or employment, equipment or other expenses crucial for employment; and other goods or services necessary to protect a child's health and safety.

Subp. 6. **Caretaker.** "Caretaker" means a relative listed in Minnesota Statutes, section 256.12, subdivision 14, who lives with and is responsible for the care and well being of a child under the age of 21 years.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the department of human services or his designee.

Subp. 8. **Cost effective.** "Cost effective" refers to a plan that is economical in terms of the goods or services received for the money spent.

Subp. 9. **Department.** "Department" means the Department of Human Services.

Subp. 10. **Destitution.** "Destitution" means the condition of a child who lacks a basic need item and who is without available resources to provide for that need.

Subp. 11. **Emergency.** "Emergency" means a situation or set of circumstances that causes or threatens to cause destitution.

Subp. 12. **Emergency assistance.** "Emergency assistance" means financial aid and services to, or on behalf of, a child to avoid or resolve conditions of destitution.

Subp. 13. **Family budgeting services.** "Family budgeting services" means a range of services directed toward developing a family's capacity to use its available income and resources to assure continued financial stability and provide itself with basic need items.

Subp. 14. **Habitable shelter.** "Habitable shelter" means housing that meets the health and safety standards provided under local ordinance, applicable state or federal law, and any specific criteria established by a physician as necessary to the life and health of the child.

Subp. 15. **Local agency.** "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes as the agency responsible for the administration of the emergency assistance program.

Subp. 16. **Program.** "Program" means the emergency assistance program established under Minnesota Statutes, section 256.871, Emergency Assistance to Needy Families with Children Under Age 21.

Subp. 17. **Protective payee.** "Protective payee" means a third party who receives funds on behalf of the applicant and bears responsibility for seeing that the applicant's basic needs are provided for out of those funds.

Subp. 18. **Request for assistance.** "Request for assistance" means a communication to a local agency by mail, telephone, or in person through which a person relates circumstances that indicate the potential destitution of a child. A person need not specifically request "emergency assistance."

Subp. 19. **Threatened destitution.** "Threatened destitution" means a time at which, unless an action is taken, destitution will result.

Subp. 20. **Threatened eviction.** "Threatened eviction" means any legal document or written communication that has <u>or will have</u> the effect of requiring a child to vacate the home.

Subp. 21. **Utility budget period.** "Utility budget period" means a continuous 12-month period preceding the month of application, or a shorter period if the applicant has received

utility service for less than 12 months. Unpaid utility bills covering a period of time in excess of 12 months shall be divided into two or more utility budget periods.

Subp. 22. **Utility costs.** "Utility costs" means charges incurred by an applicant for the provision of electrical, gas, heating fuel, water, and sanitary service.

9500.0332 [Emergency] APPLICABILITY.

Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] govern the administration of the emergency assistance provided through the aid to families with dependent children program. Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] define circumstances under which aid or services shall be provided, conditions of eligibility for that aid or those services, and the conditions under which local welfare agencies and the department shall operate the program.

9500.0333 [Emergency] STATEMENT OF PURPOSE.

The purposes of the emergency assistance program are to avoid and to prevent the destitution of children. It does so by providing payments to resolve an emergency and by providing services that prevent recurrence of destitution.

9500.0334 [Emergency] APPLICATION PROCESS.

Subpart 1. **Agency brochure.** The local agency shall provide by hand or by mail an application form and an informational brochure <u>provided by the department</u> to each person who makes a request for assistance. The form and brochure shall be made available on the same day the request for assistance is received by the local agency. The brochure shall describe eligibility criteria for the program, ~~list~~ <u>the limitations on the frequency with which emergency assistance can be issued,</u> the emergencies for which payment of program funds may be authorized, and contain the following information:

"If a child in your family is threatened by an emergency, you may be eligible for the AFDC-emergency assistance program. If you want the local agency to

help you avoid an emergency, you must make a written application ~~with~~ which the local agency must accept. No action will be taken regarding your situation unless you file the application form. If you file an application, a decision will be made promptly by the local agency and a written explanation of that decision will be mailed or delivered to you within one week of the date you filed the application form or you will be informed in writing within that time of the reason for the delay. You may appeal that decision to the Department of Human Services.

Any information given to you concerning your eligibility for emergency assistance before the agency has had the opportunity to review a written application form may not be accurate."

Subp. 2. **Application.** Any person may apply for emergency assistance. At the time of the ~~application~~ request for assistance, the local agency shall explain to the applicant the program's eligibility requirements, the limitation of annual eligibility, the extent of the program's coverage, the benefits provided by other programs provided by the local agency or known to the local agency to be advantageous to the applicant's circumstances, and the rights and responsibilities of applicants for and recipients of emergency assistance.

Subp. 3. **Forms.** The application shall be made on forms prescribed by the commissioner and shall be prepared and signed by the applicant or a representative of the applicant, if that representative has been authorized in writing by the applicant or a court to act in the applicant's behalf and if that representative has knowledge of the applicant's financial circumstances.

Subp. 4. **Interview.** A personal interview shall be conducted after receipt of the application for emergency assistance. If the ~~applicant indicates~~ applicant's circumstances indicate destitution is imminent or already present, the agency shall offer to conduct the personal

interview on the same day that the application is received. In all other cases, the personal interview shall be conducted within a time that does not inhibit the local agency's ability to provide assistance in time to prevent destitution.

Subp. 5. **Processing application.** Applications shall be processed in a manner that considers the immediacy and severity of the destitution. The local agency shall assist applicants in completing the verification process in time to provide an eligible applicant with emergency assistance to prevent destitution. Verification shall be made promptly and by telephone whenever possible. When verification is not available from a third party, a client affidavit may be accepted. Each local agency shall designate at least one staff person to authorize immediate issuance of emergency assistance. Issuance shall not be delayed for the purpose of securing formal action from the county board.

Subp. 6. **Notice of eligibility.** The local agency shall provide written notice on a form prescribed by the commissioner to all applicants with regard to their eligibility for emergency assistance. The local agency's determination shall be mailed or delivered to the applicant within one week of the date the application was filed unless the applicant is informed within that time and in writing of the reason for the delay.

9500.0335 [Emergency] ELIGIBILITY.

Emergency assistance shall be granted to a family that meets the following conditions:

A. the family has a child under the age of 21 years who is, or within six months prior to application has been, living with a caretaker;

B. the family has an emergency;

C. the family's available resources are not sufficient to resolve the emergency; and

D. the emergency did not arise because a caretaker or child over the age of 16 years refused employment or training for employment without good cause as defined by the Work Incentive Program.

9500.0336 [Emergency] COVERED EMERGENCIES.

In accordance with parts ~~9500.0338~~ 9500.0331 to 9500.0339 [Emergency] and ~~9500.0339~~ 9500.0351 to 9500.0353 [Emergency], payments and services ~~may~~ shall be authorized when a child lacks, has lost, or is threatened with the loss of basic need items. The causes which produce need include evictions, condemnations, cancellation of a contract for deed, mortgage foreclosure; other relocations; return from residential treatment, long term hospitalization, incarceration or other separations of the child from the caretaker; civil disorders or strikes; fires, floods, storms, or other natural disasters; and loss or theft of funds. Payments and services may be authorized when the eligible household lacks, has lost, or is threatened with the loss of:

A. shelter;

B. shelter deposit;

C. moving expenses;

D. storage costs necessary to recover personal property;

E. necessary home furnishings;

F. necessary appliances, heating or cooking facilities;

G. ability to pay for necessary home repairs;

H. utility service;

I. utility hookup;

J. clothing;

K. food;

L. safe drinking water;

M. necessary medical care;

N. necessary dependent care;

O. transportation necessary for medical care or employment;

P. equipment or other expenses crucial to employment; and

Q. other items necessary to the health and safety of a child.

9500.0337 [Emergency] FAMILY BUDGETING SERVICES.

Subpart 1. **Provision of family budgeting services.** Each local agency shall provide a full range of family budgeting services as defined in part 9500.0331 [Emergency], subpart 13. These services shall be provided by experts in the field and shall be made available, without cost, to persons who apply for emergency assistance. The local agency may ~~use administrative emergency assistance funds to either~~ provide these services through its own qualified staff or may contract with outside experts ~~to provide family budgeting services or provide these services itself. Agency initiated vendor or protective payments may be used if recommended under a family budgeting plan.~~ Costs incurred for family budgeting services shall be considered administrative and program expenditures respectively for purposes of securing state and federal reimbursement.

Subp. 2. **Vendor and protective payments.** The local agency may not condition issuance of emergency assistance on the use of protective or vendor payments, but shall provide these services at the request of an eligible applicant or a recipient. If, subsequent to the decision of the agency regarding the application for emergency assistance, the local agency wishes to use agency-initiated vendor or protective payments, these payments must be established pursuant to Code of Federal Regulations, title 45, section 234.60.

9500.0338 [Emergency] ISSUANCE OF ASSISTANCE.

Subpart 1. **Payments.** Emergency assistance payments may be made as direct cash payments to the applicant, vendor payments, vouchers, or protective payee payments. Where assistance is requested for employment-related expenses under part 9500.0336 [Emergency], issuance is limited to an interest-free loan of up to $100.

Subp. 2. **Services.** Services available under the emergency assistance program include negotiation with creditors, family budgeting services, protective payee arrangements, and coordination of agency financial assistance programs with public

or private resources available in the community.

9500.0339 [Emergency] LIMITATIONS.

Subpart 1. **30-day period.** Emergency assistance shall be granted only for one consecutive 30-day period in one consecutive 12-month period. Needs that accrue prior to the 30-day period may be met only when necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. Assistance may be extended for up to 30 days beyond the initial 30-day period of eligibility if authorized during the initial period.

Subp. 2. **Lost checks.** Emergency assistance shall not be available when uncashed AFDC checks are lost or stolen. In these cases, the lost or stolen AFDC checks shall be replaced in accordance with part 9500.0240, subpart 1.

Subp. 3. **Applicant move.** Where continued payment of shelter and utility expenses appear beyond the ability of the applicant to pay from anticipated income, the local agency may condition the issuance of emergency assistance on the requirement that the applicant move to more affordable housing as a method of preventing destitution of the child. If this requirement is imposed, the local agency must specify one or more habitable locations which are available in the community which will result in at least a 20 percent reduction in monthly expense and which shall be cost effective for the applicant. The local agency shall issue emergency assistance for expenses directly related to the relocation. In considering relocation, the local agency shall evaluate the effect of the requirement to move in terms of the size of the proposed housing and the disruption to the child which could result from the move.

9500.0351 [Emergency] MORTGAGE ARREARAGES AND BALLOON PAYMENTS.

Subpart 1. **Balloon payments.** Balloon payments shall be made up to a maximum issuance of six times the AFDC family allowance standard for the size and composition of the applying family. These payments shall be made only if the applicant has been refused refinancing through a bank or other lending

institution and the amount payable, combined with any payments made by the applicant, will be accepted by the creditor as full payment of the balloon and will avoid the threatened destitution.

Subp. 2. Arrearages. Mortgage and contract for deed arrearages shall be paid if those arrearages have caused or threaten to cause a foreclosure or cancellation action to be brought against the applicant subject to part 9500.0339 [Emergency], subpart 3. In addition, the following limitations shall become effective November 1, 1984, and apply to the issuance of emergency assistance for these applicants:

A. If the applicant has paid less than 30 percent of his ~~total~~ gross income, in the 12 months preceding application, for house payments to include payments for principal and interest on mortgage or contract for deed payments; property taxes and special assessments (less any homestead credit paid to the applicant) homeowner's insurance, and balloon payments, no eligibility for emergency assistance payments for arrearages shall exist. ~~If the applicant has received emergency assistance payments against a prior foreclosure action, eligibility shall not exist if the applicant has paid less than 40 percent of his total income in the 12 months preceding application for house payments.~~

B. If the applicant has paid 60 percent or more of his total gross income, in the 12 months preceding application, for house payments he shall be eligible for full payment of any arrearage that exists at the time of foreclosure action. ~~If the applicant has received emergency assistance payments against a prior foreclosure action and has paid 70 percent or more of his total income, in the 12 months preceding application, he shall be eligible for full payment of any arrearage that exists at the time of the foreclosure action.~~

C. If the applicant has paid at least 30 percent but less than 60 percent of his gross income, in the 12 months preceding application, for house payments~~, or if the applicant has received emergency assistance against a prior foreclosure action and has paid at least 40 percent but less than 70 percent~~

~~of his income, in the 12 months preceding application~~, he will be eligible for emergency assistance payment according to the following:

% OF TOTAL HOUSE PAYMENT DUE IN THE PRECEDING 12 MONTHS THAT WAS PAID BY THE APPLICANT	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY EMERGENCY ASSISTANCE	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY THE APPLICANT
less than 20%	50%	50%
at least 20% but less than 30%	60%	40%
at least 30% but less than 40%	70%	30%
at least 40% but less than 50%	80%	20%
at least 50% but less than 60%	90%	10%
60% or more	100%	0%

~~D. Each applicant unit that has been threatened with foreclosure action may use emergency assistance to cover a maximum of two times. Emergency assistance issued prior to the effective date of this part shall not be used for the purposes of this item.~~

~~E.~~ No payment against an arrearage shall be paid unless there is a confirmation from the foreclosing party that the emergency assistance payment in combination with any payment of the applicant will provide reasonable assurance that a subsequent foreclosure action will not force the applicant out of his home within the next 12 months.

~~F.~~ E. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of this part, items A, C, and D shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. **Homestead requirement.** These arrearages and balloon payments may only be paid on a home occupied, maintained, and ~~solely~~ owned by the applicant family as its primary residence.

Subp. 4. **Arrearages and balloon payments due.** When both

monthly payments are in arrears and a balloon payment is due within the next 12 months, the value of the balloon payment shall be considered in addition to the total monthly payment arrearage when assessing the applicant family's financial ability to avoid destitution at the time the balloon payment becomes due.

Subp. 5. **Applicant move.** When the applicant is found ineligible for balloon payments or arrearages under the emergency assistance program and a move is required, the local agency shall assist the family in relocating according to the provision in part 9500.0339, subpart 3.

9500.0352 [Emergency] UTILITIES.

Subpart 1. **Conditions of payment.** Subject to the limitations in this part, payment shall be made when an otherwise eligible family has had a termination or is threatened with a termination in electric, gas, or heating fuel service.

A. No payment shall be made from emergency assistance funds unless the local agency has received confirmation from the utility provider that payment in the amount specified as owed by the applicant satisfies the full amount of the applicant's debt to the utility, including any delinquent accounts of the applicant, and only if the total funds available from the local agency combined with the applicant's resources, either paid from present funds or obligated by the applicant under a repayment plan with the utility, will be sufficient to prevent termination of utility service.

B. Except as provided in subpart 2, item D, payment shall not be made to persons who:

~~(1) Effective November 1, 1984, and thereafter~~ paid less than four percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

~~(2) Effective November 1, 1985, and thereafter paid less than six percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.~~

~~(3) Effective November 1, 1986, and thereafter paid less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.~~

Subp. 2. **Amounts of payment.** The amount paid through emergency assistance shall depend upon the percent of gross income paid toward utility costs and the percent of the total utility cost paid prior to the issuance of emergency assistance, as follows:

A. Payments Payment of the balance owed to the utility shall be made in full when:

~~(1) Effective November 1, 1984, and thereafter,~~ the applicant paid no less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

~~(2) Effective November 1, 1985, and thereafter, the applicant paid no less than 12 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.~~

~~(3) Effective November 1, 1986, and thereafter, the applicant paid no less than 16 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.~~

B. Except as provided in subpart 2, item D, payments made from emergency assistance on the balance owed to the utility shall be limited to the amounts under Table 1 when:

~~(1) Effective November 1, 1984, and thereafter,~~ the applicant paid at least four percent and less than eight percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

~~(2) Effective November 1, 1985, and thereafter, the applicant paid at least six percent and less than 12 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.~~

~~(3) Effective November 1, 1986, and thereafter,~~

~~the applicant paid at least eight percent and less than 16 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.~~

C. If the applicant paid the amounts indicated in subpart 2, item B, above, the local agency shall issue emergency assistance according to the following:

Table 1: Amounts paid by emergency assistance

% of total utility consumption cost paid by applicant prior to issuance of emergency assistance	% of the unpaid balance which will be paid by emergency assistance	% of the unpaid balance which must be paid by the applicant
less than 10%	70%	30%
at least 10% and less than 20%	76%	24%
at least 20% and less than 30%	82%	18%
at least 30% and less than 40%	88%	12%
at least 40% and less than 50%	94%	6%
50% or more	100%	0%

D. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of subpart 1, item B, and subpart 2, item B, shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. **Negotiations with utility providers.** The local agency shall negotiate on behalf of the applicant eligible for reduced payments under subpart 2, item B, if the utility provider does not ordinarily offer repayment plans to its customers or refuses to offer a repayment plan to the applicant. If the utility provider refuses to accept the amount the agency may pay under subpart 2, item B, together with establishment of a repayment plan for the additional money owed on the balance by the applicant, the local agency shall pay nothing to the utility provider and shall assist the family in seeking ~~an alternate provider or making~~ alternate arrangements.

Subp. 4. **Termination of water or sanitary service.** The local agency shall pay the full amount of the unpaid balance due the utility provider.

Subp. 5. **Threat to child's life.** The restrictions contained in this part shall not be construed to prevent the use of emergency assistance where the local agency is required to take immediate and temporary action necessary to protect the life of a child.

9500.0353 [Emergency] APPEALS.

Subpart 1. **Right to appeal.** Each applicant shall have the right to appeal any action or failure to act with reasonable promptness on the part of the local agency relating to the application for emergency assistance. The local agency shall inform the applicant in writing of the right to appeal and the procedure to follow in filing an appeal. Within two working days after receiving a written request for an appeal, the local agency shall forward the written request and an agency appeal summary to the appeals office of the Department of Human Services.

Subp. 2. **Hearings.** The appeals office shall schedule a hearing on the earliest available date and, following the hearing, shall promptly forward the decision of the referee to the commissioner.

Subp. 3. **Decisions of the commissioner.** The commissioner shall issue a written order within five working days of receipt of the referee's decision, shall immediately provide the parties with the outcome of his decision by telephone, and shall mail the written decision to the parties no later than the second working day following the date of the commissioner's decision.

APPLICATION. Parts 9500.0031 to 9500.0353 [Emergency] shall be read together with permanent rules parts 9500.0010 to 9500.0370, and where these parts are in conflict, the emergency rules shall prevail until their expiration date.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 31 1984
Joan Anderson
Secretary of State
9:15AM

APPROVED AS TO FORM AND LEGALITY
October 30 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, AND 9500.0330.

ORDER ADOPTING EMERGENCY RULES

The above-entitled matter was published in the State Register on September 3, 1984, as a proposed emergency rule pursuant to Minnesota Statutes, sections 14.29 - 14.36.

Interested and affected persons were afforded an opportunity to submit written data and views within 25 days of the publication date. The written data and views were reviewed and considered, and the adopted emergency rules were submitted to the Attorney General/Administration on October 8, 1984. The Attorney General/Administration notified the Department on October 22, 1984 that the rules, as submitted, were not approved based on the following:

1. Minn. Rules pt. 9500.0339, subp. 3 as adopted is substantially different from the Rule as Proposed in violation of Minn. Stat. 14.05, subd.2 (1982), and in addition, is void for vagueness.

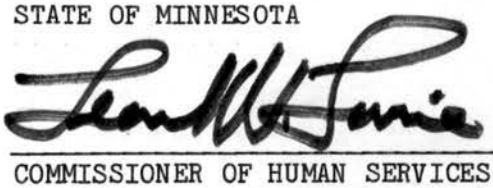
2. Certain subparts of the emergency rule as adopted cannot have the force and effect of law as an emergency rule. Minn. Stat 14.35 provides that no emergency rule shall remain in effect 361 days after its effective date. Certain subparts of the rule, by their terms, cannot go into effect until after the expiration of the emergency rules.

The Attorney General/Administration recommends that in order to overcome the deficiencies, those aformentioned parts are to be deleted or corrected.

The Commissioner accepts the recommendations of the Attorney General/Administration and makes the changes as recommended.

NOW, THEREFORE, IT IS ORDERED that these rules identified as emergency rules Governing Aid to Families with Dependent Children, Chapter 9500, Parts 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330 are adopted this 26 day of October, 1984, pursuant to authority vested in me by Minnesota Statutes 1983 Supplement, section 256.871, subdivision 7, as amended by Law 1984, chapter 580, section 1.

STATE OF MINNESOTA



COMMISSIONER OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE OF MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN MINNESOTA RULES, CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, AND 9500.0330.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, John Kerwin 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 Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

John L. Kerwin

Special Assistant Attorney General

Dated: October 26, 1984

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN MINNESOTA RULES, CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Dorothy Mosso, being first duly sworn, deposes and says:

That on the 26 day of October 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-titled matter have been submitted to the Attorney General.

Dorothy Mosso

Subscribed and sworn to before me
this 26th day of October, 1984.
Luanne P. Laurents

LUANNE P. LAURENTS
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Dec. 3, 1985

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : LEONARD W. LEVINE
Commissioner, Department of Human Services

DATE: 10/22/84

ATTN: VICKI SLEEPER, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: IN THE MATTER OF THE PROPOSED ADOPTION OF THE EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

The above-referenced rules have not been approved by this office for the following reasons:

1. Minn. Rules pt. 9500.0339, subp. 3 as adopted is substantially different from the Rule as Proposed in violation of Minn. Stat. § 14.05, subd. 2 (1982), and in addition, is void for vagueness.

As proposed, subp. 3 provided that where shelter and utility expenses appear beyond the ability of the applicant to pay, the local agency may require the applicant to move if the local agency locates certain qualified housing. The Rule as Adopted amended subp. 3 to provide that if "the applicant can demonstrate efforts that he or she is unable to secure habitable housing on his or her own," then the local agency may require the applicant to move if it demonstrates certain qualified housing is available. In other words, the local agency is not required to demonstrate that qualified housing is available until the applicant can "demonstrate efforts" that he or she is unable to secure habitable housing.

The Rule as Adopted imposes an additional burden on applicants which was absent in the Rule as Proposed. This change was made with no opportunity for notice or comment by persons who are being regulated. In addition, the rule has fundamentally changed by shifting the burden to the applicants to "demonstrate efforts" before the agency has the burden of locating qualified replacement housing.

Additionally, this amendment is impermissibly vague in failing to specify what would constitute "demonstrating efforts that he or she is unable to secure housing on his or her own." It is unclear what the applicant must do to satisfy this requirement, and thus the rule poses the risk of unequal application.

To overcome these deficiencies, the amendment must be deleted, or be corrected so as not to constitute substantial change of the rule as proposed.

2. Certain subparts of the emergency rule as adopted cannot have the force and effect of law as an emergency rule. Minn. Stat. § 14.35 provides that no emergency rule shall remain in effect 361 days after its effective date. Certain subparts of the rule, by their terms, cannot go into effect until after the expiration of the emergency rules.

First, Minn. Rules pt. 9500.0352, subp. 1.B(3), subp. 2.A(3), and subp. 2.B(3) do not become effective until November 1, 1986, well past the expiration date of the

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emergency rules; thus, these rules have no force and effect of law as an emergency rule. Second, if these rules are in effect before November 5, 1984, Minn. Rules pt. 9500.0352, subp. 1.B(2), subp. 2.A(2), and subp. 2.B(2) do not have the force and effect of law. Third, Minn. Rules pt. 9500.0351, subp. 2.D, the two-time limitation on emergency assistance for mortgage or contract for deed arrearages, is ineffectual during the pendency of the rules by virtue of Minn. Rules pt. 9500.0339, subp. 1, which limits application for emergency assistance to once in a 12-month period. Part 9500.0351, subp. 2.D is ineffectual because the second application for mortgage and contract for deed emergency assistance is possible only after these emergency rules have expired.

To overcome these deficiencies, the aforementioned subparts must be deleted or corrected so that they are capable of having the force and effect of law during the pendency of the emergency rules. The agency may wish to give notice that it intends to change a provision in the future, however, such notices are not appropriate in rules.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for our review. Upon resubmission, please include a new or supplemental Order Adopting and four copies of the new Rules as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

MJC:dw

cc: Duane Harves
Kathy Burek
Paul Marinac

AG copy.

Department of Human Services

Adopted Emergency Rules Governing AFDC

Emergency Rules as Adopted

9500.0031 [Emergency] STATE AND FEDERAL COOPERATION.

Notwithstanding any provisions of parts 9500.0010 to 9500.0370, administration of the AFDC program in parts 9500.0051 [Emergency]; 9500.0071 [Emergency]; 9500.0081 [Emergency]; 9500.0091 [Emergency]; 9500.0111 [Emergency]; 9500.0331 to 9500.0339 [Emergency]; and 9500.0351 to 9500.0353 [Emergency] shall be subject to changes in federal or state law.

9500.0051 [Emergency] CLIENT RESPONSIBILITIES.

Subpart 1. **General information.** Applicants and recipients of AFDC shall provide all information necessary to determine initial and ongoing eligibility. This shall include information requested at the time of application, at the time a redetermination or household report form is due, and if the case is randomly selected for a quality control review. This responsibility also requires a timely report of any change in income and household circumstances which affect eligibility.

Subp. 2. **Applicant responsibility.** All applicants for assistance shall provide information necessary to determine initial eligibility. Applicants are required to verify or authorize the local agency to verify those statements on the application identified by these parts as necessary to the determination of initial eligibility. An applicant shall promptly report any changes in circumstances which may affect eligibility while his or her application is pending a determination of eligibility. The failure of an applicant to promptly provide necessary information may result in a delay in receiving initial benefits or a denial of his or her application.

Subp. 3. **Recipient responsibility.** All recipients of assistance shall provide a regular report concerning his or her household income and other circumstances of eligibility. A

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recipient shall report changes in income and other circumstances which may affect their eligibility within ten days of their occurrence or within eight calendar days of the end of a reporting period, whichever occurs earlier. When the eighth calendar day of the month falls on a weekend or holiday, the first working day of the local agency that follows the eighth calendar day shall be established as the date on which this report is due. All recipients shall receive a monthly household report form except that quarterly household report forms shall be received when the United States Secretary of Health and Human Services waives the monthly reporting requirement or ~~provides~~ allows alternative direction for certain specified categories of recipients. FF1

Subp. 4. **Report form.** A recipient's responsibility for completion of the required report form requires that the recipient provide a completed report form by the eighth calendar day of the month following the period covered by the form. ~~The caretaker shall sign and date the report form~~ A report is complete if it is signed and dated by the caretaker no earlier than the last day of the reporting period, ~~answer~~ answers all questions necessary to determine payment eligibility, and ~~include~~ includes verification of earned income. A delay in the submission of the completed form may cause a delay in receiving AFDC payment in the month following the month in which the report was due. A delay without good cause in providing a completed form must result in the following penalties: FF2 FF3

A. if the completed form is received by the local agency after the eighth calendar day of the month following the period covered by the form, ~~the delay in providing the completed form may also cause a delay in receiving AFDC payment in the month following the month in which the report was due;~~ and if the delayed report included earned income, the recipient shall lose the work expense, dependent care expense, and work incentive disregards in the payment month corresponding to the last month covered by the household report form; and

B. if the completed form is received by the local

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agency on or after the first day of the month following the month in which the report is due, assistance shall be terminated; if further assistance is required, a reapplication shall be required and payment eligibility shall be prorated from the date of reapplication or the date all other eligibility factors are met, whichever is later; and if reapplication is made during the initial month of termination, the client shall also be subject to the loss of all earned income disregards.

Subp. 5. **Qualifications.** The following qualifications must apply to the penalties in subpart 4:

A. If a client has earned income and submits an incomplete household report form on or prior to the eighth calendar day of the month in which the report is due, the client shall be granted an additional eight calendar days from the date that the local agency remailed the form to complete those portions related to earned income identified as incomplete. If received by the local agency on or before the eighth day, the penalties for loss of earned income disregards shall not apply.

B. If a client provides an incomplete household report form prior to the last working day of the month on which a ten-day notice of termination can be issued for failure to provide a completed household report form, the local agency shall return the incomplete form with the incomplete portions identified on or before the ten-day notice deadline or that termination notice shall be regarded as invalid and reapplication and proration of benefits cannot be imposed by the local agency. FF4

C. Good cause exemptions from application of either penalty shall be granted if the following factors, singly or in combination, caused the recipient to miss the deadlines for providing a completed form: FF5

(1) the local agency failed to accurately identify those items that were incomplete;

(2) the receipt of the ~~form was unduly delayed within the postal system;~~ forms postmarked the day prior to the deadline, but which were received by the local agency two or FF6

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more agency working days after they were postmarked, shall be presumed to be unduly delayed;

(3) the employer delayed completion of employment verification;

(4) the local agency failed to provide needed assistance to the recipient in the completion of the form;

(5) the recipient did not receive a report for completion because of agency error or because of a reported change of address; or

(6) illness, physical or mental incapacity, or some other circumstances that could not have been avoided by the recipient through the exercise of reasonable care caused the recipient to be unable to provide a completed form in a timely manner~~;-and-these-factors,-singly-or-in-combination,-caused-the recipient-to-miss-the-deadlines-for-providing-a-completed-form~~. FFS

Subp. 6. **Changes in status.** Recipients of assistance shall report all changes which produce a change in AFDC eligibility within ten days of their occurrence ~~if-those-changes produce-a-change-in-AFDC-eligibility-and-the-occurrence-of-those changes-precedes~~ or by the eighth day following the last day of the report period in which such change occurred ~~by-ten-or-more calendar-days~~, whichever is earlier. These reports shall be made in writing or in person. Failure to report these changes within ten calendar days may result in an overpayment. If the local agency could have reduced or terminated payment for one or more payment months if the delay had not occurred, a determination shall be made if a proper notice could have been issued on the day that the change occurred and each month's overpayment subsequent to that notice shall be regarded as a client error overpayment. The changes which must be reported within ten days include: FF7

A. initial employment;

B. initial receipt of unearned income;

C. any significant, recurring change in net earned or unearned income;

D. receipt of a lump sum;

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E. resources exceeding AFDC limits;

F. change in the physical or mental status of an incapacitated parent;

G. change in the status of an unemployed parent;

H. change in the status of the absent parent, change in the household composition to include departures from and returns to the home of AFDC eligible members, or change in custody;

I. marriage or divorce of an assistance group member;

J. death of a parent or child;

K. change in address or residence for the assistance unit;

L. sale, purchase, or other transfer of property; and

M. change in school attendance for a member of the AFDC assistance unit.

All changes in circumstances which require reporting within ten days shall also be reported on the household report form for the period in which those changes occurred.

Subp. 7. **Cooperation with quality control review.** Recipients shall cooperate with the state agency's quality control review process by providing information necessary for verifying eligibility for and the amount of AFDC. Cooperation in the quality control review process is a requirement for continued eligibility and includes:

A. agreeing to a personal interview with the quality control staff person at a mutually acceptable time and location; and

B. assisting the quality control staff person in securing verifications necessary to establish program and payment eligibility for the month of review, provided verifications do not duplicate what is already in the case record and do not cause the recipient to incur an expense in securing those verifications.

Failure to cooperate with the quality control review process without good cause will result in termination of assistance. A person shall have good cause under this subpart

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if the person's refusal to cooperate stems from a diagnosis of mental illness or a physical disability or illness of such severity and duration that it precludes them from participating within the period the quality control unit has allotted to complete their review process.

9500.0071 [Emergency] CONTINUED ABSENCE OF A PARENT.

Subpart 1. **Definitions.** The definitions contained in items A ~~through~~ to I apply to this part and have the meanings given them. FF8

A. "Absent parent" means ~~an otherwise eligible~~ a child's natural or adoptive father or mother who does not live at the child's home. FF9

B. "Care" means regular and ongoing planning and provision of services to a child, such as feeding, dressing, and cleaning.

C. "Custodian" means the person who has the physical custody of the child at any particular time.

D. "Guidance" means regular and ongoing planning and provision of services to the child, such as supervision, training, discipline, and help with school work on a regular basis.

E. "Home" means the primary place of residence used by an individual as a the base for day-to-day living and does not include residences used primarily to establish AFDC eligibility. FF10

F. "Joint legal custody" means a court order under which both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

G. "Joint physical custody" means a court order under which the routine daily care and control of the child is shared between both parents.

H. "Support" means financial assistance paid by the absent parent on behalf of a child which is equal to or greater than the children standard of the AFDC family allowance.

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I. "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, and National Oceanographic and Atmosphere Administration.

Subp. 2. ~~Eligibility~~ Continued absence. Continued absence of a parent shall exist when the parent resides out of the home of the child and the absence interrupts or terminates the absent parent's support, care, or guidance of the child. To qualify for AFDC, a child must meet all other eligibility conditions. FF9

There is no minimum time period used to establish absence of a parent. The absence may be permanent or temporary, and a temporary absence may be of a known or indefinite duration.

Two exceptions shall apply when eligibility based on parental absence is determined:

A. Eligibility based on the absence of a parent from the home shall not exist when the parent is absent solely by reason of active duty in the uniformed services of the United States.

B. Eligibility shall exist when a parent is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday. No provision may be made for the offender's needs in computing the amount of the assistance payment.

Subp. 3. **Visitation.** Regular or sporadic visitation by an absent parent shall not constitute the provision of care or guidance.

When the frequency of the absent parent's presence in the child's home causes the local agency to question whether absence exists, the issue shall be resolved by determining whether the absent parent ~~maintains~~ lives in FF10 a home apart from the home of the child.

Subp. 4. **Evidence of a home.** Evidence of a home includes, but is not limited to, where a person keeps the majority of personal belongings; the amount of time spent there as opposed to other residences; the address given to a current employer; the address given for current school registration; the mailing

? what else might be included? AT - general def'n 0581

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address for government benefits which require mailing to the current address; the address recently used to apply for credit; the address for service of legal documents; the address the individual has given to monthly creditors or utility companies as a current address; vehicle registration, driver license, or post office address which has been changed since the absence; and the frequency, type, and length of absences. Each item of evidence shall be evaluated together with other items in determining the home. No item shall be considered conclusive. FF 10

Subp. 5. **Shared custody.** This part applies to both formal and informal custody arrangements.

The language of a court order that specifies joint legal or physical custody shall not, in and of itself, preclude a determination that a parent is absent. Absence shall be determined based on the actual facts of the absence and according to this part.

A. In situations where the physical custody of a child alternates between parents from month to month, each parent may be eligible only FF 11 for the months the child's home is with that parent.

B. In situations where the child spends time in each of the parent's homes within a month, the child's home shall be considered that home in which the majority of the child's time is spent.

When this time is exactly equal within a month, or if the parents alternately live in the child's home within a month, the child's home shall be with that parent who is applying for assistance, unless the child's needs for the full month have already been met through the provision of AFDC to the other parent for that month.

Subp. 6. **Special circumstances.** A child shall be considered deprived of the support, care, or guidance of a parent if:

A. paternity has not been acknowledged or adjudicated;

B. a child has been adopted by a single parent; or

C. a child is born from artificial insemination to an

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unmarried mother.

Subp. 7. **Substitute parent.** The determination of whether a child has been deprived of parental care or support by reason of the absence of a parent from the child's home shall only be made in relation to a child's natural or adoptive parent. Under this requirement, the inclusion in the home of a "substitute parent" or any other such individual is not an acceptable basis for a finding of ineligibility.

Subp. 8. **Return of parent to child's home.** When the client states that financial need exists, eligibility shall continue at the same payment level for one month following the month in which the absent parent returns home. During this period, the local agency shall inform the family about other bases of eligibility for AFDC and offer an application.

9500.0081 [Emergency] ELIGIBILITY FACTOR: UNEMPLOYED PARENT (AFDC-UP).

An unemployed parent is a parent:

A. whose family is in need;

B. whose unemployment is not the result of participation in a labor dispute;

C. who works less than 100 hours per month or exceeds that standard for a particular month if work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for two prior months and is expected to be under the standard for the next month;

D. who has not quit or refused a bona fide offer of employment or training for employment for good cause in the last 30 days;

E. who has not been fully employed during the 30-day period preceding the receipt of AFDC-UP;

(1) when employment is less than 100 hours in the month employment is lost but was 100 or more hours in the preceding month, the last day of the preceding month shall be considered the last day of full employment; or

(2) when employment is 100 hours or more in the

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month employment is lost, the day employment is lost shall be considered the last day of full employment; and

(3) ~~upon completion of the 30-day waiting period,~~ eligibility shall be established as the day of application, ~~the day~~ 30 days following the last day of full employment, or the day all other eligibility factors are met, whichever is later;

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F. who is currently registered with WIN or the local job service office of the Department of Economic Security and is available for training and/or employment or qualifies for an exemption from registration with WIN; when exemption from WIN registration exists, the requirement for current registration shall be met by the other parent unless that parent also qualifies for exemption from registration;

G. who has:

(1) worked at least six quarters during any 13 calendar quarter period ending within one year prior to the quarter of application for AFDC-UP; earned the equivalent of not less than $50 per quarter during this period; under this subitem, compensation for this work may be in United States dollars or in a foreign currency which purchases goods and services equal to or exceeding $50 in United States currency, and may be in the form of cash compensation or in the form of goods and/or services of a fair market value equivalent to $50; alternatives to cash compensation include, but are not limited to, the fair market value in the United States of food, shelter, personal items, and medical care that was provided; and that work performed shall include the labor or services rendered, to an employer or through self-employment that was necessary to secure that compensation; that the administering authority shall ordinarily verify such employment by contacting the individuals for whom the work was performed; and that when such verification is not readily available, the administering authority shall accept a personal affidavit from the applicant as a satisfactory substitute for such verification; that cooperation in the WIN program or a community work experience program shall qualify as a quarter of work under this subitem; or

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(2) received or could have qualified for unemployment compensation during the year prior to application for AFDC-UP, or could have qualified if the work performed had been covered by unemployment compensation; and

H. who has earned the greater amount of income during the 24 months immediately preceding the month of application for AFDC-UP; when there are no earnings or when earnings are identical for each parent, the applicants may designate the principal wage earner and that designation may not be transferred upon determination of eligibility.

9500.0091 [Emergency] STEPPARENT.

Subpart 1. **Income.** A stepparent is required to support his or her spouse and his or her stepchildren who reside with the stepparent. If a stepparent and natural parent do not have sufficient income to meet the needs of their common and separate children, AFDC eligibility shall exist for the natural parent and his or her separate children when all other eligibility factors are met. When two parents have a common child and at least one separate child residing with them, they may elect to seek eligibility on the basis of unemployed parent or incapacitated parent or they may elect to have the needs of the natural parents and his or her separate children met on the basis of continued absence. The local agency shall explain this option and its effects when the option is available. When there are no common children who reside with the parent and stepparent, eligibility for AFDC shall only exist on a stepparent basis.

Stepparent eligibility shall exist for:

A. A single household grant that includes the needs of the natural parent and his or her separate children. This eligibility shall be available when the natural parent and the stepparent do not have common children who reside with them; when they do have common children who reside with them and elect not to receive or do not qualify for AFDC-UP or AFDC-IP eligibility; or they only have separate children in residence and elect to have one parent and his or her children excluded

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from the AFDC grant.

B. A combined household grant that includes the needs of both parents and their separate children who reside with them. This eligibility shall be available when each parent has separate children who reside with them; any common children who reside with them are excluded from the combined stepparent grant.

Subp. 2. **Eligibility for a single household grant.** If the combined net income of the natural parent and the stepparent does not equal the combined need for both parents and their common and separate children who reside with them, as defined by AFDC payment standards, and all other eligibility factors are met, AFDC eligibility exists on the basis of need for both the natural parent and his or her separate children. A gross income test shall be applied which includes the gross income of the natural parent and the net income of the stepparent.

A. To determine the net income available to the natural parent and his or her separate children, the deductions made from the stepparent's income shall be those available to AFDC recipients with the exception of the work incentive disregard and dependent care deductions. Additionally the following deductions shall be allowed to determine the income that is available:

(1) expenses paid in the budget month by the stepparent to persons who reside out of the home and are or could be dependents for federal tax purposes;

(2) alimony or child support for persons who reside out of the home when those payments are paid during the budget month by the stepparent;

(3) an allocation for the need of the stepparent at the level of the second adult AFDC payment standard; and

(4) an allocation to the need of any common and separate children of the stepparent if they are under the age of 21; if, they reside with the natural parent and the stepparent, and if they have insufficient personal income to meet their need.

The amount of this allocation to the common and separate children of the stepparent equals the difference between the

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AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

B. The net income of the stepparent, after application of these deductions, shall be considered available to the natural parent and his or her separate children in determining AFDC eligibility and payment level. If the gross income test is met, the deductions from the income of the natural parent shall include:

(1) allowances at the AFDC level for work expenses and child care costs;

(2) an allocation to the stepparent up to the second adult AFDC payment standard to cover the portion of the stepparent's need that is unmet after allocating the net income of the stepparent to his or her own need; and

(3) an allocation to the need of any common children and separate children of the natural parent who are not included in the AFDC assistance unit if they:

(a) are under the age of 21;

(b) reside with the natural parent and the stepparent;

(c) have insufficient income to meet their needs; and

(d) have any portion of their need unmet after allocating the net income of the stepparent; only the unmet portion of their need is met by allocating income from the natural parent.

The amount of this allocation to the common and separate children of the natural parent that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

(4) If eligibility exists, a deduction shall be allowed for the work incentive disregard when eligibility for this disregard is still available; the amount of the work

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incentive disregard is deducted from the balance of the gross employment income of the natural parent after deductions for the work expense and the child care allowance have been made.

Subp. 3. **Eligibility for a combined household grant.** When a husband and wife each have separate children who reside with them and for whom they apply for AFDC, the needs of both parents and the separate children shall be combined into one assistance unit, and they shall receive a single grant with either parent as the payee. Eligibility for AFDC is determined by combining the gross income of the husband and wife and applying the gross income test. If eligibility exists, deductions are allowed for:

A. a work expense against the separate gross employment incomes of the husband and wife;

B. child care expenses against the separate remaining employment income of whichever spouse's employment requires the incurrence of that expense; if both spouses incur the expense, the total expense is divided equally and deducted equally from each spouse's gross employment income;

C. an allocation for the need of any common children and separate children not included in the AFDC assistance unit, except that allocation to the need of separate children shall only be made from the income of the natural parent of those separate children, if they:

(1) are under the age of 21;

(2) reside with their parent and stepparent; and

(3) have insufficient income to meet their needs.

The amount of the allocation to the common children and the separate children of the husband and wife that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

D. If eligibility exists, a deduction shall be allowed for the work incentive disregard for each parent, when eligibility for this deduction is still available; the amount of the work incentive disregard is deducted from the balance of

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employment income of each parent after deductions for the work expense and dependent care have been made; this allowance is then applied to the incomes of the parents that qualify for it before allocations are deducted from his or her income.

9500.0111 [Emergency] EMPLOYMENT EXPENSE DEDUCTIONS AND DISREGARDS.

Subpart 1. **Self-employment expense deductions.** The following expenses shall be deducted from self-employment income to determine gross earned income:

A. All business expenses with the following exceptions:

(1) purchase of capital equipment and payment on the principal of loans for capital assets;

(2) depreciation;

(3) amortization;

(4) the wholesale cost of items purchased, processed, or manufactured which are being carried as unsold inventory (a deduction for the cost of those items shall be allowed at the time they are sold);

(5) transportation costs which exceed 13 cents a mile unless higher reasonable expenses in excess of those costs have been documented, and costs for mileage to and from the place of employment;

(6) salaries and other employment deductions made for members of the AFDC assistance unit or residents of the AFDC household for whom the employer is legally responsible;

(7) monthly expenses in excess of $69 for each roomer, monthly expenses in excess of $84 for each boarder, and monthly expenses in excess of $153 for a roomer-boarder;

(8) annual expenses in excess of $101 or two percent of market value, whichever is less, as a deduction for upkeep and repair against rental income;

(9) any expenses not admitted by the Internal Revenue Service for self-employment income or, if admitted, that have the effect of subsidizing business endeavors of recipients with AFDC funds.

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B. Business income which is escrowed in a month for future employee FICA and employee tax withholding.

C. A 60 percent flat deduction from the gross receipts for child care performed in the recipient's home; a client may elect to have actual child care expenses, as defined in subpart 1, item A, deducted.

Subp. 2. **Employment disregards.** A deduction shall be made for all allowed disregards from the amount of gross earned income. Gross earned income is all self-employment income less any allowable business expenses as outlined in subpart 1 and all salaried income before application of mandatory and voluntary deductions, except that self-employment losses shall not be used to offset salaried earnings. The following disregards shall be deducted from gross earned income:

A. A $75 monthly work expense, whether employment is part or full time.

B. A monthly allowance for dependent care costs actually paid, not to exceed $160 per dependent when employment equals or exceeds 30 hours per week or not to exceed $159 per dependent when employment is less than 30 hours per week.

C. Subject to AFDC federal program limitations, an allowance for a $30 and one-third work incentive for each eligible recipient. This disregard shall apply against the balance of gross earned income which remains after deductions for the work expense and dependent care have been allowed.

9500.0331 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency].

Subp. 2. **Applicant.** "Applicant" means an individual who submits a written request for emergency assistance.

Subp. 3. **Available resources.** "Available resources" means those assets owned by the applicant that are liquid or can be liquidated within the time necessary to avoid or promptly alleviate destitution, together with all other sources of income or of public funds for which the applicant is eligible and

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contributions from financially responsible relatives living in the home.

Subp. 4. **Balloon payment.** "Balloon payment" means an amount of money required to be paid on a specific date according to the terms of a contract for deed or mortgage loan agreement and that exceeds the monthly contract for deed or mortgage payment.

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Subp. 5. **Basic need items.** "Basic need items" means subsistence items necessary for life and health, including food, safe drinking water, habitable shelter, clothing, medical care; the companion items necessary to assure these needs, including heating fuel, electricity, essential household appliances and furnishings, caregiving services to children and incapacitated adults, transportation necessary for medical care or employment, equipment or other expenses crucial for employment; and other goods or services necessary to protect a child's health and safety.

Subp. 6. **Caretaker.** "Caretaker" means a relative listed in Minnesota Statutes, section 256.12, subdivision 14, who lives with and is responsible for the care and well being of a child under the age of 21 years.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the department of human services or his designee.

Subp. 8. **Cost effective.** "Cost effective" refers to a plan that is economical in terms of the goods or services received for the money spent.

Subp. 9. **Department.** "Department" means the Department of Human Services.

Subp. 10. **Destitution.** "Destitution" means the condition of a child who lacks a basic need item and who is without available resources to provide for that need.

Subp. 11. **Emergency.** "Emergency" means a situation or set of circumstances that causes or threatens to cause destitution.

Subp. 12. **Emergency assistance.** "Emergency assistance" means financial aid and services to, or on behalf of, a child to avoid or resolve conditions of destitution.

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Subp. 13. **Family budgeting services.** "Family budgeting services" means a range of services directed toward developing a family's capacity to use its available income and resources to assure continued financial stability and provide itself with basic need items.

Subp. 14. **Habitable shelter.** "Habitable shelter" means housing that meets the health and safety standards provided under local ordinance, applicable state or federal law, and any specific criteria established by a physician as necessary to the life and health of the child.

Subp. 15. **Local agency.** "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes as the agency responsible for the administration of the emergency assistance program.

Subp. 16. **Program.** "Program" means the emergency assistance program established under Minnesota Statutes, section 256.871, Emergency Assistance to Needy Families with Children Under Age 21.

Subp. 17. **Protective payee.** "Protective payee" means a third party who receives funds on behalf of the applicant and bears responsibility for seeing that the applicant's basic needs are provided for out of those funds.

Subp. 18. **Request for assistance.** "Request for assistance" means a communication to a local agency by mail, telephone, or in person through which a person relates circumstances that indicate the potential destitution of a child. A person need not specifically request "emergency assistance."

Subp. 19. **Threatened destitution.** "Threatened destitution" means a time at which, unless an action is taken, destitution will result.

Subp. 20. **Threatened eviction.** "Threatened eviction" means any legal document or written communication that has <u>or will have</u> the effect of requiring a child to vacate the home. FF 15

Subp. 21. **Utility budget period.** "Utility budget period" means a continuous 12-month period preceding the month of application, or a shorter period if the applicant has received

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utility service for less than 12 months. Unpaid utility bills covering a period of time in excess of 12 months shall be divided into two or more utility budget periods.

Subp. 22. **Utility costs.** "Utility costs" means charges incurred by an applicant for the provision of electrical, gas, heating fuel, water, and sanitary service.

9500.0332 [Emergency] APPLICABILITY.

Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] govern the administration of the emergency assistance provided through the aid to families with dependent children program. Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] define circumstances under which aid or services shall be provided, conditions of eligibility for that aid or those services, and the conditions under which local welfare agencies and the department shall operate the program.

9500.0333 [Emergency] STATEMENT OF PURPOSE.

The purposes of the emergency assistance program are to avoid and to prevent the destitution of children. It does so by providing payments to resolve an emergency and by providing services that prevent recurrence of destitution.

9500.0334 [Emergency] APPLICATION PROCESS.

Subpart 1. **Agency brochure.** The local agency shall provide by hand or by mail an application form and an informational brochure <u>provided by the department</u> FF16 to each person who makes a request for assistance. The form and brochure shall be made available on the same day the request for assistance is received by the local agency. The brochure shall describe eligibility criteria for the program, ~~list~~ <u>the limitations on the frequency with which emergency assistance can be issued,</u> FF17 the emergencies for which payment of program funds may be authorized, and contain the following information:

"If a child in your family is threatened by an emergency, you may be eligible for the AFDC-emergency assistance program. If you want the local agency to

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help you avoid an emergency, you must make a written application ~~with~~ which the local agency must accept. FF18
No action will be taken regarding your situation unless you file the application form. If you file an application, a decision will be made promptly by the local agency and a written explanation of that decision will be mailed or delivered to you within one week of the date you filed the application form or you will be informed in writing within that time of the reason for the delay. You may appeal that decision to the Department of Human Services.
Any information given to you concerning your eligibility for emergency assistance before the agency has had the opportunity to review a written application form may not be accurate."

Subp. 2. **Application.** Any person may apply for emergency assistance. At the time of the ~~application~~ request for FF19 assistance, the local agency shall explain to the applicant the program's eligibility requirements, the limitation of annual eligibility, the extent of the program's coverage, the benefits provided by other programs provided by the local agency or known to the local agency to be advantageous to the applicant's circumstances, and the rights and responsibilities of applicants for and recipients of emergency assistance.

Subp. 3. **Forms.** The application shall be made on forms prescribed by the commissioner and shall be prepared and signed by the applicant or a representative of the applicant, if that representative has been authorized in writing by the applicant or a court to act in the applicant's behalf and if that representative has knowledge of the applicant's financial circumstances.

Subp. 4. **Interview.** A personal interview shall be conducted after receipt of the application for emergency assistance. If the ~~applicant indicates~~ applicant's circumstances indicate FF20 destitution is imminent or already present, the agency shall offer to conduct the personal

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interview on the same day that the application is received. In all other cases, the personal interview shall be conducted within a time that does not inhibit the local agency's ability to provide assistance in time to prevent destitution.

Subp. 5. **Processing application.** Applications shall be processed in a manner that considers the immediacy and severity of the destitution. The local agency shall assist applicants in completing the verification process in time to provide an eligible applicant with emergency assistance to prevent destitution. Verification shall be made promptly and by telephone whenever possible. When verification is not available from a third party, a client affidavit may be accepted. Each local agency shall designate at least one staff person to authorize immediate issuance of emergency assistance. Issuance shall not be delayed for the purpose of securing formal action from the county board.

FF 21

Subp. 6. **Notice of eligibility.** The local agency shall provide written notice on a form prescribed by the commissioner to all applicants with regard to their eligibility for emergency assistance. The local agency's determination shall be mailed or delivered to the applicant within one week of the date the application was filed unless the applicant is informed within that time and in writing of the reason for the delay.

9500.0335 [Emergency] ELIGIBILITY.

Emergency assistance shall be granted to a family that meets the following conditions:

A. the family has a child under the age of 21 years who is, or within six months prior to application has been, living with a caretaker;

B. the family has an emergency;

C. the family's available resources are not sufficient to resolve the emergency; and

D. the emergency did not arise because a caretaker or child over the age of 16 years refused employment or training for employment without good cause as defined by the Work Incentive Program.

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9500.0336 [Emergency] COVERED EMERGENCIES.

In accordance with parts ~~9500.0338~~ 9500.0331 to 9500.0339 [Emergency] and ~~9500.0339~~ 9500.0351 to 9500.0353 [Emergency], payments and services ~~may~~ shall be authorized when a child lacks, has lost, or is threatened with the loss of basic need items. The causes which produce need include evictions, condemnations, cancellation of a contract for deed, mortgage foreclosure; other relocations; return from residential treatment, long term hospitalization, incarceration or other separations of the child from the caretaker; civil disorders or strikes; fires, floods, storms, or other natural disasters; and loss or theft of funds. Payments and services may be authorized when the eligible household lacks, has lost, or is threatened with the loss of:

A. shelter;

B. shelter deposit;

C. moving expenses;

D. storage costs necessary to recover personal property;

E. necessary home furnishings;

F. necessary appliances, heating or cooking facilities;

G. ability to pay for necessary home repairs;

H. utility service;

I. utility hookup;

J. clothing;

K. food;

L. safe drinking water;

M. necessary medical care;

N. necessary dependent care;

O. transportation necessary for medical care or employment;

P. equipment or other expenses crucial to employment; and

Q. other items necessary to the health and safety of a child.

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9500.0337 [Emergency] FAMILY BUDGETING SERVICES.

Subpart 1. **Provision of family budgeting services.** Each local agency shall provide a full range of family budgeting services as defined in part 9500.0331 [Emergency], subpart 13. These services shall be provided by experts in the field and shall be made available, without cost, to persons who apply for emergency assistance. The local agency may ~~use-administrative emergency-assistance-funds-to-either~~ provide these services through its own qualified staff or may contract with outside experts ~~to-provide-family-budgeting-services-or-provide-these services-itself.--Agency-initiated-vendor-or-protective-payments may-be-used-if-recommended-under-a-family-budgeting-plan.~~ Costs incurred for family budgeting services shall be considered administrative and program expenditures respectively for purposes of securing state and federal reimbursement.

FF23

Subp. 2. **Vendor and protective payments.** The local agency may not condition issuance of emergency assistance on the use of protective or vendor payments, but shall provide these services at the request of an eligible applicant or a recipient. If, subsequent to the decision of the agency regarding the application for emergency assistance, the local agency wishes to use agency-initiated vendor or protective payments, these payments must be established pursuant to Code of Federal Regulations, title 45, section 234.60.

9500.0338 [Emergency] ISSUANCE OF ASSISTANCE.

Subpart 1. **Payments.** Emergency assistance payments may be made as direct cash payments to the applicant, vendor payments, vouchers, or protective payee payments. Where assistance is requested for employment-related expenses under part 9500.0336 [Emergency], issuance is limited to an interest-free loan of up to $100.

Subp. 2. **Services.** Services available under the emergency assistance program include negotiation with creditors, family budgeting services, protective payee arrangements, and coordination of agency financial assistance programs with public

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or private resources available in the community.

9500.0339 [Emergency] LIMITATIONS.

Subpart 1. **30-day period.** Emergency assistance shall be granted only for one consecutive 30-day period in one consecutive 12-month period. Needs that accrue prior to the 30-day period may be met only when necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. Assistance may be extended for up to 30 days beyond the initial 30-day period of eligibility if authorized during the initial period.

Subp. 2. **Lost checks.** Emergency assistance shall not be available when uncashed AFDC checks are lost or stolen. In these cases, the lost or stolen AFDC checks shall be replaced in accordance with part 9500.0240, subpart 1.

Subp. 3. **Applicant move.** Where continued payment of shelter and utility expenses appear beyond the ability of the applicant to pay from anticipated income, the local agency may condition the issuance of emergency assistance on the requirement that the applicant move to more affordable housing as a method of preventing destitution of the child. If ~~this requirement is imposed,~~ the applicant can demonstrate efforts that he or she is unable to secure habitable housing on his or her own, the local agency cannot require the applicant to move unless the local agency ~~must specify~~ can demonstrate one or more habitable locations ~~which are~~ available in the community ~~which~~ that will result in at least a 20 percent reduction in monthly expense and ~~which shall be~~ that are cost effective for the applicant. The local agency shall issue emergency assistance for expenses directly related to the relocation. In considering relocation, the local agency shall evaluate the effect of the requirement to move in terms of the size of the proposed housing and the disruption to the child which could result from the move.

9500.0351 [Emergency] MORTGAGE ARREARAGES AND BALLOON PAYMENTS.

Subpart 1. **Balloon payments.** Balloon payments shall be

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made up to a maximum issuance of six times the AFDC family allowance standard for the size and composition of the applying family. These payments shall be made only if the applicant has been refused refinancing through a bank or other lending institution and the amount payable, combined with any payments made by the applicant, will be accepted by the creditor as full payment of the balloon and will avoid the threatened destitution. FF25

Subp. 2. **Arrearages.** Mortgage and contract for deed arrearages shall be paid if those arrearages have caused or threaten to cause a foreclosure or cancellation action to be brought against the applicant subject to part 9500.0339 [Emergency], subpart 3. FF26 FF27 In addition, the following limitations shall become effective November 1, 1984, and apply to the issuance of emergency assistance for these applicants:

A. If the applicant has paid less than 30 percent of his ~~total~~ gross income, in the 12 months preceding application, for house payments to include payments for principal and interest on mortgage or contract for deed payments; property taxes and special assessments (less any homestead credit paid to the applicant) homeowner's insurance, and balloon payments, no eligibility for emergency assistance payments for arrearages shall exist. If the applicant has received emergency assistance payments against a prior foreclosure action, eligibility for payment of arrearages shall not exist if the applicant has paid less than 40 percent of his ~~total~~ gross income in the 12 months preceding application for house payments. FF28 FF29

B. If the applicant has paid 60 percent or more of his total gross income, in the 12 months preceding application, for house payments he shall be eligible for full payment of any arrearage that exists at the time of foreclosure action. If the applicant has received emergency assistance payments against a prior foreclosure action and has paid 70 percent or more of his ~~total~~ gross income, in the 12 months preceding application, he shall be eligible for full payment of any arrearage that exists at the time of the foreclosure action. FF29

C. If the applicant has paid at least 30 percent but

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less than 60 percent of his gross income, in the 12 months preceding application, for house payments; or if the applicant has received emergency assistance against a prior foreclosure action and has paid at least 40 percent but less than 70 percent of his gross income, in the 12 months preceding application, he will be eligible for emergency assistance payment according to the following:

% OF TOTAL HOUSE PAYMENT DUE IN THE PRECEDING 12 MONTHS THAT WAS PAID BY THE APPLICANT	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY EMERGENCY ASSISTANCE	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY THE APPLICANT
less than 20%	50%	50%
at least 20% but less than 30%	60%	40%
at least 30% but less than 40%	70%	30%
at least 40% but less than 50%	80%	20%
at least 50% but less than 60%	90%	10%
60% or more	100%	0%

D. Each applicant unit that has been threatened with foreclosure action may use emergency assistance to cover a maximum of two times. Emergency assistance issued prior to the effective date of this part shall not be used for the purposes of this item.

E. No payment against an arrearage shall be paid unless there is a confirmation from the foreclosing party that the emergency assistance payment in combination with any payment of the applicant will provide reasonable assurance that a subsequent foreclosure action will not force the applicant out of his home within the next 12 months.

F. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of this part, items A, C, and D shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. **Homestead requirement.** These arrearages and

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balloon payments may only be paid on a home occupied, maintained, and ~~solely~~ owned by the applicant family as its primary residence.

Subp. 4. **Arrearages and balloon payments due.** When both monthly payments are in arrears and a balloon payment is due within the next 12 months, the value of the balloon payment shall be considered in addition to the total monthly payment arrearage when assessing the applicant family's financial ability to avoid destitution at the time the balloon payment becomes due.

Subp. 5. **Applicant move.** When the applicant is found ineligible for balloon payments or arrearages under the emergency assistance program and a move is required, the local agency shall assist the family in relocating according to the provision in part 9500.0339, subpart 3.

9500.0352 [Emergency] UTILITIES.

Subpart 1. **Conditions of payment.** Subject to the limitations in this part, payment shall be made when an otherwise eligible family has had a termination or is threatened with a termination in electric, gas, or heating fuel service.

A. No payment shall be made from emergency assistance funds unless the local agency has received confirmation from the utility provider that payment in the amount specified as owed by the applicant satisfies the full amount of the applicant's debt to the utility, including any delinquent accounts of the applicant, and only if the total funds available from the local agency combined with the applicant's resources, either paid from present funds or obligated by the applicant under a repayment plan with the utility, will be sufficient to prevent termination of utility service.

B. Except as provided in subpart 2, item D, payment shall not be made to persons who:

(1) Effective November 1, 1984, and thereafter paid less than four percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

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(2) Effective November 1, 1985, and thereafter paid less than six percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter paid less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

Subp. 2. **Amounts of payment.** The amount paid through emergency assistance shall depend upon the percent of gross income paid toward utility costs and the percent of the total utility cost paid prior to the issuance of emergency assistance, as follows:

A. ~~Payments~~ Payment of the balance owed to the utility shall be made in full when:

(1) Effective November 1, 1984, and thereafter, the applicant paid no less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter, the applicant paid no less than 12 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid no less than 16 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

B. Except as provided in subpart 2, item D, payments made from emergency assistance on the balance owed to the utility shall be limited to the amounts under Table 1 when:

(1) Effective November 1, 1984, and thereafter, the applicant paid at least four percent and less than eight percent of gross ~~available~~ income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter,

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the applicant paid at least six percent and less than 12 percent of gross ~~available~~ FF29 income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid at least eight percent and less than 16 percent of gross ~~available~~ FF29 income toward utility payments due during the utility budget period or while the application is pending.

C. If the applicant paid the amounts indicated in subpart 2, item B, above, the local agency shall issue emergency assistance according to the following:

Table 1: Amounts paid by emergency assistance

% of total utility consumption cost paid by applicant prior to issuance of emergency assistance	% of the unpaid balance which will be paid by emergency assistance	% of the unpaid balance which must be paid by the applicant
less than 10%	70%	30%
at least 10% and less than 20%	76%	24%
at least 20% and less than 30%	82%	18%
at least 30% and less than 40%	88%	12%
at least 40% and less than 50%	94%	6%
50% or more	100%	0%

D. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of subpart 1, item B, and subpart 2, item B, shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. **Negotiations with utility providers.** The local agency shall negotiate on behalf of the applicant eligible for reduced payments under subpart 2, item B, if the utility provider does not ordinarily offer repayment plans to its customers or refuses to offer a repayment plan to the applicant. If the utility provider refuses to accept the amount the agency may pay under subpart 2, item B, together with

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establishment of a repayment plan for the additional money owed on the balance by the applicant, the local agency shall pay nothing to the utility provider and shall assist the family in seeking ~~an alternate provider or making~~ alternate arrangements. FF33

Subp. 4. **Termination of water or sanitary service.** The local agency shall pay the full amount of the unpaid balance due the utility provider.

Subp. 5. **Threat to child's life.** The restrictions contained in this part shall not be construed to prevent the use of emergency assistance where the local agency is required to take immediate and temporary action necessary to protect the life of a child. FF34

9500.0353 [Emergency] APPEALS.

Subpart 1. **Right to appeal.** Each applicant shall have the right to appeal any action or failure to act with reasonable promptness on the part of the local agency relating to the application for emergency assistance. The local agency shall inform the applicant in writing of the right to appeal and the procedure to follow in filing an appeal. Within two working days after receiving a written request for an appeal, the local agency shall forward the written request and an agency appeal summary to the appeals office of the Department of Human Services.

Subp. 2. **Hearings.** The appeals office shall schedule a hearing on the earliest available date and, following the hearing, shall promptly forward the decision of the referee to the commissioner.

Subp. 3. **Decisions of the commissioner.** The commissioner shall issue a written order within five working days of receipt of the referee's decision, shall immediately provide the parties with the outcome of his decision by telephone, and shall mail the written decision to the parties no later than the second working day following the date of the commissioner's decision.

APPLICATION. Parts 9500.0031 to 9500.0353 [Emergency] shall be read together with permanent rules parts 9500.0010 to 9500.0370,

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and where these parts are in conflict, the emergency rules shall prevail until their expiration date.

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Emergency Rules as Proposed (all new material)

9500.0031 [Emergency] STATE AND FEDERAL COOPERATION.

Notwithstanding any provisions of parts 9500.0010 to 9500.0370, administration of the AFDC program in parts 9500.0051 [Emergency]; 9500.0071 [Emergency]; 9500.0081 [Emergency]; 9500.0091 [Emergency]; 9500.0111 [Emergency]; 9500.0331 to 9500.0339 [Emergency]; and 9500.0351 to 9500.0353 [Emergency] shall be subject to changes in federal or state law.

9500.0051 [Emergency] CLIENT RESPONSIBILITIES.

Subpart 1. **General information.** Applicants and recipients of AFDC shall provide all information necessary to determine initial and ongoing eligibility. This shall include information requested at the time of application, at the time a redetermination or household report form is due, and if the case is randomly selected for a quality control review. This responsibility also requires a timely report of any change in income and household circumstances which affect eligibility.

Subp. 2. **Applicant responsibility.** All applicants for assistance shall provide information necessary to determine initial eligibility. Applicants are required to verify or authorize the local agency to verify those statements on the application identified by these parts as necessary to the determination of initial eligibility. An applicant shall promptly report any changes in circumstances which may affect eligibility while his or her application is pending a determination of eligibility. The failure of an applicant to promptly provide necessary information may result in a delay in receiving initial benefits or a denial of his or her application.

Subp. 3. **Recipient responsibility.** All recipients of assistance shall provide a regular report concerning his or her household income and other circumstances of eligibility. A recipient shall report changes in income and other circumstances which may affect their eligibility within ten days of their occurrence or within eight calendar days of the end of a reporting period, whichever occurs earlier. When the eighth

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calendar day of the month falls on a weekend or holiday, the first working day of the local agency that follows the eighth calendar day shall be established as the date on which this report is due. All recipients shall receive a monthly household report form except that quarterly household report forms shall be received when the United States Secretary of Health and Human Services waives the monthly reporting requirement or provides alternative direction for certain specified categories of recipients.

Subp. 4. **Report form.** A recipient's responsibility for completion of the required report form requires that the recipient provide a completed report form by the eighth calendar day of the month following the period covered by the form. The caretaker shall sign and date the report form no earlier than the last day of the reporting period, answer all questions necessary to determine payment eligibility, and include verification of earned income. A delay without good cause in providing a completed form must result in the following penalties:

A. if the completed form is received by the local agency after the eighth calendar day of the month following the period covered by the form, the delay in providing the completed form may also cause a delay in receiving AFDC payment in the month following the month in which the report was due; and if the report included earned income, the recipient shall lose the work expense, dependent care expense, and work incentive disregards in the payment month corresponding to the last month covered by the household report form; and

B. if the completed form is received by the local agency on or after the first day of the month following the month in which the report is due, assistance shall be terminated; if further assistance is required, a reapplication shall be required and payment eligibility shall be prorated from the date of reapplication or the date all other eligibility factors are met, whichever is later; and if reapplication is made during the initial month of termination, the client shall

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also be subject to the loss of all earned income disregards.

Subp. 5. **Qualifications.** The following qualifications must apply to the penalties in subpart 4:

A. If a client has earned income and submits an incomplete household report form on or prior to the eighth calendar day of the month in which the report is due, the client shall be granted an additional eight calendar days from the date that the local agency remailed the form to complete those portions related to earned income identified as incomplete. If received by the local agency on or before the eighth day, the penalties for loss of earned income disregards shall not apply.

B. If a client provides an incomplete household report form prior to the last working day of the month on which a ten-day notice of termination can be issued for failure to provide a completed household report form, the local agency shall return the incomplete form on or before the ten-day notice deadline or that termination notice shall be regarded as invalid and reapplication and proration of benefits cannot be imposed by the local agency.

C. Good cause exemptions from application of either penalty shall be granted if:

(1) the local agency failed to accurately identify those items that were incomplete;

(2) the receipt of the form was unduly delayed within the postal system; forms which were received by the local agency two or more agency working days after they were postmarked shall be presumed to be unduly delayed;

(3) the employer delayed completion of employment verification;

(4) the local agency failed to provide needed assistance to the recipient in the completion of the form;

(5) the recipient did not receive a report for completion because of agency error or because of a reported change of address;

(6) illness, physical or mental incapacity, or some other circumstances that could not have been avoided by the

recipient through the exercise of reasonable care caused the recipient to be unable to provide a completed form in a timely manner; and these factors, singly or in combination, caused the recipient to miss the deadlines for providing a completed form.

Subp. 6. **Changes in status.** Recipients of assistance shall report all changes within ten days of their occurrence if those changes produce a change in AFDC eligibility and the occurrence of those changes precedes the eighth day following the last day of the report period in which such change occurred by ten or more calendar days. These reports shall be made in writing or in person. Failure to report these changes within ten calendar days may result in an overpayment. If the local agency could have reduced or terminated payment for one or more payment months if the delay had not occurred, a determination shall be made if a proper notice could have been issued on the day that the change occurred and each month's overpayment subsequent to that notice shall be regarded as a client error overpayment. The changes which must be reported within ten days include:

A. initial employment;

B. initial receipt of unearned income;

C. any significant, recurring change in net earned or unearned income;

D. receipt of a lump sum;

E. resources exceeding AFDC limits;

F. change in the physical or mental status of an incapacitated parent;

G. change in the status of an unemployed parent;

H. change in the status of the absent parent, change in the household composition to include departures from and returns to the home of AFDC eligible members, or change in custody;

I. marriage or divorce of an assistance group member;

J. death of a parent or child;

K. change in address or residence for the assistance unit;

L. sale, purchase, or other transfer of property; and

M. change in school attendance for a member of the AFDC assistance unit.

All changes in circumstances which require reporting within ten days shall also be reported on the household report form for the period in which those changes occurred.

Subp. 7. **Cooperation with quality control review.** Recipients shall cooperate with the state agency's quality control review process by providing information necessary for verifying eligibility for and the amount of AFDC. Cooperation in the quality control review process is a requirement for continued eligibility and includes:

A. agreeing to a personal interview with the quality control staff person at a mutually acceptable time and location; and

B. assisting the quality control staff person in securing verifications necessary to establish program and payment eligibility for the month of review, provided verifications do not duplicate what is already in the case record and do not cause the recipient to incur an expense in securing those verifications.

Failure to cooperate with the quality control review process without good cause will result in termination of assistance. A person shall have good cause under this subpart if the person's refusal to cooperate stems from a diagnosis of mental illness or a physical disability or illness of such severity and duration that it precludes them from participating within the period the quality control unit has allotted to complete their review process.

9500.0071 [Emergency] CONTINUED ABSENCE OF A PARENT.

Subpart 1. **Definitions.** The definitions contained in items A through I have the meanings given them.

A. "Absent parent" means an otherwise-eligible child's natural or adoptive father or mother who does not live at the child's home.

B. "Care" means regular and ongoing planning and

provision of services to a child, such as feeding, dressing, and cleaning.

C. "Custodian" means the person who has the physical custody of the child at any particular time.

D. "Guidance" means regular and ongoing planning and provision of services to the child, such as supervision, training, discipline, and help with school work on a regular basis.

E. "Home" means the primary place of residence used by an individual as a base for day-to-day living.

F. "Joint legal custody" means a court order under which both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

G. "Joint physical custody" means a court order under which the routine daily care and control of the child is shared between both parents.

H. "Support" means financial assistance paid by the absent parent on behalf of a child which is equal to or greater than the children standard of the AFDC family allowance.

I. "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, and National Oceanographic and Atmosphere Administration.

Subp. 2. **Eligibility.** Continued absence of a parent shall exist when the parent resides out of the home of the child and the absence interrupts or terminates the absent parent's support, care, or guidance of the child.

There is no minimum time period used to establish absence of a parent. The absence may be permanent or temporary, and a temporary absence may be of a known or indefinite duration.

Two exceptions shall apply when eligibility based on parental absence is determined:

A. Eligibility based on the absence of a parent from the home shall not exist when the parent is absent solely by reason of active duty in the uniformed services of the United

States.

B. Eligibility shall exist when a parent is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday. No provision may be made for the offender's needs in computing the amount of the assistance payment.

Subp. 3. **Visitation.** Regular or sporadic visitation by an absent parent shall not constitute the provision of care or guidance.

When the frequency of the absent parent's presence in the child's home causes the local agency to question whether absence exists, the issue shall be resolved by determining whether the absent parent maintains a home apart from the home of the child.

Subp. 4. **Evidence of a home.** Evidence of a home includes, but is not limited to, where a person keeps the majority of personal belongings; the amount of time spent there as opposed to other residences; the address given to a current employer; the address given for current school registration; the mailing address for government benefits which require mailing to the current address; the address recently used to apply for credit; the address for service of legal documents; the address the individual has given to monthly creditors or utility companies as a current address; vehicle registration, driver license, or post office address which has been changed since the absence; and the frequency, type, and length of absences. Each item of evidence shall be evaluated together with other items in determining the home.

Subp. 5. **Shared custody.** This part applies to both formal and informal custody arrangements.

The language of a court order that specifies joint legal or physical custody shall not, in and of itself, preclude a determination that a parent is absent. Absence shall be determined based on the actual facts of the absence and according to this part.

A. In situations where the physical custody of a

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child alternates between parents from month to month, each parent may be eligible for the months the child's home is with that parent.

B. In situations where the child spends time in each of the parent's homes within a month, the child's home shall be considered that home in which the majority of the child's time is spent.

When this time is exactly equal within a month, or if the parents alternately live in the child's home within a month, the child's home shall be with that parent who is applying for assistance, unless the child's needs for the full month have already been met through the provision of AFDC to the other parent for that month.

Subp. 6. **Special circumstances.** A child shall be considered deprived of the support, care, or guidance of a parent if:

A. paternity has not been acknowledged or adjudicated;

B. a child has been adopted by a single parent; or

C. a child is born from artificial insemination to an unmarried mother.

Subp. 7. **Substitute parent.** The determination of whether a child has been deprived of parental care or support by reason of the absence of a parent from the child's home shall only be made in relation to a child's natural or adoptive parent. Under this requirement, the inclusion in the home of a "substitute parent" or any other such individual is not an acceptable basis for a finding of ineligibility.

Subp. 8. **Return of parent to child's home.** When the client states that financial need exists, eligibility shall continue at the same payment level for one month following the month in which the absent parent returns home. During this period, the local agency shall inform the family about other bases of eligibility for AFDC and offer an application.

9500.0081 [Emergency] ELIGIBILITY FACTOR: UNEMPLOYED PARENT (AFDC-UP).

An unemployed parent is a parent:

A. whose family is in need;

B. whose unemployment is not the result of participation in a labor dispute;

C. who works less than 100 hours per month or exceeds that standard for a particular month if work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for two prior months and is expected to be under the standard for the next month;

D. who has not quit or refused a bona fide offer of employment or training for employment for good cause in the last 30 days;

E. who has not been fully employed during the 30-day period preceding the receipt of AFDC-UP;

(1) when employment is less than 100 hours in the month employment is lost but was 100 or more hours in the preceding month, the last day of the preceding month shall be considered the last day of full employment; or

(2) when employment is 100 hours or more in the month employment is lost, the day employment is lost shall be considered the last day of full employment; and

(3) upon completion of the 30-day waiting period, eligibility shall be established as the day of application, the day following the last day of full employment, or the day all other eligibility factors are met, whichever is later;

F. who is currently registered with WIN or the local job service office of the Department of Economic Security and is available for training and/or employment or qualifies for an exemption from registration with WIN; when exemption from WIN registration exists, the requirement for current registration shall be met by the other parent unless that parent also qualifies for exemption from registration;

G. who has:

(1) worked at least six quarters during any 13 calendar quarter period ending within one year prior to the quarter of application for AFDC-UP; earned the equivalent of not

less than $50 per quarter during this period; under this subitem, compensation for this work may be in United States dollars or in a foreign currency which purchases goods and services equal to or exceeding $50 in United States currency, and may be in the form of cash compensation or in the form of goods and/or services of a fair market value equivalent to $50; alternatives to cash compensation include, but are not limited to, the fair market value of food, shelter, personal items, and medical care; and that work performed shall include the labor or services rendered, to an employer or through self-employment that was necessary to secure that compensation; that the administering authority shall ordinarily verify such employment by contacting the individuals for whom the work was performed; and that when such verification is not readily available, the administering authority shall accept a personal affidavit from the applicant as a satisfactory substitute for such verification; that cooperation in the WIN program or a community work experience program shall qualify as a quarter of work under this subitem; or

(2) received or could have qualified for unemployment compensation during the year prior to application for AFDC-UP, or could have qualified if the work performed had been covered by unemployment compensation; and

H. who has earned the greater amount of income during the 24 months immediately preceding the month of application for AFDC-UP; when there are no earnings or when earnings are identical for each parent, the applicants may designate the principal wage earner and that designation may not be transferred upon determination of eligibility.

9500.0091 [Emergency] STEPPARENT.

Subpart 1. Income. A stepparent is required to support his or her spouse and his or her stepchildren who reside with the stepparent. If a stepparent and natural parent do not have sufficient income to meet the needs of their common and separate children, AFDC eligibility shall exist for the natural parent and his or her separate children when all other eligibility

factors are met. When two parents have a common child and at least one separate child residing with them, they may elect to seek eligibility on the basis of unemployed parent or incapacitated parent or they may elect to have the needs of the natural parents and his or her separate children met on the basis of continued absence. The local agency shall explain this option and its effects when the option is available. When there are no common children who reside with the parent and stepparent, eligibility for AFDC shall only exist on a stepparent basis.

Stepparent eligibility shall exist for:

A. A single household grant that includes the needs of the natural parent and his or her separate children. This eligibility shall be available when the natural parent and the stepparent do not have common children who reside with them; when they do have common children who reside with them and elect not to receive or do not qualify for AFDC-UP or AFDC-IP eligibility; or they only have separate children in residence and elect to have one parent and his or her children excluded from the AFDC grant.

B. A combined household grant that includes the needs of both parents and their separate children who reside with them. This eligibility shall be available when each parent has separate children who reside with them; any common children who reside with them are excluded from the combined stepparent grant.

Subp. 2. **Eligibility for a single household grant.** If the combined net income of the natural parent and the stepparent does not equal the combined need for both parents and their common and separate children who reside with them, as defined by AFDC payment standards, and all other eligibility factors are met, AFDC eligibility exists on the basis of need for both the natural parent and his or her separate children. A gross income test shall be applied which includes the gross income of the natural parent and the net income of the stepparent.

A. To determine the net income available to the natural parent and his or her separate children, the deductions

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made from the stepparent's income shall be those available to AFDC recipients with the exception of the work incentive disregard and dependent care deductions. Additionally the following deductions shall be allowed to determine the income that is available:

(1) expenses paid in the budget month by the stepparent to persons who reside out of the home and are or could be dependents for federal tax purposes;

(2) alimony or child support for persons who reside out of the home when those payments are paid during the budget month by the stepparent;

(3) an allocation for the need of the stepparent at the level of the second adult AFDC payment standard; and

(4) an allocation to the need of any common and separate children of the stepparent if they are under the age of 21; if, they reside with the natural parent and the stepparent, and if they have insufficient personal income to meet their need.

The amount of this allocation to the common and separate children of the stepparent equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

B. The net income of the stepparent, after application of these deductions, shall be considered available to the natural parent and his or her separate children in determining AFDC eligibility and payment level. If the gross income test is met, the deductions from the income of the natural parent shall include:

(1) allowances at the AFDC level for work expenses and child care costs;

(2) an allocation to the stepparent up to the second adult AFDC payment standard to cover the portion of the stepparent's need that is unmet after allocating the net income of the stepparent to his or her own need; and

(3) an allocation to the need of any common children and separate children of the natural parent who are not

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included in the AFDC assistance unit if they:

(a) are under the age of 21;

(b) reside with the natural parent and the stepparent;

(c) have insufficient income to meet their needs; and

(d) have any portion of their need unmet after allocating the net income of the stepparent; only the unmet portion of their need is met by allocating income from the natural parent.

The amount of this allocation to the common and separate children of the natural parent that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

(4) If eligibility exists, a deduction shall be allowed for the work incentive disregard when eligibility for this disregard is still available; the amount of the work incentive disregard is deducted from the balance of the gross employment income of the natural parent after deductions for the work expense and the child care allowance have been made.

Subp. 3. **Eligibility for a combined household grant.** When a husband and wife each have separate children who reside with them and for whom they apply for AFDC, the needs of both parents and the separate children shall be combined into one assistance unit, and they shall receive a single grant with either parent as the payee. Eligibility for AFDC is determined by combining the gross income of the husband and wife and applying the gross income test. If eligibility exists, deductions are allowed for:

A. a work expense against the separate gross employment incomes of the husband and wife;

B. child care expenses against the separate remaining employment income of whichever spouse's employment requires the incurrence of that expense; if both spouses incur the expense, the total expense is divided equally and deducted equally from

each spouse's gross employment income;

C. an allocation for the need of any common children and separate children not included in the AFDC assistance unit, except that allocation to the need of separate children shall only be made from the income of the natural parent of those separate children, if they:

(1) are under the age of 21;

(2) reside with their parent and stepparent; and

(3) have insufficient income to meet their needs.

The amount of the allocation to the common children and the separate children of the husband and wife that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

D. If eligibility exists, a deduction shall be allowed for the work incentive disregard for each parent, when eligibility for this deduction is still available; the amount of the work incentive disregard is deducted from the balance of employment income of each parent after deductions for the work expense and dependent care have been made; this allowance is then applied to the incomes of the parents that qualify for it before allocations are deducted from his or her income.

9500.0111 [Emergency] EMPLOYMENT EXPENSE DEDUCTIONS AND DISREGARDS.

Subpart 1. **Self-employment expense deductions.** The following expenses shall be deducted from self-employment income to determine gross earned income:

A. All business expenses with the following exceptions:

(1) purchase of capital equipment and payment on the principal of loans for capital assets;

(2) depreciation;

(3) amortization;

(4) the wholesale cost of items purchased, processed, or manufactured which are being carried as unsold

inventory (a deduction for the cost of those items shall be allowed at the time they are sold);

(5) transportation costs which exceed 13 cents a mile unless higher reasonable expenses in excess of those costs have been documented, and costs for mileage to and from the place of employment;

(6) salaries and other employment deductions made for members of the AFDC assistance unit or residents of the AFDC household for whom the employer is legally responsible;

(7) monthly expenses in excess of $69 for each roomer, monthly expenses in excess of $84 for each boarder, and monthly expenses in excess of $153 for a roomer-boarder;

(8) annual expenses in excess of $101 or two percent of market value, whichever is less, as a deduction for upkeep and repair against rental income;

(9) any expenses not admitted by the Internal Revenue Service for self-employment income or, if admitted, that have the effect of subsidizing business endeavors of recipients with AFDC funds.

B. Business income which is escrowed in a month for future employee FICA and employee tax withholding.

C. A 60 percent flat deduction from the gross receipts for child care performed in the recipient's home; a client may elect to have actual child care expenses, as defined in subpart 1, item A, deducted.

Subp. 2. **Employment disregards.** A deduction shall be made for all allowed disregards from the amount of gross earned income. Gross earned income is all self-employment income less any allowable business expenses as outlined in subpart 1 and all salaried income before application of mandatory and voluntary deductions, except that self-employment losses shall not be used to offset salaried earnings. The following disregards shall be deducted from gross earned income:

A. A $75 monthly work expense, whether employment is part or full time.

B. A monthly allowance for dependent care costs

actually paid, not to exceed $160 per dependent when employment equals or exceeds 30 hours per week or not to exceed $159 per dependent when employment is less than 30 hours per week.

C. Subject to AFDC federal program limitations, an allowance for a $30 and one-third work incentive for each eligible recipient. This disregard shall apply against the balance of gross earned income which remains after deductions for the work expense and dependent care have been allowed.

9500.0331 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency].

Subp. 2. **Applicant.** "Applicant" means an individual who submits a written request for emergency assistance.

Subp. 3. **Available resources.** "Available resources" means those assets owned by the applicant that are liquid or can be liquidated within the time necessary to avoid or promptly alleviate destitution, together with all other sources of income or of public funds for which the applicant is eligible and contributions from financially responsible relatives living in the home.

Subp. 4. **Balloon payment.** "Balloon payment" means an amount of money required to be paid on a specific date according to the terms of a contract for deed or mortgage loan agreement and that exceeds the monthly mortgage payment.

Subp. 5. **Basic need items.** "Basic need items" means subsistence items necessary for life and health, including food, safe drinking water, habitable shelter, clothing, medical care; the companion items necessary to assure these needs, including heating fuel, electricity, essential household appliances and furnishings, caregiving services to children and incapacitated adults, transportation necessary for medical care or employment, equipment or other expenses crucial for employment; and other goods or services necessary to protect a child's health and safety.

Subp. 6. **Caretaker.** "Caretaker" means a relative listed

in Minnesota Statutes, section 256.12, subdivision 14, who lives with and is responsible for the care and well being of a child under the age of 21 years.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the department of human services or his designee.

Subp. 8. **Cost effective.** "Cost effective" refers to a plan that is economical in terms of the goods or services received for the money spent.

Subp. 9. **Department.** "Department" means the Department of Human Services.

Subp. 10. **Destitution.** "Destitution" means the condition of a child who lacks a basic need item and who is without available resources to provide for that need.

Subp. 11. **Emergency.** "Emergency" means a situation or set of circumstances that causes or threatens to cause destitution.

Subp. 12. **Emergency assistance.** "Emergency assistance" means financial aid and services to, or on behalf of, a child to avoid or resolve conditions of destitution.

Subp. 13. **Family budgeting services.** "Family budgeting services" means a range of services directed toward developing a family's capacity to use its available income and resources to assure continued financial stability and provide itself with basic need items.

Subp. 14. **Habitable shelter.** "Habitable shelter" means housing that meets the health and safety standards provided under local ordinance, applicable state or federal law, and any specific criteria established by a physician as necessary to the life and health of the child.

Subp. 15. **Local agency.** "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes as the agency responsible for the administration of the emergency assistance program.

Subp. 16. **Program.** "Program" means the emergency assistance program established under Minnesota Statutes, section 256.871, Emergency Assistance to Needy Families with Children Under Age 21.

Subp. 17. **Protective payee.** "Protective payee" means a third party who receives funds on behalf of the applicant and bears responsibility for seeing that the applicant's basic needs are provided for out of those funds.

Subp. 18. **Request for assistance.** "Request for assistance" means a communication to a local agency by mail, telephone, or in person through which a person relates circumstances that indicate the potential destitution of a child. A person need not specifically request "emergency assistance."

Subp. 19. **Threatened destitution.** "Threatened destitution" means a time at which, unless an action is taken, destitution will result.

Subp. 20. **Threatened eviction.** "Threatened eviction" means any legal document or written communication that has the effect of requiring a child to vacate the home.

Subp. 21. **Utility budget period.** "Utility budget period" means a continuous 12-month period preceding the month of application, or a shorter period if the applicant has received utility service for less than 12 months. Unpaid utility bills covering a period of time in excess of 12 months shall be divided into two or more utility budget periods.

Subp. 22. **Utility costs.** "Utility costs" means charges incurred by an applicant for the provision of electrical, gas, heating fuel, water, and sanitary service.

9500.0332 [Emergency] APPLICABILITY.

Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] govern the administration of the emergency assistance provided through the aid to families with dependent children program. Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] define circumstances under which aid or services shall be provided, conditions of eligibility for that aid or those services, and the conditions under which local welfare agencies and the department shall operate the program.

9500.0333 [Emergency] STATEMENT OF PURPOSE.

The purposes of the emergency assistance program are to avoid and to prevent the destitution of children. It does so by providing payments to resolve an emergency and by providing services that prevent recurrence of destitution.

9500.0334 [Emergency] APPLICATION PROCESS.

Subpart 1. **Agency brochure.** The local agency shall provide by hand or by mail an application form and an informational brochure to each person who makes a request for assistance. The form and brochure shall be made available on the same day the request for assistance is received by the local agency. The brochure shall describe eligibility criteria for the program, list the emergencies for which payment of program funds may be authorized, and contain the following information:

"If a child in your family is threatened by an emergency, you may be eligible for the AFDC-emergency assistance program. If you want the local agency to help you avoid an emergency, you must make a written application with the local agency. No action will be taken regarding your situation unless you file the application form. If you file an application, a decision will be made promptly by the local agency and a written explanation of that decision will be mailed or delivered to you within one week of the date you filed the application form or you will be informed in writing within that time of the reason for the delay. You may appeal that decision to the Department of Human Services.

Any information given to you concerning your eligibility for emergency assistance before the agency has had the opportunity to review a written application form may not be accurate."

Subp. 2. **Application.** Any person may apply for emergency assistance. At the time of the application, the local agency shall explain to the applicant the program's eligibility requirements, the limitation of annual eligibility, the extent of the program's coverage, the benefits provided by other

programs provided by the local agency or known to the local agency to be advantageous to the applicant's circumstances, and the rights and responsibilities of applicants for and recipients of emergency assistance.

Subp. 3. Forms. The application shall be made on forms prescribed by the commissioner and shall be prepared and signed by the applicant or a representative of the applicant, if that representative has been authorized in writing by the applicant or a court to act in the applicant's behalf and if that representative has knowledge of the applicant's financial circumstances.

Subp. 4. Interview. A personal interview shall be conducted after receipt of the application for emergency assistance. If the applicant indicates destitution is imminent or already present, the agency shall offer to conduct the personal interview on the same day that the application is received. In all other cases, the personal interview shall be conducted within a time that does not inhibit the local agency's ability to provide assistance in time to prevent destitution.

Subp. 5. Processing application. Applications shall be processed in a manner that considers the immediacy and severity of the destitution. The local agency shall assist applicants in completing the verification process in time to provide an eligible applicant with emergency assistance to prevent destitution. Verification shall be made promptly and by telephone whenever possible. Each local agency shall designate at least one staff person to authorize immediate issuance of emergency assistance. Issuance shall not be delayed for the purpose of securing formal action from the county board.

Subp. 6. Notice of eligibility. The local agency shall provide written notice on a form prescribed by the commissioner to all applicants with regard to their eligibility for emergency assistance. The local agency's determination shall be mailed or delivered to the applicant within one week of the date the application was filed unless the applicant is informed within that time and in writing of the reason for the delay.

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9500.0335 [Emergency] ELIGIBILITY.

Emergency assistance shall be granted to a family that meets the following conditions:

A. the family has a child under the age of 21 years who is, or within six months prior to application has been, living with a caretaker;

B. the family has an emergency;

C. the family's available resources are not sufficient to resolve the emergency; and

D. the emergency did not arise because a caretaker or child over the age of 16 years refused employment or training for employment without good cause as defined by the Work Incentive Program.

9500.0336 [Emergency] COVERED EMERGENCIES.

In accordance with parts 9500.0338 [Emergency] and 9500.0339 [Emergency], payments and services may be authorized when a child lacks, has lost, or is threatened with the loss of basic need items. The causes which produce need include evictions, condemnations, cancellation of a contract for deed, mortgage foreclosure; other relocations; return from residential treatment, long term hospitalization, incarceration or other separations of the child from the caretaker; civil disorders or strikes; fires, floods, storms, or other natural disasters; and loss or theft of funds. Payments and services may be authorized when the eligible household lacks, has lost, or is threatened with the loss of:

A. shelter;

B. shelter deposit;

C. moving expenses;

D. storage costs necessary to recover personal property;

E. necessary home furnishings;

F. necessary appliances, heating or cooking facilities;

G. ability to pay for necessary home repairs;

H. utility service;

I. utility hookup;

J. clothing;

K. food;

L. safe drinking water;

M. necessary medical care;

N. necessary dependent care;

O. transportation necessary for medical care or employment;

P. equipment or other expenses crucial to employment; and

Q. other items necessary to the health and safety of a child.

9500.0337 [Emergency] FAMILY BUDGETING SERVICES.

Each local agency shall provide a full range of family budgeting services as defined in part 9500.0331 [Emergency], subpart 13. These services shall be provided by experts in the field and shall be made available, without cost, to persons who apply for emergency assistance. The local agency may use administrative emergency assistance funds to either contract with outside experts to provide family budgeting services or provide these services itself. Agency-initiated vendor or protective payments may be used if recommended under a family budgeting plan.

9500.0338 [Emergency] ISSUANCE OF ASSISTANCE.

Subpart 1. **Payments.** Emergency assistance payments may be made as direct cash payments to the applicant, vendor payments, vouchers, or protective payee payments. Where assistance is requested for employment-related expenses under part 9500.0336 [Emergency], issuance is limited to an interest-free loan of up to $100.

Subp. 2. **Services.** Services available under the emergency assistance program include negotiation with creditors, family budgeting services, protective payee arrangements, and coordination of agency financial assistance programs with public

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or private resources available in the community.

9500.0339 [Emergency] LIMITATIONS.

Subpart 1. **30-day period.** Emergency assistance shall be granted only for one consecutive 30-day period in one consecutive 12-month period. Needs that accrue prior to the 30-day period may be met only when necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. Assistance may be extended for up to 30 days beyond the initial 30-day period of eligibility if authorized during the initial period.

Subp. 2. **Lost checks.** Emergency assistance shall not be available when uncashed AFDC checks are lost or stolen. In these cases, the lost or stolen AFDC checks shall be replaced in accordance with part 9500.0240, subpart 1.

Subp. 3. **Applicant move.** Where continued payment of shelter and utility expenses appear beyond the ability of the applicant to pay from anticipated income, the local agency may condition the issuance of emergency assistance on the requirement that the applicant move to more affordable housing as a method of preventing destitution of the child. If this requirement is imposed, the local agency must specify one or more habitable locations which are available in the community which will result in at least a 20 percent reduction in monthly expense and which shall be cost effective for the applicant. The local agency shall issue emergency assistance for expenses directly related to the relocation. In considering relocation, the local agency shall evaluate the effect of the requirement to move in terms of the size of the proposed housing and the disruption to the child which could result from the move.

9500.0351 [Emergency] MORTGAGE ARREARAGES AND BALLOON PAYMENTS.

Subpart 1. **Balloon payments.** Balloon payments shall be made up to a maximum issuance of six times the AFDC family allowance standard for the size and composition of the applying family. These payments shall be made only if the amount payable, combined with any payments made by the applicant, will

be accepted by the creditor as full payment of the balloon and will avoid the threatened destitution.

Subp. 2. **Arrearages.** Mortgage and contract for deed arrearages shall be paid if those arrearages have caused foreclosure action to be brought against the applicant subject to part 9500.0339 [Emergency], subpart 3. In addition, the following limitations shall become effective November 1, 1984, and apply to the issuance of emergency assistance for these applicants:

A. If the applicant has paid less than 30 percent of his total gross income, in the 12 months preceding application, for house payments to include payments for principal and interest on mortgage or contract for deed payments; property taxes and special assessments (less any homestead credit paid to the applicant) homeowner's insurance, and balloon payments, no eligibility for emergency assistance shall exist. If the applicant has received emergency assistance payments against a prior foreclosure action, eligibility shall not exist if the applicant has paid less than 40 percent of his total income in the 12 months preceding application for house payments.

B. If the applicant has paid 60 percent or more of his total gross income, in the 12 months preceding application, for house payments he shall be eligible for full payment of any arrearage that exists at the time of foreclosure action. If the applicant has received emergency assistance payments against a prior foreclosure action and has paid 70 percent or more of his total income, in the 12 months preceding application, he shall be eligible for full payment of any arrearage that exists at the time of the foreclosure action.

C. If the applicant has paid at least 30 percent but less than 60 percent of his income, in the 12 months preceding application, for house payments; or if the applicant has received emergency assistance against a prior foreclosure action and has paid at least 40 percent but less than 70 percent of his income, in the 12 months preceding application, he will be eligible for emergency assistance payment according to the

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following:

% OF TOTAL HOUSE PAYMENT DUE IN THE PRECEDING 12 MONTHS THAT WAS PAID BY THE APPLICANT	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY EMERGENCY ASSISTANCE	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY THE APPLICANT
less than 20%	50%	50%
at least 20% but less than 30%	60%	40%
at least 30% but less than 40%	70%	30%
at least 40% but less than 50%	80%	20%
at least 50% but less than 60%	90%	10%
60% or more	100%	0%

D. Each applicant unit that has been threatened with foreclosure action may use emergency assistance to cover a maximum of two times. Emergency assistance issued prior to the effective date of this part shall not be used for the purposes of this item.

E. No payment against an arrearage shall be paid unless there is a confirmation from the foreclosing party that the emergency assistance payment in combination with any payment of the applicant will provide reasonable assurance that a subsequent foreclosure action will not force the applicant out of his home within the next 12 months.

F. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of this part, items A, C, and D shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. **Homestead requirement.** These arrearages and balloon payments may only be paid on a home occupied, maintained, and solely owned by the applicant family as its primary residence.

Subp. 4. **Arrearages and balloon payments due.** When both monthly payments are in arrears and a balloon payment is due within the next 12 months, the value of the balloon payment

shall be considered in addition to the total monthly payment arrearage when assessing the applicant family's financial ability to avoid destitution at the time the balloon payment becomes due.

Subp. 5. **Applicant move.** When the applicant is found ineligible for balloon payments or arrearages under the emergency assistance program and a move is required, the local agency shall assist the family in relocating according to the provision in part 9500.0339, subpart 3.

9500.0352 [Emergency] UTILITIES.

Subpart 1. **Conditions of payment.** Subject to the limitations in this part, payment shall be made when an otherwise eligible family has had a termination or is threatened with a termination in electric, gas, or heating fuel service.

A. No payment shall be made from emergency assistance funds unless the local agency has received confirmation from the utility provider that payment in the amount specified as owed by the applicant satisfies the full amount of the applicant's debt to the utility, including any delinquent accounts of the applicant, and only if the total funds available from the local agency combined with the applicant's resources, either paid from present funds or obligated by the applicant under a repayment plan with the utility, will be sufficient to prevent termination of utility service.

B. Except as provided in subpart 2, item D, payment shall not be made to persons who:

(1) Effective November 1, 1984, and thereafter paid less than four percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter paid less than six percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter paid less than eight percent of the family's gross income toward

utility payments due during the utility budget period or while the application is pending.

Subp. 2. **Amounts of payment.** The amount paid through emergency assistance shall depend upon the percent of gross income paid toward utility costs and the percent of the total utility cost paid prior to the issuance of emergency assistance, as follows:

A. Payments of the balance owed to the utility shall be made in full when:

(1) Effective November 1, 1984, and thereafter, the applicant paid no less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter, the applicant paid no less than 12 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid no less than 16 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

B. Except as provided in subpart 2, item D, payments made from emergency assistance on the balance owed to the utility shall be limited to the amounts under Table 1 when:

(1) Effective November 1, 1984, and thereafter, the applicant paid at least four percent and less than eight percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter, the applicant paid at least six percent and less than 12 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid at least eight percent and less than 16 percent of gross available income toward utility payments due

during the utility budget period or while the application is pending.

C. If the applicant paid the amounts indicated in subpart 2, item B, above, the local agency shall issue emergency assistance according to the following:

Table 1: Amounts paid by emergency assistance

% of total utility consumption cost paid by applicant prior to issuance of emergency assistance	% of the unpaid balance which will be paid by emergency assistance	% of the unpaid balance which must be paid by the applicant
less than 10%	70%	30%
at least 10% and less than 20%	76%	24%
at least 20% and less than 30%	82%	18%
at least 30% and less than 40%	88%	12%
at least 40% and less than 50%	94%	6%
50% or more	100%	0%

D. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of subpart 1, item B, and subpart 2, item B, shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. **Negotiations with utility providers.** The local agency shall negotiate on behalf of the applicant eligible for reduced payments under subpart 2, item B, if the utility provider does not ordinarily offer repayment plans to its customers. If the utility provider refuses to accept the amount the agency may pay under subpart 2, item B, together with establishment of a repayment plan for the additional money owed on the balance by the applicant, the local agency shall pay nothing to the utility provider and shall assist the family in seeking an alternate provider or making alternate arrangements.

Subp. 4. **Termination of water or sanitary service.** The local agency shall pay the full amount of the unpaid balance due the utility provider.

APPEARS IN THE [illegible] STATUTES

9500.0353 [Emergency] APPEALS.

Subpart 1. **Right to appeal.** Each applicant shall have the right to appeal any action or failure to act with reasonable promptness on the part of the local agency relating to the application for emergency assistance. The local agency shall inform the applicant in writing of the right to appeal and the procedure to follow in filing an appeal. Within two working days after receiving a written request for an appeal, the local agency shall forward the written request and an agency appeal summary to the appeals office of the Department of Human Services.

Subp. 2. **Hearings.** The appeals office shall schedule a hearing on the earliest available date and, following the hearing, shall promptly forward the decision of the referee to the commissioner.

Subp. 3. **Decisions of the commissioner.** The commissioner shall issue a written order within five working days of receipt of the referee's decision, shall immediately provide the parties with the outcome of his decision by telephone, and shall mail the written decision to the parties no later than the second working day following the date of the commissioner's decision.

APPLICATION. Parts 9500.0031 to 9500.0353 [Emergency] shall be read together with permanent rules parts 9500.0010 to 9500.0370, and where these parts are in conflict, the emergency rules shall prevail until their expiration date.

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RRD590E

Agency: Department of Human Services

Division:

Agency Contact: Dorothy Mosso

Minnesota Rules: Parts 9500.0031 [Emergency]; 9500.0051 [Emergency]; 9500.0071 [Emergency]; 9500.0081 [Emergency]; 9500.0091 [Emergency]; 9500.0111 [Emergency]; 9500.0331 to 9500.0339 [Emergency]; 9500.0351 to 9500.0353 [Emergency]

Title: Proposed Emergency Rules Governing AFDC Emergency Assistance

Type of Rules: Emergency

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Susan M. Lentsch
Assistant Revisor
Phone: 296-0956
Date: August 20, 1984

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330.

ORDER ADOPTING EMERGENCY RULES

The above-entitled matter was published in the State Register on September 3, 1984, as a proposed emergency rule pursuant to Minnesota Statutes, sections 14.29 - 14.36.

After affording interested and affected persons an opportunity to submit written data and views within 25 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 emergency rules Governing **Aid to Families with Dependent Children, Chapter 9500, Parts 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330.** are adopted this 8 day of **October**, 1984, pursuant to authority vested in me by **Minnesota Statutes 1983 Supplement, section 256.871, subdivision 7, as amended by Law 1984, chapter 580, section 1.**

STATE OF MINNESOTA

COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Emergency Rules of the State Aid to Families With Dependent Children, Governing Chapter 9500, Parts 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330

ORDER FOR PUBLICATION OF EMERGENCY RULES

IT IS ORDERED this 17 day of August, 1984, that the proposed emergency rules in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

LEONARD W. LEVINE, Commissioner
Department of Human Services

HTH-13

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

Proposed Emergency Rules Governing
Aid to Families With Dependent Children
Chapter 9500, Parts 9500.0050, 9500.0070,
9500.0080, 9500.0090, 9500.0110, and
9500.0330

NOTICE OF INTENT TO
ADOPT EMERGENCY RULES

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement 1984 Minnesota Statutes, section 256.871, subdivision 7.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984, to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Dorothy Mosso
Department of Human Services
Space Center
444 Lafayette Road - Fourth Floor
St. Paul, Minnesota 55101

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the State Register and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

The Aid to Families with Dependent Children (AFDC) Program provides financial assistance and services to needy dependent children and the caretakers with whom they are living to help maintain and strengthen family life and to help such caretakers attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

The subject areas being addressed in emergency rule are client responsibilities, continued absence of a parent, eligibility factors for unemployed parents (AFDC-UP), stepparent allocation, employment expense deductions and disregards, and emergency assistance.

Specifically, the emergency rule on client responsibilities includes the requirement that applicants and recipients cooperate with the local county agency in providing all information to determine initial and ongoing eligibility. This includes information requested at the time of application, at the time of redetermination of eligibility, at the time a household report form is due, if a case is randomly selected for quality control review, and when a recipient has any change in income or circumstances which may affect eligibility. The emergency rule also includes requirements and the sanctions to be imposed with regard to the regular reporting of household income.

The emergency rule having to do with the continued absence of a parent provides definitions of "absent parent," "care," "custodian," "guidance," "home," "joint legal custody," "joint physical custody," "support," and "uniformed services." The emergency rule addresses AFDC Program eligibility on the basis of an absent parent. It also addresses issues around visitation, evidence of a home and situations of shared custody, special circumstances, substitute parenting, and the return of a parent to the child's home.

The emergency rule addressing eligibility factors for unemployed parents (AFDC-UP) includes a description of an unemployed parent and the criteria to meet work quarter eligibility, including a provision for work quarter eligibility that allows for compensation for goods and/or services to be received in food, shelter, personal items, and medical care.

The emergency rule addressing stepparent allocation addresses the topics of income and how it is considered in AFDC eligibility and allowance standards, stepparent eligibility, eligibility for a single household grant, and eligibility for a combined household grant.

The emergency rule on employment expense deductions and disregards addresses self-employment expense deductions and employment disregards.

The emergency rule on emergency assistance includes the definition of terms; a statement of purpose; the application process; eligibility criteria; the types of emergencies that are covered under the program; the issuance of assistance; program limitations; the conditions under which and the amounts of emergency assistance that will be granted for mortgage arrearages, balloon payments, and utilities; agency responsibilities; client responsibilities; and a description of the appeal process.

Under the requirements of Minnesota Statutes, section 14.11, subdivision 1, the estimated increased total costs for local public bodies for Emergency Assistance, Parts 9500.0331 - .0339 and Parts 9500.0351 - .0353, is $400,000 per year for fiscal years 1985 and 1986. No other Parts will result in increased total cost of over $100,000 per year for local public bodies.

A free copy of the proposed emergency rule may be obtained by contacting Dorothy Mosso, Department of Human Services, Space Center, 444 Lafayette Road, Fourth Floor, St. Paul, Minnesota 55101.



LEONARD W. LEVINE
Commissioner of Human Services

HTH-10

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330

AFFIDAVIT OF MAILING

Wendy Johnson , being first duly sworn, deposes and says:

That on the 29 day of August , 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Emergency Rules by depositing in the State of Minnesota Central Mail System for first class mailing, 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 Department of Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department.

Wendy Johnson

Subscribed and sworn to before me

this 30 day of August, 1984.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330

AFFIDAVIT OF ADDITIONAL MAILING

Wendy Johnson, being first duly sworn, deposes and says:

That on the 29 day of August, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Intent to Adopt Emergency Rules to all persons and associations who have requested that their names be placed on file with for the purpose of receiving notice of the proposed adoption of rules by this Department, she also served the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following agencies:

(see attached sheet)

Wendy Johnson

Subscribed and sworn to before me
this 30 day of August, 1984.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

List of Persons to Receive Copies of AFDC Emergency Rules

1. Barbara Martin
   Watonwan County Human Services
   P.O. Box 31 Courthouse
   St. James, MN 56081

2. Brenda Tyler
   420 Aldrich
   Minneapolis, MN 55411

3. Mike Gravel
   Ramsey Action Program
   509 Sibley Street
   St. Paul, MN 55101

4. Louise Brown
   Family and Childrens Services of Minneapolis
   414 South Eighth Street
   Minneapolis, MN 55404

5. Ling Vang
   Lao Family Community, Inc.
   475 Cedar Street
   St. Paul, MN 55101

6. Steve Moon
   Southern Minnesota Regional Legal Services
   300 Minnesota Building
   46 East Fourth Street
   St. Paul, MN 55101

7. Kathy Cleland
   Stearns County Social Services Center
   700 Mall Germain
   St. Cloud, MN 56301

8. Cindy Hoglund
   Olmsted County Department of Social Services
   515 - Second Street Southwest
   Rochester, MN 55901

9. Roberta Osborne
   Carlton County Human Services Center
   P.O. Box 316
   1215 Ave. C.
   Cloquet, MN 55720

10. Bill Smith
    Community Organizations Acting Together
    310 East 38th Street
    Minneapolis, MN

11. Mary Grau
Legal Aid Society
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

12. Berry Friesen
Southern Minnesota Regional Legal Services, Inc.
300 Minnestoa Building
46 East Fourth Street
St. Paul, MN 55101

13. Larry Olson
Pollution Control Agency
116 East Front Street
Detroit Lakes, MN 56501

14. Tanya Orr
Mid-Minnesota Legal Assistance
323 Fourth AVe. South
222 Grain Exchange Building
Minneapolis, MN 55415

15. Robert Minton
c/o United Way of St. Paul Area
333 Sibley Street
St. Paul, MN 55101

16. Julie Biskowski, Family Advocate
Family Services of St. Paul
333 Sibley Street, Suite 500
St. Paul, MN 55101

17. Gail Stremel
Ramsey County Human Services
160 East Kellogg
St. Paul, MN 55101

18. Jane Brown, Credit Manager
c/o Minnegasco
201 South Seventh Street
Sixth Floor
Minneapolis, MN 55402

19. Jo Ann Thomas
Recipient Families United for Justice
577 Wentworth Avenue South
Minneapolis, MN

20 Ed Hanson, County Commissioner
Lake County Social Service Department
1514 Ninth Avenue
Two Harbors, MN 56616

21. Noelle MacMillan
Recipient Families United for Justice
4200 Wentworth Avenue South
Minneapolis, MN

22. Pat Serrano, Director
Stearns County Social Service Center
700 Mall Germain
St. Cloud, MN 56301

23. Dennis Erickson
Aitkin County Family Service
Income Maintenance Unit
Courthouse Annex
Aitkin, MN 56431

24. Beth Newkirk
Anoka People Alliance for Change
7150 East River Road
Fridley, MN 55432

25. Representative Karen Clark
2918 Columbus Ave. South
Minneapolis, MN 55407

26. Michael Hamburg, Supervisor
Dakota County Human Serivces
357 Ninth Avenue North
South St. Paul, MN 55075

27. John Winkelman
Hennepin County Bureau of Social Services
A-1200 Government Center
300 South Sixth Street
Minneapolis, MN 55487

28. Cathy Horen
Rice County Social Services
128 Northwest Third Street
Faribault, MN 55021

29. Cheryl Hanks
Financial Assistance Supervisor
Anoka County Community and Social Services Department
Anoka County Courthouse
Anoka, MN 55303

30. Shirley Perkins
3244 Hariett Avenue South
Minneapolis, MN 55408

31. Dennis Anderson
Dakota County Department of Human Services
c/o Economic Assistance
357 Ninth Avenue North
South St. Paul, MN 55075

32. Dick Williams
Isanti County
221 Southwest Second Avenue
Cambridge, MN 55008

33. Sue Nolenberg
Minnesota Coalition of Battered Women
435 Aldine Street
St. Paul, MN 55104

34. Pat Murphy
Department of Corrections
Battered Women's Program
Suite 430 Metro Square
St. Paul, MN 55101

35. Richard A. Pavel
Legal Aid Society of Minneapolis, Inc.
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

36. Stephen D. Sawyer
Legal Aid Society of Minneapolis
2929 Fourth Avenue South
Minneapolis, Minnesota 55408

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. S.14.14, subd. 1, that their names be placed on file with and maintained by the Department of Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 6:00, P.M., this 29 day of August, 1984.



PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Human Services

Proposed Emergency Rules Governing AFDC Emergency Assistance

Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement 1984 Minnesota Statutes, section 256.871, subdivision 7.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984, to submit written comments. The proposed emergency rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Dorothy Mosso
Department of Human Services
Space Center
444 Lafayette Road - Fourth Floor
St. Paul, Minnesota 55101

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these emergency rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The emergency rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

The Aid to Families with Dependent Children (AFDC) Program provides financial assistance and services to needy dependent children and the caretakers with whom they are living to help maintain and strengthen family life and to help such caretakers attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

The subject areas being addressed in the emergency rule are client responsibilities, continued absence of a parent, eligibility factors for unemployed parents (AFDC-UP), stepparent allocation, employment expense deductions and disregards, and emergency assistance.

Specifically, the emergency rule on client responsibilities includes the requirement that applicants and recipients cooperate with the local county agency in providing all information to determine initial and ongoing eligibility. This includes information requested at the time of application, at the time of redetermination of eligibility, at the time a household report form is due, if a case is randomly selected for quality control review, and when a recipient has any change in income or circumstances which

may affect eligibility. The emergency rule also includes requirements and the sanctions to be imposed with regard to the regular reporting of household income.

The emergency rule having to do with the continued absence of a parent provides definitions of "absent parent," "care," "custodian," "guidance," "home," "joint legal custody," "joint physical custody," "support," and "uniformed services." The emergency rule addresses AFDC Program eligibility on the basis of an absent parent. It also addresses issues around visitation, evidence of a home and situations of shared custody, special circumstances, substitute parenting, and the return of a parent to the child's home.

The emergency rule addressing eligibility factors for unemployed parents (AFDC-UP) includes a description of an unemployed parent and the criteria to meet work quarter eligibility, including a provision for work quarter eligibility that allows for compensation for goods and/or services to be received in food, shelter, personal items, and medical care.

The emergency rule addressing stepparent allocation addresses the topics of income and how it is considered in AFDC eligibility and allowance standards, stepparent eligibility, eligibility for a single household grant, and eligibility for a combined household grant.

The emergency rule on employment expense deductions and disregards addresses self-employment expense deductions and employment disregards.

The emergency rule on emergency assistance includes the definition of terms; a statement of purpose; the application process; eligibility criteria; the types of emergencies that are covered under the program; the issuance of assistance; program limitations; the conditions under which and the amounts of emergency assistance that will be granted for mortgage arrearages, balloon payments, and utilities; agency responsibilities; client responsibilities; and a description of the appeal process.

Under the requirements of Minnesota Statutes, section 14.11, subdivision 1, the estimated increased total costs for local public bodies for Emergency Assistance, Parts 9500.0331-.0339 and Parts 9500.0351-.0353, is $400,000 per year for fiscal years 1985 and 1986. No other parts will result in increased total cost of over $100,000 per year for local public bodies.

A free copy of the proposed emergency rule may be obtained by contacting Dorothy Mosso, Department of Human Services, Space Center, 444 Lafayette Road, Fourth Floor, St. Paul, Minnesota 55101.

Leonard W. Levine
Commissioner of Human Services

Emergency Rules as Proposed (all new material)

9500.0031 [Emergency] STATE AND FEDERAL COOPERATION.

Notwithstanding any provisions of parts 9500.0010 to 9500.370, administration of the AFDC program in parts 9500.0051 [Emergency]; 9500.0071 [Emergency]; 9500.0081 [Emergency]; 9500.0091 [Emergency]; 9500.0111 [Emergency]; 9500.0331 to 9500.0339 [Emergency]; and 9500.0351 to 9500.0353 [Emergency] shall be subject to changes in federal or state law.

9500.0051 [Emergency] CLIENT RESPONSIBILITIES.

Subpart 1. General information. Applicants and recipients of AFDC shall provide all information necessary to determine initial and ongoing eligibility. This shall include information requested at the time of application, at the time a redetermination or household report form is due, and if the case is randomly selected for a quality control review. This responsibility also requires a timely report of any change in income and household circumstances which affect eligibility.

Subp. 2. Applicant responsibility. All applicants for assistance shall provide information necessary to determine initial eligibility. Applicants are required to verify or authorize the local agency to verify those statements on the application identified by these parts as necessary to the determination of initial eligibility. An applicant shall promptly report any changes in circumstances which may affect eligibility while his or her application is pending a determination of eligibility. The failure of an applicant to promptly provide necessary information may result in a delay in receiving initial benefits or a denial of his or her application.

Subp. 3. Recipient responsibility. All recipients of assistance shall provide a regular report concerning his or her household income and other circumstances of eligibility. A recipient shall report changes in income and other circumstances which may

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.

affect their eligibility within ten days of their occurrence or within eight calendar days of the end of a reporting period, whichever occurs earlier. When the eighth calendar day of the month falls on a weekend or holiday, the first working day of the local agency that follows the eighth calendar day shall be established as the date on which this report is due. All recipients shall receive a monthly household report form except that quarterly household report forms shall be received when the United States Secretary of Health and Human Services waives the monthly reporting requirement or provides alternative direction for certain specified categories of recipients.

Subp. 4. Report form. A recipient's responsibility for completion of the required report form requires that the recipient provide a completed report form by the eighth calendar day of the month following the period covered by the form. The caretaker shall sign and date the report form no earlier than the last day of the reporting period, answer all questions necessary to determine payment eligibility, and include verification of earned income. A delay without good cause in providing a completed form must result in the following penalties:

A. if the completed form is received by the local agency after the eighth calendar day of the month following the period covered by the form, the delay in providing the completed form may also cause a delay in receiving AFDC payment in the month following the month in which the report was due; and if the report included earned income, the recipient shall lose the work expense, dependent care expense, and work incentive disregards in the payment month corresponding to the last month covered by the household report form; and

B. if the completed form is received by the local agency on or after the first day of the month following the month in which the report is due, assistance shall be terminated; if further assistance is required, a reapplication shall be required and payment eligibility shall be prorated from the date of reapplication or the date all other eligibility factors are met, whichever is later; and if reapplication is made during the initial month of termination, the client shall also be subject to the loss of all earned income disregards.

Subp. 5. Qualifications. The following qualifications must apply to the penalties in subpart 4:

A. If a client has earned income and submits an incomplete household report form on or prior to the eighth calendar day of the month in which the report is due, the client shall be granted an additional eight calendar days from the date that the local agency remailed the form to complete those portions related to earned income identified as incomplete. If received by the local agency on or before the eighth day, the penalties for loss of earned income disregards shall not apply.

B. If a client provides an incomplete household report form prior to the last working day of the month on which a ten-day notice of termination can be issued for failure to provide a completed household report form, the local agency shall return the incomplete form on or before the ten-day notice deadline or that termination notice shall be regarded as invalid and reapplication and proration of benefits cannot be imposed by the local agency.

C. Good cause exemptions from application of either penalty shall be granted if:

(1) the local agency failed to accurately identify those items that were incomplete;

(2) the receipt of the form was unduly delayed within the postal system; forms which were received by the local agency two or more agency working days after they were postmarked shall be presumed to be unduly delayed;

(3) the employer delayed completion of employment verification;

(4) the local agency failed to provide needed assistance to the recipient in the completion of the form;

(5) the recipient did not receive a report for completion because of agency error or because of a reported change of address;

(6) illness, physical or mental incapacity, or some other circumstances that could not have been avoided by the recipient through the exercise of reasonable care caused the recipient to be unable to provide a completed form in a timely manner; and these factors, singly or in combination, caused the recipient to miss the deadlines for providing a completed form.

Subp. 6. Changes in status. Recipients of assistance shall report all changes within ten days of their occurrence if those changes produce a change in AFDC eligibility and the occurrence of those changes precedes the eighth day following the last day of the report period in which such change occurred by ten or more calendar days. These reports shall be made in writing or in person. Failure to report these changes within ten calendar days may result in an overpayment. If the local agency could have reduced or terminated payment for one or more payment months if the delay had not occurred, a determination shall be made if a proper notice could have been issued on the day that the change occurred and each month's overpayment subsequent to that notice shall be regarded as a client error overpayment. The changes which must be reported within ten days include:

A. initial employment;

B. initial receipt of unearned income;

C. any significant, recurring change in net earned or unearned income;

D. receipt of a lump sum;

E. resources exceeding AFDC limits;

F. change in the physical or mental status of an incapacitated parent;

G. change in the status of an unemployed parent;

H. change in the status of the absent parent, change in the household composition to include departures from and returns to the home of AFDC eligible members, or change in custody;

I. marriage or divorce of an assistance group member;

J. death of a parent or child;

K. change in address or residence for the assistance unit;

L. sale, purchase, or other transfer of property; and

M. change in school attendance for a member of the AFDC assistance unit.

All changes in circumstances which require reporting within ten days shall also be reported on the household report form for the period in which those changes occurred.

Subp. 7. Cooperation with quality control review. Recipients shall cooperate with the state agency's quality control review process by providing information necessary for verifying eligibility for and the amount of AFDC. Cooperation in the quality control review process is a requirement for continued eligibility and includes:

A. agreeing to a personal interview with the quality control staff person at a mutually acceptable time and location; and

B. assisting the quality control staff person in securing verifications necessary to establish program and payment eligibility for the month of review, provided verifications do not duplicate what is already in the case record and do not cause the recipient to incur an expense in securing those verifications.

Failure to cooperate with the quality control review process without good cause will result in termination of assistance. A person shall have good cause under this subpart if the person's refusal to cooperate stems from a diagnosis of mental illness or a physical disability or illness of such severity and duration that it precludes them from participating within the period the quality control unit has allotted to complete their review process.

9500.0071 [Emergency] CONTINUED ABSENCE OF A PARENT.

Subpart 1. Definitions. The definitions contained in items A through I have the meanings given them.

A. "Absent parent" means an otherwise-eligible child's natural or adoptive father or mother who does not live at the child's home.

B. "Care" means regular and ongoing planning and provision of services to a child, such as feeding, dressing, and cleaning.

C. "Custodian" means the person who has the physical custody of the child at any particular time.

D. "Guidance" means regular and ongoing planning and provision of services to the child, such as supervision, training, discipline, and help with school work on a regular basis.

E. "Home" means the primary place of residence used by an individual as a base for day-to-day living.

F. "Joint legal custody" means a court order under which both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

G. "Joint physical custody" means a court order under which the routine daily care and control of the child is shared between both parents.

H. "Support" means financial assistance paid by the absent parent on behalf of a child which is equal to or greater than the children standard of the AFDC family allowance.

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I. "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, and National Oceanographic and Atmosphere Administration.

Subp. 2. Eligibility. Continued absence of a parent shall exist when the parent resides out of the home of the child and the absence interrupts or terminates the absent parent's support, care, or guidance of the child.

There is no minimum time period used to establish absence of a parent. The absence may be permanent or temporary, and a temporary absence may be of a known or indefinite duration.

Two exceptions shall apply when eligibility based on parental absence is determined:

A. Eligibility based on the absence of a parent from the home shall not exist when the parent is absent solely by reason of active duty in the uniformed services of the United States.

B. Eligibility shall exist when a parent is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday. No provision may be made for the offender's needs in computing the amount of the assistance payment.

Subp. 3. Visitation. Regular or sporadic visitation by an absent parent shall not constitute the provision of care or guidance.

When the frequency of the absent parent's presence in the child's home causes the local agency to question whether absence exists, the issue shall be resolved by determining whether the absent parent maintains a home apart from the home of the child.

Subp. 4. Evidence of a home. Evidence of a home includes, but is not limited to, where a person keeps the majority of personal belongings; the amount of time spent there as opposed to other residences; the address given to a current employer; the address given for current school registration; the mailing address for government benefits which require mailing to the current address; the address recently used to apply for credit; the address for service of legal documents; the address the individual has given to monthly creditors or utility companies as a current address; vehicle registration, driver license, or post office address which has been changed since the absence; and the frequency, type, and length of absences. Each item of evidence shall be evaluated together with other items in determining the home.

Subp. 5. Shared custody. This part applies to both formal and informal custody arrangements.

The language of a court order that specifies joint legal or physical custody shall not, in and of itself, preclude a determination that a parent is absent. Absence shall be determined based on the actual facts of the absence and according to this part.

A. In situations where the physical custody of a child alternates between parents from month to month, each parent may be eligible for the months the child's home is with that parent.

B. In situations where the child spends time in each of the parent's homes within a month, the child's home shall be considered that home in which the majority of the child's time is spent.

When this time is exactly equal within a month, or if the parents alternately live in the child's home within a month, the child's home shall be with that parent who is applying for assistance, unless the child's needs for the full month have already been met through the provision of AFDC to the other parent for that month.

Subp. 6. Special circumstances. A child shall be considered deprived of the support, care, or guidance of a parent if:

A. paternity has not been acknowledged or adjudicated;

B. a child has been adopted by a single parent; or

C. a child is born from artificial insemination to an unmarried mother.

Subp. 7. Substitute parent. The determination of whether a child has been deprived of parental care or support by reason of the absence of a parent from the child's home shall only be made in relation to a child's natural or adoptive parent. Under this requirement, the inclusion in the home of a "substitute parent" or any other such individual is not an acceptable basis for a finding of ineligibility.

Subp. 8. Return of parent to child's home. When the client states that financial need exists, eligibility shall continue at the same payment level for one month following the month in which the absent parent returns home. During this period, the local agency shall inform the family about other bases of eligiblity for AFDC and offer an application.

9500.0081 [Emergency] ELIGIBILITY FACTOR: UNEMPLOYED PARENT (AFDC-UP).

An unemployed parent is a parent:

A. whose family is in need;

B. whose unemployment is not the result of participation in a labor dispute;

C. who works less than 100 hours per month or exceeds that standard for a particular month if work is intermittent and

the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for two prior months and is expected to be under the standard for the next month;

D. who has not quit or refused a bona fide offer of employment or training for employment for good cause in the last 30 days;

E. who has not been fully employed during the 30-day period preceding the receipt of AFDC-UP;

(1) when employment is less than 100 hours in the month employment is lost but was 100 or more hours in the preceding month, the last day of the preceding month shall be considered the last day of full employment; or

(2) when employment is 100 hours or more in the month employment is lost, the day employment is lost shall be considered the last day of full employment; and

(3) upon completion of the 30-day waiting period, eligibility shall be established as the day of application, the day following the last day of full employment, or the day all other eligibility factors are met, whichever is later;

F. who is currently registered with WIN or the local job service office of the Department of Economic Security and is available for training and/or employment or qualifies for an exemption from registration with WIN; when exemption from WIN registration exists, the requirement for current registration shall be met by the other parent unless that parent also qualifies for exemption from registration;

G. who has:

(1) worked at least six quarters during any 13 calendar quarter period ending within one year prior to the quarter of application for AFDC-UP; earned the equivalent of not less than $50 per quarter during this period; under this subitem, compensation for this work may be in United States dollars or in a foreign currency which purchases goods and services equal to or exceeding $50 in United States currency, and may be in the form of cash compensation or in the form of goods and/or services of a fair market value equivalent to $50; alternatives to cash compensation include, but are not limited to, the fair market value of food, shelter, personal items, and medical care; and that work performed shall include the labor or services rendered, to an employer or through self-employment that was necessary to secure that compensation; that the administering authority shall ordinarily verify such employment by contacting the individuals for whom the work was performed; and that when such verification is not readily available, the administering authority shall accept a personal affidavit from the applicant as a satisfactory substitute for such verification; that cooperation in the WIN program or a community work experience program shall qualify as a quarter of work under this subitem; or

(2) received or could have qualified for unemployment compensation during the year prior to application for AFDC-UP, or could have qualified if the work performed had been covered by unemployment compensation; and

H. who has earned the greater amount of income during the 24 months immediately preceding the month of application for AFDC-UP; when there are no earnings or when earnings are identical for each parent, the applicants may designate the principal wage earner and that designation may not be transferred upon determination of eligibility.

9500.0091 [Emergency] STEPPARENT.

Subpart 1. Income. A stepparent is required to support his or her spouse and his or her stepchildren who reside with the stepparent. If a stepparent and natural parent do not have sufficient income to meet the needs of their common and separate children, AFDC eligibility shall exist for the natural parent and his or her separate children when all other eligibility factors are met. When two parents have a common child and at least one separate child residing with them, they may elect to seek eligibility on the basis of unemployed parent or incapacitated parent or they may elect to have the needs of the natural parents and his or her separate children met on the basis of continued absence. The local agency shall explain this option and its effects when the option is available. When there are no common children who reside with the parent and stepparent, eligibility for AFDC shall only exist on a stepparent basis.

Stepparent eligibility shall exist for:

A. A single household grant that includes the needs of the natural parent and his or her separate children. This eligibility shall be available when the natural parent and the stepparent do not have common children who reside with them; when they do have common children who reside with them and elect not to receive or do not qualify for AFDC-UP or

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AFDC-IP eligibility; or they only have separate children in residence and elect to have one parent and his or her children excluded from the AFDC grant.

B. A combined household grant that includes the needs of both parents and their separate children who reside with them. This eligibility shall be available when each parent has separate children who reside with them; any common children who reside with them are excluded from the combined stepparent grant.

Subp. 2. Eligibility for a single household grant. If the combined net income of the natural parent and the stepparent does not equal the combined need for both parents and their common and separate children who reside with them, as defined by AFDC payment standards, and all other eligibility factors are met, AFDC eligibility exists on the basis of need for both the natural parent and his or her separate children. A gross income test shall be applied which includes the gross income of the natural parent and the net income of the stepparent.

A. To determine the net income available to the natural parent and his or her separate children, the deductions made from the stepparent's income shall be those available to AFDC recipients with the exception of the work incentive disregard and dependent care deductions. Additionally the following deductions shall be allowed to determine the income that is available:

(1) expenses paid in the budget month by the stepparent to persons who reside out of the home and are or could be dependents for federal tax purposes;

(2) alimony or child support for persons who reside out of the home when those payments are paid during the budget month by the stepparent;

(3) an allocation for the need of the stepparent at the level of the second adult AFDC payment standard; and

(4) an allocation to the need of any common and separate children of the stepparent if they are under the age of 21; if, they reside with the natural parent and the stepparent, and if they have insufficient personal income to meet their need.

The amount of this allocation to the common and separate children of the stepparent equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

B. The net income of the stepparent, after application of these deductions, shall be considered available to the natural parent and his or her separate children in determining AFDC eligibility and payment level. If the gross income test is met, the deductions from the income of the natural parent shall include:

(1) allowances at the AFDC level for work expenses and child care costs;

(2) an allocation to the stepparent up to the second adult AFDC payment standard to cover the portion of the stepparent's need that is unmet after allocating the net income of the stepparent to his or her own need; and

(3) an allocation to the need of any common children and separate children of the natural parent who are not included in the AFDC assistance unit if they:

(a) are under the age of 21;

(b) reside with the natural parent and the stepparent;

(c) have insufficient income to meet their needs; and

(d) have any portion of their need unmet after allocating the net income of the stepparent; only the unmet portion of their need is met by allocating income from the natural parent.

The amount of this allocation to the common and separate children of the natural parent that are not included in the AFDC assistance unit equals the difference between the AFDC payment standards for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

(4) If eligibility exists, a deduction shall be allowed for the work incentive disregard when eligibility for this disregard is still available; the amount of the work incentive disregard is deducted from the balance of the gross employment income of the natural parent after deductions for the work expense and the child care allowance have been made.

Subp. 3. Eligibility for a combined household grant. When a husband and wife each have separate children who reside with them and for whom they apply for AFDC, the needs of both parents and the separate children shall be combined into one assistance unit, and they shall receive a single grant with either parent as the payee. Eligibility for AFDC is determined by combining the gross income of the husband and wife and applying the gross income test. If eligibility exists, deductions are allowed for:

A. a work expense against the separate gross employment incomes of the husband and wife;

B. child care expenses against the separate remaining employment income of whichever spouse's employment requires the incurrence of that expense; if both spouses incur the expense, the total expense is divided equally and deducted equally from each spouse's gross employment income;

C. an allocation for the need of any common children and separate children not included in the AFDC assistance unit, except that allocation to the need of separate children shall only be made from the income of the natural parent of those separate children, if they:

(1) are under the age of 21;

(2) reside with their parent and stepparent; and

(3) have insufficient income to meet their needs.

The amount of the allocation to the common children and the separate children of the husband and wife that are not included in the AFDC assistance unit equals the difference between the AFDC payment standard for the members of the AFDC assistance unit and the AFDC payment standard if those excluded children were included in the AFDC assistance unit.

D. If eligibility exists, a deduction shall be allowed for the work incentive disregard for each parent, when eligibility for this deduction is still available; the amount of the work incentive disregard is deducted from the balance of employment income of each parent after deductions for the work expense and dependent care have been made; this allowance is then applied to the incomes of the parents that qualify for it before allocations are deducted from his or her income.

9500.0111 [Emergency] EMPLOYMENT EXPENSE DEDUCTIONS AND DISREGARDS.

Subpart 1. Self-employment expense deductions. The following expenses shall be deducted from self-employment income to determine gross earned income:

A. All business expenses with the following exceptions:

(1) purchase of capital equipment and payment on the principal of loans for capital assets;

(2) depreciation;

(3) amortization;

(4) the wholesale cost of items purchased, processed, or manufactured which are being carried as unsold inventory (a deduction for the cost of those items shall be allowed at the time they are sold);

(5) transportation costs which exceed 13 cents a mile unless higher reasonable expenses in excess of those costs have been documented, and costs for mileage to and from the place of employment;

(6) salaries and other employment deductions made for members of the AFDC assistance unit or residents of the AFDC household for whom the employer is legally responsible;

(7) monthly expenses in excess of $69 for each roomer, monthly expenses in excess of $84 for each boarder, and monthly expenses in excess of $153 for a roomer-boarder;

(8) annual expenses in excess of $101 or two percent of market value, whichever is less, as a deduction for upkeep and repair against rental income;

(9) any expenses not admitted by the Internal Revenue Service for self-employment income or, if admitted, that have the effect of subsidizing business endeavors of recipients with AFDC funds.

B. Business income which is escrowed in a month for future employee FICA and employee tax withholding.

C. A 60 percent flat deduction from the gross receipts for child care performed in the recipient's home; a client may elect to have actual child care expenses, as defined in subpart 1, item A, deducted.

Subp. 2. Employment disregards. A deduction shall be made for all allowed disregards from the amount of gross earned income. Gross earned income is all self-employment income less any allowable business expenses as outlined in subpart 1 and all salaried income before application of mandatory and voluntary deductions, except that self-employment losses shall not be used to offset salaried earnings. The following disregards shall be deducted from gross earned income:

A. A $75 monthly work expense, whether employment is part or full time.

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B. A monthly allowance for dependent care costs actually paid, not to exceed $160 per dependent when employment equals or exceeds 30 hours per week or not to exceed $159 per dependent when employment is less than 30 hours per week.

C. Subject to AFDC federal program limitations, an allowance for a $30 and one-third work incentive for each eligible recipient. This disregard shall apply against the balance of gross earned income which remains after deductions for the work expense and dependent care have been allowed.

9500.0331 [Emergency] DEFINITIONS.

Subpart 1. Scope. The definitions in this part apply to parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency].

Subp. 2. Applicant. "Applicant" means an individual who submits a written request for emergency assistance.

Subp. 3. Available resources. "Available resources" means those assets owned by the applicant that are liquid or can be liquidated within the time necessary to avoid or promptly alleviate destitution, together with all other sources of income or of public funds for which the applicant is eligible and contributions from financially responsible relatives living in the home.

Subp. 4. Balloon payment. "Balloon payment" means an amount of money required to be paid on a specific date according to the terms of a contract for deed or mortgage loan agreement and that exceeds the monthly mortgage payment.

Subp. 5. Basic need items. "Basic need items" means subsistence items necessary for life and health, including food, safe drinking water, habitable shelter, clothing, medical care; the companion items necessary to assure these needs, including heating fuel, electricity, essential household appliances and furnishings, caregiving services to children and incapacitated adults, transportation necessary for medical care or employment, equipment or other expenses crucial for employment; and other goods or services necessary to protect a child's health and safety.

Subp. 6. Caretaker. "Caretaker" means a relative listed in Minnesota Statutes, section 256.12, subdivision 14, who lives with and is responsible for the care and well being of a child under the age of 21 years.

Subp. 7. Commissioner. "Commissioner" means the commissioner of the department of human services or his designee.

Subp. 8. Cost effective. "Cost effective" refers to a plan that is economical in terms of the goods or services received for the money spent.

Subp. 9. Department. "Department" means the Department of Human Services.

Subp. 10. Destitution. "Destitution" means the condition of a child who lacks a basic need item and who is without available resources to provide for that need.

Subp. 11. Emergency. "Emergency" means a situation or set of circumstances that causes or threatens to cause destitution.

Subp. 12. Emergency assistance. "Emergency assistance" means financial aid and services to, or on behalf of, a child to avoid or resolve conditions of destitution.

Subp. 13. Family budgeting services. "Family budgeting services" means a range of services directed toward developing a family's capacity to use its available income and resources to assure continued financial stability and provide itself with basic need items.

Subp. 14. Habitable shelter. "Habitable shelter" means housing that meets the health and safety standards provided under local ordinance, applicable state or federal law, and any specific criteria established by a physician as necessary to the life and health of the child.

Subp. 15. Local agency. "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes as the agency responsible for the administration of the emergency assistance program.

Subp. 16. Program. "Program" means the emergency assistance program established under Minnesota Statutes, section 256.871, Emergency Assistance to Needy Families with Children Under Age 21.

Subp. 17. Protective payee. "Protective payee" means a third party who receives funds on behalf of the applicant and bears responsibility for seeing that the applicant's basic needs are provided for out of those funds.

Subp. 18. Request for assistance. "Request for assistance" means a communication to a local agency by mail, telephone, or in person through which a person relates circumstances that indicate the potential destitution of a child. A person need not specifically request "emergency assistance."

Subp. 19. Threatened destitution. "Threatened destitution" means a time at which, unless an action is taken, destitution will result.

Subp. 20. Threatened eviction. "Threatened eviction" means any legal document or written communication that has the effect of requiring a child to vacate the home.

Subp. 21. Utility budget period. "Utility budget period" means a continuous 12-month period preceding the month of application, or a shorter period if the applicant has received utility service for less than 12 months. Unpaid utility bills covering a period of time in excess of 12 months shall be divided into two or more utility budget periods.

Subp. 22. Utility costs. "Utility costs" means charges incurred by an applicant for the provision of electrical, gas, heating fuel, water, and sanitary service.

9500.0332 [Emergency] APPLICABILITY.

Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] govern the administration of the emergency assistance provided through the aid to families with dependent children program. Parts 9500.0331 to 9500.0339 [Emergency] and 9500.0351 to 9500.0353 [Emergency] define circumstances under which aid or services shall be provided, conditions of eligibility for that aid or those services, and the conditions under which local welfare agencies and the department shall operate the program.

9500.0333 [Emergency] STATEMENT OF PURPOSE.

The purposes of the emergency assistance program are to avoid and to prevent the destitution of children. It does so by providing payments to resolve an emergency and by providing services that prevent recurrence of destitution.

9500.0334 [Emergency] APPLICATION PROCESS.

Subpart 1. Agency brochure. The local agency shall provide by hand or by mail an application form and an informational brochure to each person who makes a request for assistance. The form and brochure shall be made available on the same day the request for assistance is received by the local agency. The brochure shall describe eligibility criteria for the program, list the emergencies for which payment of program funds may be authorized, and contain the following information:

"If a child in your family is threatened by an emergency, you may be eligible for the AFDC-emergency assistance program. If you want the local agency to help you avoid an emergency, you must make a written application with the local agency. No action will be taken regarding your situation unless you file the application form. If you file an application, a decision will be made promptly by the local agency and a written explanation of that decision will be mailed or delivered to you within one week of the date you filed the application form or you will be informed in writing within that time of the reason for the delay. You may appeal that decision to the Department of Human Services.

Any information given to you concerning your eligibility for emergency assistance before the agency has had the opportunity to review a written application form may not be accurate."

Subp. 2. Application. Any person may apply for emergency assistance. At the time of the application, the local agency shall explain to the applicant the program's eligibility requirements, the limitation of annual eligibility, the extent of the program's coverage, the benefits provided by other programs provided by the local agency or known to the local agency to be advantageous to the applicant's circumstances, and the rights and responsibilities of applicants for and recipients of emergency assistance.

Subp. 3. Forms. The application shall be made on forms prescribed by the commissioner and shall be prepared and signed by the applicant or a representative of the applicant, if that representative has been authorized in writing by the applicant or a court to act in the applicant's behalf and if that representative has knowledge of the applicant's financial circumstances.

Subp. 4. Interview. A personal interview shall be conducted after receipt of the application for emergency assistance. If the applicant indicates destitution is imminent or already present, the agency shall offer to conduct the personal interview on the same day that the application is received. In all other cases, the personal interview shall be conducted within a time that does not inhibit the local agency's ability to provide assistance in time to prevent destitution.

Subp. 5. Processing application. Applications shall be processed in a manner that considers the immediacy and severity of the destitution. The local agency shall assist applicants in completing the verification process in time to provide an eligible applicant with emergency assistance to prevent destitution. Verification shall be made promptly and by telephone whenever possible. Each local agency shall designate at least one staff person to authorize immediate issuance of emergency assistance. Issuance shall not be delayed for the purpose of securing formal action from the county board.

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Subp. 6. Notice of eligibility. The local agency shall provide written notice on a form prescribed by the commissioner to all applicants with regard to their eligibility for emergency assistance. The local agency's determination shall be mailed or delivered to the applicant within one week of the date the application was filed unless the applicant is informed within that time and in writing of the reason for the delay.

9500.0335 [Emergency] ELIGIBILITY.

Emergency assistance shall be granted to a family that meets the following conditions:

A. the family has a child under the age of 21 years who is, or within six months prior to application has been, living with a caretaker;

B. the family has an emergency;

C. the family's available resources are not sufficient to resolve the emergency; and

D. the emergency did not arise because a caretaker or child over the age of 16 years refused employment or training for employment without good cause as defined by the Work Incentive Program.

9500.0336 [Emergency] COVERED EMERGENCIES.

In accordance with parts 9500.0338 [Emergency] and 9500.0339 [Emergency], payments and services may be authorized when a child lacks, has lost, or is threatened with the loss of basic need items. The causes which produce need include evictions, condemnations, cancellation of a contract for deed, mortgage foreclosure; other relocations; return from residential treatment, long term hospitalization, incarceration or other separations of the child from the caretaker; civil disorders or strikes; fires, floods, storms, or other natural disasters; and loss or theft of funds. Payments and services may be authorized when the eligible household lacks, has lost, or is threatened with the loss of:

A. shelter;

B. shelter deposit;

C. moving expenses;

D. storage costs necessary to recover personal property;

E. necessary home furnishings;

F. necessary appliances, heating or cooking facilities;

G. ability to pay for necessary home repairs;

H. utility service;

I. utility hookup;

J. clothing;

K. food;

L. safe drinking water;

M. necessary medical care;

N. necessary dependent care;

O. transportation necessary for medical care or employment;

P. equipment or other expenses crucial to employment; and

Q. other items necessary to the health and safety of a child.

9500.0337 [Emergency] FAMILY BUDGETING SERVICES.

Each local agency shall provide a full range of family budgeting services as defined in part 9500.0331 [Emergency], subpart 13. These services shall be provided by experts in the field and shall be made available, without cost, to persons who apply for emergency assistance. The local agency may use administrative emergency assistance funds to either contract with outside experts to provide family budgeting services or provide these services itself. Agency-initiated vendor or protective payments may be used if recommended under a family budgeting plan.

9500.0338 [Emergency] ISSUANCE OF ASSISTANCE.

Subpart 1. Payments. Emergency assistance payments may be made as direct cash payments to the applicant, vendor payments, vouchers, or protective payee payments. Where assistance is requested for employment-related expenses under part 9500.0336 [Emergency], issuance is limited to an interest-free loan of up to $100.

Subp. 2. Services. Services available under the emergency assistance program include negotiation with creditors, family budgeting services, protective payee arrangements, and coordination of agency financial assistance programs with public or private resources available in the community.

9500.0339 [Emergency] LIMITATIONS.

Subpart 1. 30-day period. Emergency assistance shall be granted only for one consecutive 30-day period in one consecutive 12-month period. Needs that accrue prior to the 30-day period may be met only when necessary to resolve emergencies arising or continuing during the 30-day period of eligibility. Assistance may be extended for up to 30 days beyond the initial 30-day period of eligibility if authorized during the initial period.

Subp. 2. Lost checks. Emergency assistnce shall not be available when uncashed AFDC checks are lost or stolen. In these cases, the lost or stolen AFDC checks shall be replaced in accordance with part 9500.0240, subpart 1.

Subp. 3. Applicant move. Where continued payment of shelter and utility expenses appear beyond the ability of the applicant to pay from anticipated income, the local agency may condition the issuance of emergency assistance on the requirement that the applicant move to more affordable housing as a method of preventing destitution of the child. If this requirement is imposed, the local agency must specify one or more habitable locations which are available in the community which will result in at least a 20 percent reduction in monthly expense and which shall be cost effective for the applicant. The local agency shall issue emergency assistance for expenses directly related to the relocation. In considering relocation, the local agency shall evaluate the effect of the requirement to move in terms of the size of the proposed housing and the disruption to the child which could result from the move.

9500.0351 [Emergency] MORTGAGE ARREARAGES AND BALLOON PAYMENTS.

Subpart 1. Balloon payments. Balloon payments shall be made up to a maximum issuance of six times the AFDC family allowance standard for the size and composition of the applying family. These payments shall be made only if the amount payable, combined with any payments made by the applicant, will be accepted by the creditor as full payment of the balloon and will avoid the threatened destitution.

Subp. 2. Arrearages. Mortgage and contract for deed arrearages shall be paid if those arrearages have caused foreclosure action to be brought against the applicant subject to part 9500.0339 [Emergency], subpart 3. In addition, the following limitations shall become effective November 1, 1984, and apply to the issuance of emergency assistance for these applicants:

A. If the applicant has paid less than 30 percent of his total gross income, in the 12 months preceding application, for house payments to include payments for principal and interest on mortgage or contract for deed payments; property taxes and special assessments (less any homestead credit paid to the applicant) homeowner's insurance, and balloon payments, no eligibility for emergency assistance shall exist. If the applicant has received emergency assistance payments against a prior foreclosure action, eligibility shall not exist if the applicant has paid less than 40 percent of his total income in the 12 months preceding application for house payments.

B. If the applicant has paid 60 percent or more of his total gross income, in the 12 months preceding application, for house payments he shall be eligible for full payment of any arrearage that exists at the time of foreclosure action. If the applicant has received emergency assistance payments against a prior foreclosure action and has paid 70 percent or more of his total income, in the 12 months preceding application, he shall be eligible for full payment of any arrearage that exists at the time of the foreclosure action.

C. If the applicant has paid at least 30 percent but less than 60 percent of his income, in the 12 months preceding application, for house payments; or if the applicant has received emergency assistance against a prior foreclosure action and has paid at least 40 percent but less than 70 percent of his income, in the 12 months preceding application, he will be eligible for emergency assistance payment according to the following:

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.

% OF TOTAL HOUSE PAYMENT DUE IN THE PRECEDING 12 MONTHS THAT WAS PAID BY THE APPLICANT	% OF FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY EMERGENCY ASSISTANCE	% of FORECLOSURE AMOUNT DUE WHICH WILL BE PAID BY THE APPLICANT
less than 20%	50%	50%
at least 20% but less than 30%	60%	40%
at least 30% but less than 40%	70%	30%
at least 40% but less than 50%	80%	20%
at least 50% but less than 60%	90%	10%
60% or more	100%	0%

D. Each applicant unit that has been threatened with foreclosure action may use emergency assistance to cover a maximum of two times. Emergency assistance issued prior to the effective date of this part shall not be used for the purposes of this item.

E. No payment against an arrearage shall be paid unless there is a confirmation from the foreclosing party that the emergency assistance payment in combination with any payment of the applicant will provide reasonable assurance that a subsequent foreclosure action will not force the applicant out of his home within the next 12 months.

F. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of this part, items A, C, and D shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. Homestead requirement. These arrearages and balloon payments may only be paid on a home occupied, maintained, and solely owned by the applicant family as its primary residence.

Subp. 4. Arrearages and balloon payments due. When both monthly payments are in arrears and a balloon payment is due within the next 12 months, the value of the balloon payment shall be considered in addition to the total monthly payment arrearage when assessing the applicant family's financial ability to avoid destitution at the time the balloon payment becomes due.

Subp. 5. Applicant move. When the applicant is found ineligible for balloon payments or arrearages under the emergency assistance program and a move is required, the local agency shall assist the family in relocating according to the provision in part 9500.0339, subpart 3.

9500.0352 [Emergency] UTILITIES.

Subpart 1. Conditions of payment. Subject to the limitations in this part, payment shall be made when an otherwise eligible family has had a termination or is threatened with a termination in electric, gas, or heating fuel service.

A. No payment shall be made from emergency assistance funds unless the local agency has received confirmation from the utility provider that payment in the amount specified as owed by the applicant satisfies the full amount of the applicant's debt to the utility, including any delinquent accounts of the applicant, and only if the total funds available from the local agency combined with the applicant's resources, either paid from present funds or obligated by the applicant under a repayment plan with the utility, will be sufficient to prevent termination of utility service.

B. Except as provided in subpart 2, item D, payment shall not be made to persons who:

(1) Effective November 1, 1984, and thereafter paid less than four percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter paid less than six percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter paid less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

Subp. 2. Amounts of payment. The amount paid through emergency assistance shall depend upon the percent of gross income paid toward utility costs and the percent of the total utility cost paid prior to the issuance of emergency assistance, as follows:

A. Payments of the balance owed to the utility shall be made in full when:

(1) Effective November 1, 1984, and thereafter, the applicant paid no less than eight percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending;

(2) Effective November 1, 1985, and thereafter, the applicant paid no less than 12 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid no less than 16 percent of the family's gross income toward utility payments due during the utility budget period or while the application is pending.

B. Except as provided in subpart 2, item D, payments made from emergency assistance on the balance owed to the utility shall be limited to the amounts under Table 1 when:

(1) Effective November 1, 1984, and thereafter, the applicant paid at least four percent and less than eight percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

(2) Effective November 1, 1985, and thereafter, the applicant paid at least six percent and less than 12 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

(3) Effective November 1, 1986, and thereafter, the applicant paid at least eight percent and less than 16 percent of gross available income toward utility payments due during the utility budget period or while the application is pending.

C. If the applicant paid the amounts indicated in subpart 2, item B, above, the local agency shall issue emergency assistance according to the following:

Table 1 : Amounts paid by emergency assistance

% of total utility consumption cost paid by applicant prior to issuance of emergency assistance	% of the unpaid balance which will be paid by emergency assistance	% of the unpaid balance which must be paid by the applicant
less than 10%	70%	30%
at least 10% and less than 20%	76%	24%
at least 20% and less than 30%	82%	18%
at least 30% and less than 40%	88%	12%
at least 40% and less than 50%	94%	6%
50% or more	100%	0%

D. If the local agency does not have family budgeting services available as defined in part 9500.0337 [Emergency], and the applicant is ineligible for payment or eligible for partial payment under this part, the limitations of subpart 1, item B, and subpart 2, item B, shall not apply; the applicant shall receive payment of the full unpaid balance.

Subp. 3. Negotiations with utility providers. The local agency shall negotiate on behalf of the applicant eligible for reduced payments under subpart 2, item B, if the utility provider does not ordinarily offer repayment plans to its customers. If the utility provider refuses to accept the amount the agency may pay under subpart 2, item B, together with establishment of a repayment plan for the additional money owed on the balance by the applicant, the local agency shall pay nothing to the utility provider and shall assist the family in seeking an alternate provider or making alternate arrangements.

Subp. 4. Termination of water or sanitary service. The local agency shall pay the full amount of the unpaid balance due the utility provider.

9500.0353 [Emergency] APPEALS.

Subpart 1. Right to appeal. Each applicant shall have the right to appeal any action or failure to act with reasonable promptness on the part of the local agency relating to the application for emergency assistance. The local agency shall inform the applicant in writing of the right to appeal and the procedure to follow in filing an appeal. Within two working days after receiving a written request for an appeal, the local agency shall forward the written request and an agency appeal summary to the appeals office of the Department of Human Services.

Subp. 2. Hearings. The appeals office shall schedule a hearing on the earliest available date and, following the hearing, shall promptly forward the decision of the referee to the commissioner.

Subp. 3. Decisions of the commissioner. The commissioner shall issue a written order within five working days of receipt of the referee's decision, shall immediately provide the parties with the outcome of his decision by telephone, and shall mail the written decision to the parties no later than the second working day following the date of the commissioner's decision.

APPLICATION. Parts 9500.0031 to 9500.0353 [Emergency] shall be read together with permanent rules parts 9500.0010 to 9500.0370, and where these parts are in conflict, the emergency rules shall prevail until their expiration date.

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STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE EMERGENCY RULES GOVERNING THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM (MINNESOTA RULES, CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, AND 9500.0330)

FINDINGS OF FACT AND CONCLUSIONS

The Commissioner published notice of proposed emergency rules on the above entitled matter in the STATE REGISTER on September 3, 1984. Notice was also sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, section 14.14, subdivision 1, on August 29, 1984. After affording all interested and affected persons an opportunity to submit comments for 25 days after the notice and reviewing and considering the comments, I find the following:

1. In part 9500.0051 [Emergency] subpart 3, of the proposed rule, the Department describes the AFDC recipient's responsibility to provide a regular report concerning his or her household income unless that requirement is waived or alternative direction is allowed for specified categories of recipients. Berry Friesen, from Southern Minnesota Regional Legal Services (SMRLS), comments that the proposed rule "establishes...that 'all recipients of assistance shall provide a regular report concerning....household income and other circumstances of eligibility.' By adopting this language, the Department may be

establishing by rule a rigid requirement...In the alternative, the rule should be modified so as to allow the Department flexibility" in the event the Department would want to adopt a different approach at a later time. Mr. Friesen suggests that, to accomplish this purpose, one way to modify the rule would be to delete the term "provides" and insert the term "allows". The Commissioner agrees with the commenter and accepts the suggestion. p.2

2. In part 9500.0051 [Emergency] subpart 4 of the proposed rule, reference is made to a "completed form". A comment from Berry Friesen, SMRLS, suggests that the definition of a "completed form" be made more explicit. The Commissioner agrees that the insertion of this language would provide greater clarity and accepts the suggestion. In subpart 4, the phrase, "The caretaker shall sign and date the report form", is deleted and replaced with, "A report is complete if it is signed and dated by the caretaker". To complete this clarification, the word "answer" is changed to "answers", and word "include" is changed to "includes". p.2

3. In part 9500.0051 [Emergency] subpart 4, Berry Friesen, SMRLS, comments that the rule "states that delays in the submission of the monthly report 'must' result in penalties. One of the penalties described in the following paragraph is a delay in the issuance of an AFDC payment. This is incorrect since a delay in the issuance of assistance is not one of the mandatory penalties under federal or state law." As a result of the comment, the Commissioner recognizes the need to clarify that the delay is to be seen as a consequence and not a penalty. In order to clarify the issue, the language in referring to the "the delay" in subpart 4. A.

is moved to the preceding paragraph. It then reads, "A delay in the submission of the completed form may cause a delay in receiving AFDC payment in the month following the month in which the report was due." In order to continue the correction and clarification of this issue, the similar language in subitem A. is deleted, the correct puctuation is inserted, and the word "delayed" is inserted between "the" and "report". p.2

4. In part 9500.0051 [Emergency] subpart 5, B., Berry Friesen, SMRLS, suggests that, "A notice of termination of an assistance grant because of a submission of an incomplete household report form is adequate only if it identifies those portions of the report that were not completed correctly." He cites 45 C.F.R. 205.10 as requiring "adequate" notice. The Commissioner agrees with Mr. Friesen, and after the word "form" inserts the phrase, "with the incomplete portions identified." p.3

5. In part 9500.0051 [Emergency] subpart 5, C., the Department identifies the "good cause exemptions" with regard to the penalties that could be applied in the event a recipient misses the deadlines established for providing a completed household report form. Comment from Ellen Haugen, Financial Supervisor II, and Janice M. Devens, Director of the Wright County Human Services Agency, indicates a possible misreading of this part of the proposed rule. The Commissioner wants to assure that readers of the rule read the "good cause exemptions" in such a way as to know that the listed exemptions can be read both "singly or in combination". The language that was included at the end of item C. is moved to the first sentence in item C., the introduction to the list of exemptions. With that change, further clarification that the exemptions can be read

"singly or in combination" is included by adding the word "or" between subitems (5) and (6) of item C.9

6. In part 9500.0051 [Emergency] subpart 5, C., (2), comment received from Ms. Haugen and Ms. Devens, Wright County Human Services, indicates that postal delays of three or four days are common in their area. The Commissioner recognizes that the original language in the proposed rule does not address this problem clearly and is changing the language to address this issue. The Department intended that the forms must still be postmarked prior to the deadline and inserts language to that effect in item C., (2).

7. In part 9500.0051 [Emergency] subpart 6, George J. Steiner, Director of the County of Anoka Community Health and Social Services Department, comments that "The wording of lines 5-10 on page 4 is too cumbersome for clear interpretation. The meaning is ambiguous and staff in our department have been unable to agree on what this provision is saying. Re-wording is recommended to clarify the time lines required to report changes in status." The Commissioner agrees with and accepts Mr. Steiner's suggestion. The sentence is rewritten to read, "Recipients of assistance shall report all changes which produce a change in AFDC eligibility within ten days of their occurrence or by the eighth day following the last day of the report period in which such change occurred, whichever is earlier."

8. In part 9500.0071 [Emergency] subpart 1, comment from George J. Steiner, Anoka County, indicates that there is confusion over the definition of

the term "support" in subpart 1, item H. Mr. Steiner's comment indicates that he gives a more inclusive meaning to the term than the Department intends. Mr. Steiner states, "This limited definition could conflict with 'support' as it relates to the enforcement of child support and the exemption of current support received by an AFDC filing unit." The Department's intent is that the definitions contained in this part of the emergency rule are to apply to this part only and not to other parts of the rule or the AFDC program. The Commissioner recognizes the confusion that could exist, therefore, in subpart 1, the words "apply to 9500.0071 and" are added for clarification. p. 6

9. In part 9500.0071 [Emergency] subpart 1, A., comment from Jan I. Smaby, Director of Economic Assistance at Hennepin County, suggests that the words "otherwise-eligible" be deleted. The Commissioner agrees that this language serves no purpose in being placed here and accepts the suggestion. The Department, by use of the words "otherwise-eligible" was trying to assure that the rule would be clear that "To qualify for AFDC, a child must meet all other eligibility conditions." That language is now inserted in the first paragraph of subpart 2, and the header of subpart 2 is retitled "Continued absence" to more clearly reflect the content of that part. p. 6, 7

10. In part 9500.0071 [Emergency] subpart 1, E., comment from Dorothy Liszka, Director of Income Maintenance at the Stearns County Social Service Center, indicates that she feels the definition of "Home"..."goes beyond the scope of the definition and criteria used and defined in 45 Code of Federal Regulations 233.90 and Minnesota Statute 256.871 Subd. 7."...and

"This definition conflicts with the definition of 'Home' cited in 45CFR233.90 (c)(v)(b)." Several other commenters also indicate similar confusion over the same definition. Robert M.A. Johnson, Anoka County Attorney, demonstrates in his comments a reading of the proposed emergency rule that indicates that eligibility under this part could exist "so long as one parent maintains a separate mailing address or apartment". This reading was not intended by the Commissioner. Vicki Sleeper, Special Assistance Attorney General assigned to the Department for work on these emergency rules, advises that the Commissioner clarify the definition of "Home" in response to the comments. In subpart 1, item E., "a" is deleted and changed to "the", the period is deleted, and language is inserted thereafter which reads, "and does not include residences used primarily to establish AFDC eligibility." Ms. Sleeper also advises two other language changes for clarification on the same issue. The first is in subpart 3, the second paragraph. She suggests replacing the word "maintains" with the words "lives in". The second change is in subpart 4, "Evidence of a home.", with the addition of the sentence, "No item shall be considered conclusive."

11. In part 9500.0071 [Emergency] subpart 5, Janice M. Devens, Director of Wright County Human Services Agency, and Ellen Haugen, Financial Assistance Supervisor II at Wright County Human Services Agency, question "whether or not we would be required to pay the parent a grant for the months that the child is away in order to maintain the home for the child." In order to clarify reading of the rule in this regard, the Commissioner has inserted the word "only".

12. In part 9500.0081 [Emergency] E., (3), comment from Robert A. Gibbens, Director of the Income Maintenance Division at Ramsey County Human Services Department, and from Gail Stremel, AFDC Program Manager in Income Maintenance Division at the Ramsey County Human Services Department, states, "It is our understanding the 30 day period is one of ineligibility, not one of waiting." The Department is in receipt of policy clarification from the federal Department of Health and Human Services that, in fact, the 30 day period is one of ineligibility; therefore, the Commissioner deletes it from the proposed rule. With that deletion, subitem (3) reads as follows: (3) Eligibility shall be established as the day of application, 30 days following the last day of full employment, or the day all other eligibility factors are met, whichever is later;"

13. In part 9500.0081 [Emergency] G., (1), comment from Berry Friesen, SMRLS, suggests, "With regard to refugees accumulating the required six quarters to establish eligibility for the AFDC-UP Program, it is important to note that many have received compensation in the form of food, shelter, medical care and personal items. These essential items frequently have a greatly deflated U.S. value when initially valued in the currency of tne nation in which they were provided and then converted to U.S. dollars. Therefore, many refugee families do not meet the $50 standard established by federal regulations." The Commissioner agrees with and accepts Mr. Friesen's suggestion and language is inserted in item G., subitem (1) to clarify the basis by which the value of the aforementioned compensations are to be determined.

p.10

14. In part 9500.0331 [Emergency] subpart 4, comment from Tanya Orr, attorney at law with Legal Aid Society of Minneapolis, Inc., and Berry Friesen, SMRLS, suggests that under the definition of "balloon payment", the words "contract for deed or" be inserted before mortgage payment. The Commissioner agrees with Ms. Orr's comment that "Balloon payments commonly relate to contracts for deed and should be included in the definition." and has therefore included this clarification to avoid misreading. p.17

15. In part 9500.0331 [Emergency] subpart 20, comment from Ms. Orr and Mr. Friesen suggests that with regard to the definition of "threatened eviction" that, "Emergency assistance should be available before a foreclosure or cancellation action has been commenced or a writ of restitution has been issued. It will entail fewer expenses if assistance is granted at an earlier point and will make negotiations on the amount which will be accepted easier." This approach reflects the intent of the Department in writing the proposed rule, and in order to further clarify the meaning of this definition, the Commissioner accepts the comment. In subpart 20, the words, "or will have" are inserted between "has" and "the". p.18

16. In part 9500.0334 [Emergency] subpart 1, comment from several persons indicates that there is confusion about the Department's plan as to who assumes the responsibility for the development and distribution of the brochure described in this subpart. George J. Steiner, Anoka County, comments that, "Local agencies should not be required to develop a brochure for Emergency Assistance. If the state chooses to mandate that

brochures be available to clients, those brochures should be provided to local agencies by the state agency." It is the Commissioner's intent that the Department take responsibility for the development of tnese brochures and this intent is clarified in the proposed rule by inserting the language "provided by the Department" into subpart 1. p.19

17. In part 9500.0334 [Emergency] subpart 1, comment from Tanya Orr, Legal Aid, suggests that the informational brochure described in this part should also include information for the applicant that informs him or her "that emergency assistance is not available more than once in a twelve-month period." She goes on to suggest that, "Such a notification would encourage only essential use of the program." The Department has referred to this limitation in subpart 2 of this part and agrees with Ms. Orr that it is the kind of information the Department wants all applicants to have whenever there is an opportunity to provide it. The Commissioner accepts Ms. Orr's comment, and in subpart 1 inserts "the limitations on the frequency with which emergency assistance can be issued,". p.19

18. In part 9500.0334 [Emergency] subpart 1, Ms. Orr suggests that the Department include language in the brochure that indicates that the local agency cannot refuse to take an applicant's application for emergency assistance. Since the Department intends for the brochure to be an information source to applicants of their rights, the Commissioner agrees with and accepts Ms. Orr's suggestion. In subpart 1, in the language suggested for inclusion in the brochure, the Department has rewritten the second sentence to read, "If you want the local agency to

help you avoid an emergency, you must make a written application which the local agency must accept." ✓p.20

19. In part 9500.0334 [Emergency] subpart 2, comment is received from Ms. Orr with regard to the use of the word "application" in the second sentence. Ms. Orr comments, "The Public Advisory Committee agreed that it is important to give persons notice both orally and in writing of the basic facts of the emergency assistance program in order to insure that destitution is avoided. This goal is better served by giving persons requesting assistance the information at the time instead of waiting until a formal application is made. It is advantageous for both the local agency and the person requesting assistance to have information about other programs prior to making a formal application for emergency assistance." The Department's intent is for prospective applicants to have as much information about the emergency assistance program at as early a time as possible. The program is set up to provide payments and services to persons facing an emergency. Therefore, information about their possible eligibility for assistance should be provided as completely and as quickly as possible. It was that premise on which the brochure identified in subpart 1 came about. The Commissioner agrees with and accepts Ms. Orr's comment and replaces the word "application" with the phrase "request for assistance" in subpart 2. ✓p.20

20. In part 9500.0334 [Emergency] subpart 4, comment from Berry Friesen, SMRLS, suggests that in support of "the requirements of subpart 4 that an interview be conducted on the same day the application is received in those situations where destitution is imminent. It is important,

however, the the 'same day' requirement not be conditioned upon the applicant's request for an immediate interview. Rather that the local agency should conduct a 'same day' interview whenever the applicant's circumstances indicate that destitution is imminent. In other words, local agencies should not be able to avoid the requirement in those cases in which the applicant failed to state that the situation requires immediate action." The Commissioner agrees with the comment and accepts the suggestion to revise the language in subpart 4 to read, "If the applicant's circumstances indicate destitution is imminent...". p.20

21. In part 9500.0334 [Emergency] subpart 5, the Department describes the processing of applications for emergency assistance, including reference to the verification process for applications. Comment from Mr. Steiner of Anoka County expresses concern that the provisions in parts 9500.0351, subpart 2 and 9500.0352, subpart 2 "place substantial administrative requirements on local agencies and will triple the staff time required to determine eligibility." The Department's intention, stated in the first two sentences of subpart 5 is that "Applications shall be processed in a manner that considers the immediacy and severity of the destitution. The local agency shall assist applicant in completing the verification process in time to provide an eligible applicant with emergency assistance to prevent destitution." The Department does have an expectation that the local agency will verify information whenever it is possible to do so, but has no desire to place the burden of an impossible task on the local agencies; therefore, for purposes of meeting the emergency need, an affidavit from a client may be accepted when verification is not available from a third party. To clarify the

Department's intent, the Commissioner agrees that language to that effect be inserted in subpart 5. p.21

22. In part 9500.0336 [Emergency], the Department addresses the kinds of emergencies to be covered under the program. Comment from Berry Friesen, SMRLS, and Tanya Orr, Legal Aid, says, "Section 9500.0335 states that Emergency Assistance 'shall be granted' to families who meet eligibility criteria. Section 9500.0336 states that payment and services 'may be authorized' when a child lacks basic need items. Although the former provision is clearly mandatory, the latter provision could be viewed as permissive. We do not believe that to be the Department's intent. Instead, we read Section 9500.0336 as identifying situations in which Emergency Assistance payments and services are required if other eligibility criteria are met." The comment is an accurate assessment of the Department's intent, and the Commissioner accepts the comment. The first sentence of part 9500.0336 is reworded to read, "In accordance with parts 9500.0031 through 9500.0039 and part 9500.0051 through 9500.0053 [Emergency], payments and services shall be authorized when a child lacks, has lost, or is threatened with the loss of basic need items." p.22

23. In part 9500.0337 [Emergency], the Department describes the responsibility of local agencies to provide family budgeting services. Comments from Jan Smaby, Director of Economic Assistance at Hennepin County, Robert A. Gibbens, Director of Income Maintenance Division of Ramsey County Human Services, Gail Stremel, AFDC Program Manager at Ramsey County Human Services, George J. Steiner, Director of Anoka County Community Health and Social Services Department, Wm. Craig Brooks,

Director of Winona County Department of Social Services, Audrey Grover, Financial Assistance Supervisor II at Carlton County Human Services Center, Dale E. Kinnunen, Assistant Human Services Director at Carlton County, Donald J. Sykora, Director II of Benton Social Services Agency, Jerry Krueger, Director of the Economic Assistance Division at the Dakota County Human Services Department, Susan B. Smith, Director of Washington County Community Social Services, and Patricia A. Carlson, Associate Director of the Olmsted County Department of Social Services all indicate that some clarification is required in the proposed rule with regard to the family budgeting services, how they will be provided, and how they will be funded. The Commissioner accepts the comments and revises the part into two subparts, "Subpart 1. Provision of Family budgeting services." and "Subp. 2. Vendor and protective payments." to further clarify the Department's intent. ✓p-23

24. In part 9500.0339 [Emergency] subpart 3, comment from George J. Steiner, Anoka County suggests that, "Clients should be given the opportunity to locate alternative housing that meets their preferences." Comment from Susan B. Smith, of Washington County expresses concern that the rule "appears to require counties to set up a housing office." The Department's intention is that the emergency assistance program provide both "payments to resolve the emergency" and "services that prevent recurrence of destitution" as stated in part 9500.0332 [Emergency] STATEMENT OF PURPOSE. The Commissioner intends for the language of this subpart to convey two important principles: 1) if an applicant is living in housing that is unaffordable and it is clear that the issuance of emergency assistance, without a plan to reduce the expenses, will

obviously result in the recurrence of an emergency need, the local agency may condition the issuance of emergency assistance on the applicant's willingness to move to more affordable housing; and 2) a local agency should not refuse to issue emergency assistance based on the applicant's need for more affordable housing if no more affordable housing exists in the community. Since this part was not intended to mean that an applicant would not be allowed to find housing on his or her own, the language in this subpart has been revised to more clearly communicate the Commissioner's intent. p. 24

25. In part 9500.0351 [Emergency] subpart 1, George J. Steiner, of Anoka County, comments that "Conditions should be set forth regarding the payment of balloon payments, including the requirement that the client seek refinancing." It is the Department's expectation that applicants use their available resources to resolve the emergency as indicated in part 9500.0335 [Emergency] ELIGIBILITY, item C. The ability to refinance is seen as an available resource by the Department. The comment, however, indicates that this clarification should be included in subpart 1 of part 9500.0351. The Commissioner therefore accepts the comment, and adds language to that effect in subpart 1. p. 25

26. In part 9500.0351 [Emergency] subpart 2, comment from Tanya Orr, Legal Aid, suggests the insertion of language to address the fact that arrearages will be paid not only when there is foreclosure action but also when there is the threat of foreclosure. The Department's intent in its definition of "threatened eviction" in part 9500.0331, subpart 20 is to address the emergencies that are not only imminent but also those that

are anticipated. The Commissioner agrees with the comment for reasons stated in paragraph 15 of these Findings and has changed subpart 2 accordingly. p.25

27. In part 9500.0351 [Emergency] subpart 2, comment from Ms. Orr suggests that a reference be made to "cancellation action". Since the rule not only refers to mortgages, on which foreclosure action takes place, but to contract for deeds, on which a cancellation action occurrs, the Commissioner agrees with and accepts the comment. p.25

28. In part 9500.0351 [Emergency] subpart 2, A., comment from Mr. Gibbens and Ms. Stremel, Ramsey County Human Services Department, suggests for the sake of clarification that "payment for arrearages" be inserted in the language. The Commissioner agrees with and accepts the comment. p.25

29. In part 9500.0351, [Emergency], comment from George J. Steiner, Anoka County, notes inconsistency in the use of the terms "total gross income", "total income", "income", and "gross available income". The Commissioner agrees with the comment. References to income in this part and in part 9500.0352 have been changed to "gross income" in order to provide clarity and consistency. p.25,26

30. In part 9500.0351 [Emergency] subpart 3, comment from Susan B. Smith, Director of Community Social Services in Washington County, suggests tnat the use of the word "solely" could cause the denial of assistance to a caretaker who is separated from his or her spouse but where the property is jointly owned with that absent spouse. It is not the Department's

intent to bar this group of persons from eligibility for mortgage and balloon payments when they are otherwise eligible. The Commissioner accepts the comment and deletes the word "solely" from subpart 3. p.27

31. In part 9500.0352 [Emergency] subpart 2, A., the word "payments" is changed to "payment" to make it grammatically correct. p.28

32. In part 9500.0352 [Emergency] subpart 3, comment from Tanya Orr, Legal Aid, and Berry Friesen, SMRLS, suggests the inclusion of language that says, "or if the utility provider refuses to offer a repayment plan to the applicant". The addition of this language covers the Department's intent to provide services to persons who are dealing with a utility company which both does not, or refuses to offer a repayment plan. The Commissioner agrees with the comment and accepts it for inclusion in the rule.

33. In part 9500.0352, subpart 3 [Emergency], comment from several sources, including Mr. Steiner, Anoka County, Ms. Smith, Washington County, Ms. Grover and Mr. Kinnunen, Carlton County, Evelyn Teich, Financial Assistance Supervisory II, Pine County Department of Human Services, Ms. Haugen and Ms. Devens, Wright County, and Anne L. Colgan, Assistant Director of Resource, Development and Maintenance at the Faribault, Martin and Watonwan Human Service Board suggests that finding an "alternate provider" of utilities places an impossible expectation on local agencies when, in fact, there is no "alternate provider" in many areas. The Commissioner agrees with the comments and deletes the reference in the rule. p.30

34. In part 9500.0352 [Emergency], comment from Tanya Orr, Legal Aid, suggests inserting a "hardship" definition under the definitions in part 9500.0331 to address those situation where the payment provisions fail to achieve the intended purposes of the emergency assistance program. Berry Friesen, SMRLS, makes a similar comment stating, "The proposed rule imposes a fault standard that comes into play whenever an application is made for assistance in making house payments or utility payments....The proposed approach also poses several significant disadvantages....The most important of these disadvantages is that it requires the denial of Emergency Assistance in situations where common sense calls for payment." Jerry Krueger, of Dakota County, suggests that the "rule effectively prohibits local agencies from resolving an applicant's utility crisis in many cases." Jan Smaby, Hennepin County, proposes that language be included to cover "qualifying factors for consideration in granting EA:..." for instance, when "circumstances exist which are likely to have an adverse effect on the individual's personal safety, physical or mental health". The Commissioner recognizes the validity of the comments and agrees that those issues need to be addressed more clearly in the rule. The Department has written the proposed rule with the STATEMENT OF PURPOSE, part 9500.0333, in mind which states, "The purposes of the emergency assistance program are to avoid and to prevent the destitution of children." The addition here of subpart 5 is meant to respond to the comments received and to clarify the reading of part 9500.0352 to assure that it is consistent with the aforementioned STATEMENT OF PURPOSE.

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

36. The changes made to the proposed emergency rule are not substantial 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 emergency rules was given as required by law, and all interested persons were afforded an opportunity to submit data and views on the proposed emergency rules.

3. All modification made to the proposed temporary rule are supported by the data and views submitted to the Department, and are not substantial changes.

4. The emergency 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: October 8, 1984

STATE OF MINNESOTA

LEONARD W. LEVINE
Commissioner
Department of Human Services

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE OF MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN MINNESOTA RULES, CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Vicki Sleeper 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 Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Vicki Sleeper
Special Assistant Attorney General

Dated: 10/8/84

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN MINNESOTA RULES, CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330.

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Dorothy Masso, being first duly sworn, deposes and says:

That on the 8th day of October, 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Dorothy Masso

Subscribed and sworn to before me
this 8th day of October, 1984.

Wayland E. Campbell

WAYLAND E. CAMPBELL
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 20, 1986

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE DEPARTMENT OF HUMAN SERVICES EMERGENCY RULE GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN CHAPTER 9500, PARTS 9500.0050, 9500.0070, 9500.0080, 9500.0090, 9500.0110, and 9500.0330.

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes 1984, section 14.30 and 14.32:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, October , 8 , 1984 for review for form and legality.

The attorney general shall review the proposed emergency rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, Room 204 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612)296-7030.

The proposed emergency rule has been modified. A free copy of the proposed emergency rule, as modified, is available upon request from:

Dorothy Mosso
Department of Human Services
4th Floor, Space Center
444 Lafayette Road
St. Paul, MN 55101

effective April 27, 1984

∴ 180 days = 10-24-84

Subd. 7. **AUTHORITY OF THE COMMISSIONER.** The commissioner is hereby authorized, subject to the provisions of chapter 14, to promulgate permanent rules and may promulgate temporary rules not inconsistent with this section as necessary to qualify for maximum federal funds to implement sections 256.72 to 256.871.

Sec. 2. Minnesota Statutes 1982, section 256.966, subdivision 2, is amended to read:

Subd. 2. **HEALTH MAINTENANCE ORGANIZATIONS.** Notwithstanding the provisions of subdivision 1, rates paid to health maintenance organizations may increase beyond eight percent. The actual rate paid per month to health maintenance organizations shall not exceed ~~85~~ 90 percent of the projected average monthly per capita fee for service payments made on behalf of eligible recipients who qualify to be members of the health maintenance organization who choose not to be members. Rates shall be calculated by the department of public welfare.

Sec. 3. Minnesota Statutes 1982, section 256B.05, is amended by adding a subdivision to read:

Subd. 4. **PRESENTATION MATERIALS.** In counties where health maintenance organizations or other prepaid health plans are under contract with the state to provide medical services, the county agency shall present all of the health care options available to recipients and shall include any audiovisual presentations or written materials provided to the county agency by the state agency. The state agency shall monitor county agency presentations.

Sec. 4. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Approved April 26, 1984 — eff

CHAPTER 581 — H.F.No. 1999

An act relating to the city of Duluth; authorizing the expansion of the energy conservation program to include multifamily homes; amending Laws 1981, chapter 223, sections 2; and 6, subdivisions 2 and 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Laws 1981, chapter 223, section 2, is amended to read:

Sec. 2. **SURVEY AND CONTRACTS WITH HOMEOWNERS; SCOPE OF PROGRAM.**

at least 60 days prior to

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equirements relative to

project costs, shall be
with the commissioner

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Sec. 22. Minnesota Statutes 1983 Supplement, section 256.737, is amended to read:

256.737 **COMMUNITY WORK EXPERIENCE PROGRAM.**

In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of public welfare may ~~establish~~ continue the pilot community work experience demonstration programs that were approved by January 1, 1984. No new pilot community work experience demonstration programs may be established. The commissioner shall: (a) assist counties in the design, implementation, and evaluation of these demonstration programs; (b) promulgate, in accordance with chapter 14, temporary rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until the termination of the demonstration programs; and (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law. The commissioner shall prohibit use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

Projects shall end no later than June 30, ~~1984~~ 1985, and a preliminary report shall be made to the legislature by February 15, ~~1984~~ 1985, on the feasibility of permanent implementation and on the cost effectiveness of each of the demonstration programs.

Sec. 23. Minnesota Statutes 1982, section 256.851, is amended to read:

256.851 **RULES.**

The commissioner of public welfare shall promulgate temporary and permanent rules necessary to implement Laws 1981, Third Special Session Chapter 3, Sections 1 to 19, and sections 256.72 to 256.871.

Effective May 3, 1984

∴ 180 days = [illegible] 10-30-84

Sec. 24. **[256B.49] CHRONICALLY ILL CHILDREN; HOME AND COMMUNITY-BASED WAIVER STUDY AND APPLICATION.**

Subdivision 1. **STUDY; WAIVER APPLICATION.** The commissioner shall authorize a study to assess the need for home and community-based waivers for chronically ill children who have been and will continue to be hospitalized without a waiver, and for disabled individuals under the age of 65 who are likely to reside in an acute care or nursing home facility in the absence of a waiver. If

Department of Finance

Request for Proposals Regarding the Selection of a Financial Advisor for the Development of a Master Lease Program

I. Introduction

The State of Minnesota is seeking to implement a Master Lease Program. This program would provide by a single contract the payment for the acquisition of various equipment items to be used by various state agencies and departments. The Departments of Finance and Administration and the Attorney General's Office are working jointly to implement the program. The Financial Advisor would work with these state agencies to assist in the development of the Master Lease.

II. Purpose and Duties

The Financial Advisor would help in structuring the Master Lease. Included would be the following:

A. What equipment should be included.

B. The expected life of the equipment included.

C. Which existing leases could be refunded.

D. The form of the debt and sale procedures.

1) Fixed rate or variable rate.

2) Competitive sale or negotiated sale.

3) Maturity Schedule.

4) Agency repayment schedules.

E. Work with bond counsel on legal documents.

III. Preparation of Financial Advisor Proposals

Each Financial Advisor is to respond to the following:

A. Your prior involvement in developing a Master Lease for governmental agencies. Indicate:

1) The names of the agencies.

2) Dates.

3) Amount of the Master Lease.

4) Your role in structuring the Master Lease.

B. At least 2 references of governmental agencies from A above. Include the name, address and telephone number of the contact person.

C. Your proposed approach to develop a Master Lease.

D. State your interpretation of the required duties.

E. State your costs of providing the service.

F. Provide the name of a contact person within your company and a phone number.

IV. Timetable

Event	Date
RFP issued to Financial Advisors	September 24, 1984
Financial Advisors Proposals Due	October 15, 1984
Evaluation and Interviews	October 15-31, 1984
Financial Advisor Selected	November 1, 1984

V. Information Contact

For additional information contact—after October 1, 1984

Peter Sausen
Department of Finance
State of Minnesota
309 Administration Building
St. Paul, MN 55155
(612) 296-8372

VI. Proposal Selection

A. Nature of Porcurement

This procurement is undertaken by the State pursuant to the provisions of M.S. § 16.098. As such it is not governed by strict competitive bidding requirements frequently associated with the purchase of supplies and materials by the State.

Accordingly, the State shall select the consultant whose proposal demonstrates clear capability to best fulfill the purposes of the RFP in a cost effective manner. The State reserves the right to accept or reject proposals in whole or in part and to negotiate separately as necessary to serve the best interests of the State of Minnesota.

B. Selection Criteria

1) Knowledge of Master Leases.

2) Ability by past experiences to structure a Master Lease.

3) Costs.

4) Results of in person interviews.

VII. Additional Proposal and Contract Requirements

A. Duration of Offer

All proposals must indicate that they are valid for a minimum of ninety (90) calendar days.

B. Public Status of Proposals Submitted

Pursuant to Minnesota law, all proposals submitted in response to this RFP shall become the property of the State of Minnesota. Such proposals shall also constitute public records and shall be available for viewing and reproduction by any person.

C. Contractual Terms

The contract resulting from this procurement shall, in addition to terms negotiated by the parties, contain the terms and conditions set forth in State of Minnesota Form 1051.

Iron Range Resources and Rehabilitation Board

Request for Proposal for Bids on Insurance Coverage(s) for the Giant's Ridge Recreation Area

The Iron Range Resources and Rehabilitation Board is seeking proposals from Minnesota insurance carriers for bids on insurance coverage(s) for the Giant's Ridge Recreation Area, located in the Town of White, near Biwabik, Minnesota.

For the formal request for proposal documents, interested parties should contact:

Mr. Mike Gentile, Director
Giant's Ridge Recreation Area
Iron Range Resources and Rehabilitation Board
P.O. Box 441
Eveleth, MN 55734
Phone: 218-865-4620—Giant's Ridge, Biwabik, MN
218-744-2993—IRRRB Administration Building, Eveleth, MN

Proposals must be submitted no later than noon, October 10, 1984, at the IRRRB Administration Building, located adjacent to and west of Highway #53, four miles south of Eveleth, Minnesota.