

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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Our File No. 1284 05-0009 0852

2

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-7-86
DATE FOR REVIEW 7-16
DATE DUE 7-21

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

Approved 7-17-86 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7-17-86 Revisor approved 7-9-86
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 7-7-86 Date combined w/FF

✓ Notice of Intent to Solicit Outside Opinion comments S.R. 12-2-85

✓ Order for rulemaking
4-10-86 date of Hearing

NA Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
4-23-86 At least 30 days prior to ~~hearing~~/adoption

✓ Aff of Additional Mailing 4-23-86
✓ Mailing list Certificate

✓ Publication in State Register
4-28-86 At least 30/20 days prior to hearing/adoption

NA Hearing Examiner's Report

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

✓ Agency's Findings of Fact combined w/ order adopting

NA LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

NA Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

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

ATTN: BLAKE SHEPARD
Special Assistant Attorney General

DATE: 7/17/86

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of Proposed Adoption of the Rules of the State Department of Human Services Governing General Assistance Eligibility and Work Readiness

The above-referenced rule has been approved as to its legality by the Attorney General on July 17, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1287

AG Copy

Department of Human Services

Adopted Permanent Rules Relating to General Assistance Eligibility; Work Readiness

Rules as Adopted

9500.1200 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 9500.1200 to 9500.1270 establish the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance as they pertain to the administration of the general assistance program.

Subp. 2. [Unchanged.]

9500.1206 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1200 to 9500.1270 and 9500.1300 to 9500.1320, the following terms have the meanings given them.

Subp. 2. to 19. [Unchanged.]

Subp. 19a. **Local labor market.** "Local labor market" means the geographic area in which a registrant can reasonably be expected to search for suitable employment. The geographic area must be limited to an area within two hours' round trip of the registrant's residence, exclusive of time needed to transport his or her children to and from child care.

Subp. 20. to 31. [Unchanged.]

Subp. 32. **Suitable employment.** "Suitable employment" means a job within the local labor market that:

A. and B. [Unchanged.]

C. pays at least the minimum wage prescribed by state or federal law and provides ~~more than 80 hours of work~~ a gross income of at least $268 per month; and

D. includes employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options, but does not include temporary day labor.

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Subp. 33. [Unchanged.]

9500.1209 ELIGIBILITY DETERMINATION.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Assistance unit composition.** The local agency must determine the composition of an applicant's or recipient's assistance unit as provided in items A and B.

A. The local agency must assess the categorical eligibility of each applicant or recipient under ~~parts 9500.1102 [Emergency] and 9500.1220 [Emergency]~~ part 9500.1258, unless the applicant or recipient informs the local agency of his or her election not to receive general assistance. If an applicant or recipient does not meet the conditions of a category of eligibility, under part ~~9500.1102 [Emergency] or 9500.1220 [Emergency]~~ 9500.1258, or the applicant or recipient is disqualified under parts ~~9500.1105~~ 9500.1264 to ~~9500.1107 [Emergency]~~ 9500.1268, or 9500.1254, subpart 5, the local agency must inform the applicant or recipient of his or her ineligibility for general assistance. The local agency may use one form per filing unit to inform the ineligible members of a filing unit of their ineligibility for general assistance.

B. [Unchanged.]

Subp. 4. [Unchanged.]

9500.1216 FULL STANDARDS.

Except as provided by parts 9500.1218 to 9500.1222, the full standards of assistance must be used to determine the eligibility of an assistance unit under part 9500.1209, subpart 4, and the minimum monthly payment to an assistance unit under part 9500.1229, subpart 4. The full standard must be based on the number of individuals in the assistance unit and must be computed as follows:

A. to C. [Unchanged.]

D. When an assistance unit contains no adult because a parent or parents are disqualified from receiving general assistance under parts ~~9500.1105~~ 9500.1264 to ~~9500.1107 [Emergency]~~ 9500.1268 or 9500.1254, subpart 5, and the parent or

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parents do not have countable income in an amount equal to or in excess of their own needs, the full standard applicable to the assistance unit is the special child standard provided by this item. The parent's or parents' needs are equal to the full standard for adults as specified in item B. The special child standard must be determined as follows:

(1) and (2) [Unchanged.]

9500.1222 REDUCED STANDARD FOR AN ASSISTANCE UNIT SHARING A RESIDENCE WITH A RESPONSIBLE RELATIVE WHO HAS INCOME OTHER THAN GENERAL ASSISTANCE OR AFDC.

Subpart 1. **Applicability of reduced standards.** The reduced standards in this part must be applied to determine the eligibility of an assistance unit under part 9500.1209, subpart 4, and the minimum monthly payment to an assistance unit under part 9500.1229, subpart 4, when the conditions in items A to C apply to the assistance unit.

A. The applicant's or recipient's filing unit and assistance unit are composed of only one individual, the individual is an adult, and the individual does not meet an eligibility category under part ~~9500.1102, [Emergency] item A, B, H, I, J, O, or P~~ 9500.1258, subpart 1, item A, B, H, I, J, O, or P.

B. and C. [Unchanged.]

Subp. 2. **Reduced standard.** The reduced standard applicable to an assistance unit provided for in subpart 1 must be determined as follows:

A. [Unchanged.]

B. Calculate the amount of the parent's or parents' countable income. In this part "parent's or parents' countable income" means the parent's or parents' monthly gross income minus the following deductions:

(1) to (3) [Unchanged.]

(4) benefits received from the social security retirement program if the parent was receiving benefits under the social security disability or supplemental security income

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program at the time he or she became eligible for the social security retirement program or if the parent meets a category of eligibility under part ~~9500.1102-[Emergency],-item-A,-B,-H,-or-J~~ 9500.1258, subpart 1, item A, B, H, or J;

(5) and (6) [Unchanged.]

C. to E. [Unchanged.]

9500.1258 CATEGORIES OF ELIGIBILITY.

Subpart 1. **Categories of ongoing eligibility.** When the local agency determines the composition of an applicant's or recipient's assistance unit under part 9500.1209, subpart 3, ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~ the local agency must determine whether the applicant or recipient meets the conditions of one or more of the categories of eligibility under the following items:

A. The applicant or recipient suffers from a permanent illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment.

B. The applicant or recipient suffers from a temporary illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment for a period of at least 15 days and, if a rehabilitation plan is specified in the medical certification, the applicant or recipient is following the rehabilitation plan. An applicant or recipient is eligible under this item only for the period of the illness, injury, or incapacity.

C. The applicant or recipient is needed at home on a substantially continuous basis because another individual who resides with the applicant or recipient requires care due to the age or medically certified illness, injury, or incapacity of the other individual. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself.

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D. The applicant or recipient is residing in a facility licensed under Minnesota Statutes, sections 245.781 to 245.812 and certified under Minnesota Statutes, chapter 144 for purposes of physical or mental health or rehabilitation, or in a chemical dependency domiciliary facility licensed under parts 9530.2600 to 9530.4000 or 4625.0100 to 4625.2300. Residence in the facility must be due to illness or incapacity and based on a plan developed or approved by the director of the local agency.

E. The applicant or recipient resides in a shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3.

F. The applicant or recipient is enrolled as a full-time student and is or may be eligible for displaced homemaker services, programs, or assistance under Minnesota Statutes, section 4.40.

G. The applicant or recipient is unable to communicate in the English language as assessed by an English as a second language specialist, a vocational specialist, or the local agency.

H. The applicant or recipient does not meet the condition in item A, B, or D but is medically certified as having mental retardation or mental illness.

I. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program, or a pending appeal of the denial of an application or termination from those programs.

J. The applicant or recipient is unable to obtain or retain suitable employment due to advanced age.

K. The applicant or recipient is completing high school.

L. The applicant or recipient is a minor child who resides with his or her parent or stepparent, or an adult who resides with one or more of his or her minor children or the minor children of his or her spouse.

M. The applicant or recipient meets one or more of the following:

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(1) lives ~~more-than-two-hours-round-trip-from-all~~ in a local labor market with no potential suitable employment~~,~~ ~~not-including-time-needed-to-transport-his-or-her-children-to-and-from-child-care~~;

(2) is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day;

(3) is in the last trimester of pregnancy;

(4) is evaluated by a vocational specialist or a vocational advisor and is found to be unable to obtain or retain suitable employment;

(5) exhibits severe symptoms of chemical dependency but refuses evaluation or treatment;

(6) exhibits evidence of severely diminished functioning in areas of daily living such as social skills or personal relations;

(7) shows circumstances, at the time of application for general assistance, that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or anticipated receipt of income, and the applicant has not received general assistance under this condition for at least 60 days; or

(8) is ~~completing~~ regularly attending a GED program~~,-the-time-commitment-of-which-precludes-participation-in-work-readiness~~ with a minimum of six hours of classroom instruction per week.

N. The applicant or recipient is certified under part 3320.0025 [Emergency] by the commissioner of the Department of Economic Security before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment.

O. The applicant or recipient is medically certified as being learning disabled. For purposes of this item, "learning disabled" means the individual has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or

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nonverbal means. It does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; of mental retardation; of emotional disturbance; or of environmental, cultural, or economic disadvantage. The condition must severely limit the individual in obtaining, performing, or maintaining suitable employment.

P. The applicant or recipient is functionally illiterate. For purposes of this item, "functionally illiterate" means the individual is unable to read at or above the eighth grade level. An applicant or recipient shall be determined functionally illiterate according to subitems (1) to (3):

(1) The local agency may determine that the applicant or recipient is obviously functionally illiterate based on personal observations ~~and~~ or information in the applicant's or recipient's case file.

(2) If an applicant or recipient is not determined to be functionally illiterate as provided in subitem (1), but the local agency believes that the applicant or recipient may be functionally illiterate, or if the applicant or recipient asserts or presents evidence that he or she may be functionally illiterate, the local agency shall offer the applicant or recipient the opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the applicant or recipient and in time to allow a determination of eligibility within the time limits prescribed under Minnesota Statutes, section 256D.07, that takes into account the results of the test. The local agency shall either administer the test or offer to make the arrangements for the test. If the applicant or recipient attains a score lower than the eighth grade, he or she shall be considered functionally illiterate unless the local agency determines, through compelling evidence documented in the applicant's or recipient's case file, that there is a substantial likelihood that the test result is inaccurately low.

(3) If, in accordance with subitem (2), the local

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agency determines that an applicant's or recipient's standardized test score is inaccurately low, the local agency shall inform the applicant or recipient that he or she may seek certification of the functional illiteracy from a licensed psychologist, or an individual licensed under parts 8700.3800, 8700.5300, 8700.5406, 8700.5500, 8700.5800, 8700.6300, or 8700.6310, or an individual with the equivalent or higher qualifications. The local agency shall provide the applicant or recipient with a list of individuals or agencies in the county who are qualified to make the certification. The applicant or recipient is considered functionally illiterate if the certification specifies that he or she cannot read at or above the eighth grade level.

Subp. 2. **Categories providing for six months of eligibility.** An applicant who is not eligible for general assistance under subpart 1, but who meets the conditions of part 9500.1209, subpart 4, ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~ and who has received six months of work readiness services and payments is eligible to receive general assistance for a maximum of six months during any consecutive 12-calendar month period if the conditions in item A or B are met:

A. the individual is medically certified as having borderline mental retardation, as defined in part 9500.1302, subpart 2; or

B. the individual is certified by a qualified professional, as defined in part 9500.1302, subpart 6, as exhibiting perceptible symptoms of mental illness and the mental illness interferes with medical certification of the individual's condition.

~~After issuing the monthly general assistance payment during the sixth and final month~~ Unless the local agency has information that a recipient meets one or more of the categories of eligibility under subpart 1, the local agency shall provide the recipient with written notice of his or her termination from general assistance, after issuing the monthly general assistance

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payment during the sixth and final month. The notice must inform the recipient of the right to appeal as specified in part 9500.1260, and ~~notice~~ that the recipient may be eligible for work readiness services and payments if he or she meets the criteria of part 9500.1306, subpart 3.

9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subpart 1. **Determination of ineligibility and right to appeal.** Upon determining that an applicant or recipient is ineligible for general assistance, the local agency shall inform the applicant or recipient of the determination and of the right to appeal the determination under Minnesota Statutes, section 256.045.

Subp. 2. **Work readiness notice.** Upon determining that an applicant or recipient is not eligible for general assistance because he or she does not meet a category of eligibility under part 9500.1258, the local agency shall inform the individual of the availability of its work readiness program and shall determine the individual's eligibility for services and payments under part 9500.1306, subpart 3. If an applicant or recipient is eligible for work readiness services and payments, he or she shall be informed that an appeal of the general assistance determination of ineligibility may be made under Minnesota Statutes, section 256.045 while receiving work readiness services and payments. The local agency shall also inform the individual that eligibility for work readiness services and payments is time limited.

If the applicant or recipient subsequently wins the appeal, the assistance received under the work readiness program pending appeal must be considered general assistance. ~~The local agency shall also inform the individual that eligibility for work readiness services and payments is time limited.~~ If a recipient files an appeal before the effective date of the termination of his or her general assistance, continues to receive general assistance pending the appeal in accordance with part 9500.1268,

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and does not prevail in the appeal, the assistance received pending the appeal shall be considered general assistance and not work readiness payments, and the recipient's participation in work readiness services pending the outcome of the appeal shall not be counted toward the two- or six-month limitation on eligibility for the work readiness program. If a recipient files an appeal after the effective date of the terminiation of his or her general assistance, receives work readiness services and payments pending the appeal, and does not prevail in the appeal, the assistance received pending the appeal shall be considered work readiness assistance and shall be counted toward the two- or six-month limitation on eligibility for the work readiness program.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. **Requirements for continued eligibility for specific categories of ongoing eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 1, item G or L, and who is not eligible under another category of eligibility under part 9500.1258, must comply with the following requirements as conditions for continued eligibility.

A. Recipients who are eligible under part 9500.1258, subpart 1, item G shall participate in an English language skills program if assigned to a program by the local agency and if the program is available in the recipient's local labor market. If the recipient ~~does not~~ fails, without good cause, to participate in the assigned English language skills program, the recipient must be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. Adult recipients who are eligible for general assistance under part 9500.1258, subpart 1, item L, must comply with the following:

(1) If all of the minor children are six years of age or older, the adults must participate in and comply with the work readiness program.

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(2) If one or more of the minor children are under the age of six and two adults are eligible under part 9500.1258, subpart 1, item L, one adult must participate in and comply with the work readiness program.

(3) An adult who is required to participate in and comply with the work readiness program under subitem (1) or (2) who ~~does not~~ fails, without good cause, to participate in and comply with the requirements of the work readiness program must be disqualified from general assistance as provided in part 9500.1266. The standard of assistance applicable to the disqualified member's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 2. **Requirements for continued eligibility under categories of six-month eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 2 must comply with the following requirements to remain eligible for general assistance:

A. A recipient certified as exhibiting perceptible symptoms of mental illness as provided by part 9500.1258, subpart 2, item B must cooperate with social services, treatment, or other reasonable plans developed by the local agency to address the illness. If the local agency determines that the recipient has failed, without good cause, to comply with the plan, the recipient shall be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. The local agency may assign a recipient who is eligible for general assistance under part 9500.1258, subpart 2 to the work readiness program for work readiness services. A recipient so assigned must comply with the work readiness program requirements ~~established~~ determined by the local agency to be applicable to the recipient. If the local agency determines that the recipient has failed, without good cause, to comply with work readiness requirements, the recipient is disqualified from receiving general assistance as provided in part 9500.1266.

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9500.1264 NOTICE OF DISQUALIFICATION.

If the local agency determines that a recipient must be disqualified for failing to comply with the requirements of part 9500.1262, the local agency shall notify the recipient of the determination. The notice must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the recipient not later than ten days before reducing, suspending, or terminating the monthly payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

9500.1266 DISQUALIFICATION.

A recipient who fails, without good cause, to comply with the requirements of part 9500.1262, is disqualified from receiving general assistance as provided in items A to D.

A. The period of disqualification is two months for each occurrence.

B. The disqualification period begins on the first calendar day of the month following the month in which the recipient is finally determined to have failed to comply. If the determination is made so late in a month that prior notice under part 9500.1264 cannot be given, the disqualification period begins on the first calendar day of the second month following the finding of noncompliance.

If the recipient appeals on or before the proposed disqualification date, the disqualification process must stop and assistance will continue under part 9500.1268 until a final decision is made. If the final decision is that the recipient is disqualified, the disqualification period begins on the first day of the month following the final decision.

C. If an individual who is disqualified applies for general assistance during the period of disqualification, the

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individual is considered a recipient and the application shall be denied unless the individual is eligible for general assistance on the basis of a category of eligibility other than the categories in part 9500.1258, subpart 1, item G or L.

D. If a recipient who received a notice of disqualification complies with the requirements of part 9500.1262, on or before the ~~effective-date~~ commencement of the disqualification period, assistance must be continued without a period of disqualification.

9500.1268 APPEAL OF DISQUALIFICATION.

A recipient who is disqualified from receiving general assistance under part 9500.1266 may appeal the decision. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If appeal is made on or before the ~~effective-date~~ commencement of the disqualification period and the recipient is otherwise eligible, he or she shall continue to receive general assistance while the appeal is pending, unless the recipient requests in writing that assistance be discontinued pending a hearing decision.

9500.1270 SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

The local agency may provide general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if the applicant, recipient, or registrant does not have a residence address. The local agency may provide separate vouchers or vendor payments for food, shelter, and other needs and may divide the monthly assistance standard into daily or weekly payments, whether in cash or by voucher or vendor payment, until the applicant, recipient, or registrant has secured an address at which he or she resides. If the local agency elects to use these provisions, the local agency shall either provide for the individual's needs through placement in a negotiated rate facility, or provide for all of the individual's food, shelter, or other daily needs, regardless of the standard of assistance. For purposes of this part,

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"address" includes migrant labor camp as defined in part 4630.4800, subpart 3.

9500.1300 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 9500.1300 to 9500.1318 is to establish standards for the work readiness program provided to eligible registrants by local agencies.

Subp. 2. **Applicability.** Parts 9500.1300 to 9500.1318 apply to applicants and registrants in the work readiness program, to applicants and recipients of general assistance, and to local agencies that are required to administer the work readiness and general assistance programs under Minnesota Statutes, sections 256D.051, 256D.09, subdivision 4, 256D.101, and 256D.111, subdivision 5. Parts 9500.1300 to 9500.1318 must be read together with parts 9500.1200 to 9500.1270. When parts 9500.1300 to 9500.1318 conflict with parts 9500.1200 to 9500.1270, parts 9500.1300 to 9500.1318 prevail.

9500.1302 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1300 to 9500.1318, the following terms have the meanings given them.

Subp. 2. **Borderline mental retardation.** "Borderline mental retardation" means the condition of an individual who has demonstrated deficits in adaptive behavior and intellectual functioning that is at least one but less than two standard deviations below the mean of a professionally-recognized standardized test. The condition must limit the individual in obtaining, performing, or maintaining suitable employment.

Subp. 3. **Distressed county.** "Distressed county" means a county or a designated portion of a county with an average unemployment rate of ten percent or more as determined annually by the commissioner of the Department of Jobs and Training.

Subp. 4. **Employment assistance programs.** "Employment assistance programs" means the Minnesota employment and economic development (MEED) program and other programs offered by public or private agencies that provide services to develop, enhance, or promote an individual's employability, job placement, and

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training.

Subp. 5. **Misconduct.** "Misconduct" means conduct that would result in the disqualification of a claimant for unemployment insurance benefits under Minnesota Statutes, section 268.09, subdivision 1, clauses (2) and (3).

Subp. 6. **Program month.** "Program month" means a 30-day period of eligibility for work readiness assistance beginning with the first date for which a work readiness payment is made to the registrant, and each subsequent 30-day period in which the registrant is eligible for work readiness assistance and for which the registrant is provided with work readiness payments.

Subp. 7. **Qualified professional.** "Qualified professional" means a social worker employed by the local agency, a social worker with a master's degree in social work, a licensed consulting psychologist, a licensed psychologist, a licensed physician or psychiatrist, or a public health nurse.

Subp. ~~7~~ 8. **Registrant.** "Registrant" means an individual who has applied for work readiness services and payments, who has been determined eligible for those services and payments by the local agency, and who has elected to begin receiving those services and payments. "Registrant" also means a recipient who is required to participate in the work readiness program under part 9500.1262.

Subp. ~~8~~ 9. **Vocational advisor.** "Vocational advisor" means an individual employed by or under contract with the local agency who has sufficient education, training, or experience to identify the types of available suitable employment in a registrant's local labor market and the qualifications required for that employment; to identify the registrant's physical, social, vocational, and educational barriers to obtaining available suitable employment; and to identify the types of services and activities necessary to enable the registrant to overcome the barriers and obtain suitable employment.

9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION.

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Subpart 1. **Requirement to provide a work readiness program.** Each local agency shall provide a work readiness program. The program must provide work readiness services and payments to all applicants residing within the local agency's jurisdiction who meet the eligibility conditions of part 9500.1306, and must provide work readiness services to adult recipients of general assistance who are eligible under part 9500.1258, subpart 1, item L. The local agency may continue to provide work readiness services to recipients of general assistance who are categorically eligible under part 9500.1258, subpart 2.

Subp. 2. **Preparation of work readiness program description.** Each local agency shall develop a written description of its work readiness program. The description must:

A. meet the standards established in part 9500.1252;

B. identify the work readiness program's purpose, service components, operating procedures, and service provider;

C. contain a summary of work readiness program requirements including a registrant's responsibility to cooperate when the local agency assesses the registrant's employability and prepares the registrant's employability development plan, and the responsibility to comply with job registration, work search, and employment acceptance and retention requirements as conditions for continuing eligibility; and

D. state that a period of disqualification will be imposed for failure to comply with work readiness requirements.

Subp. 3. **Distribution of work readiness program description.** The local agency must give a copy of the work readiness program description to an applicant at the time he or she applies for general assistance or work readiness, and to any individual upon request.

Subp. 4. **Filing of program description.** The local agency must file a copy of its work readiness program description with the commissioner annually, on January 1. The local agency must also file a copy of amendments to its work readiness program description with the commissioner at the time it makes the

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amendments.

Subp. 5. **Retention of documents in case files.** The local agency shall retain copies of all work readiness program notices, assessments, plans, and other documents given to or completed by an applicant or registrant, in accordance with parts 9500.1300 to 9500.1318, in the applicant's or registrant's case file.

9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

Subpart 1. **Assessment of general assistance eligibility.** Before determining an applicant's eligibility for work readiness services and payments, the local agency must determine the applicant's need for emergency general assistance under Minnesota Statutes, section 256D.07, and the applicant's eligibility for the general assistance program under part 9500.1209 ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~. If the applicant is eligible for general assistance, the applicant is ineligible for work readiness services and payments except as provided in part 9500.1262, subparts 1, item B, and 2. If the applicant is ineligible for general assistance, the local agency shall notify the applicant of the determination and of the right to appeal the decision as provided under part 9500.1260.

Subp. 2. **Work readiness application.** A completed application for general assistance is considered to be a completed application for the work readiness program effective on the date that the local agency determines the applicant ineligible for general assistance. A registrant shall not be required to complete a new application for general assistance when the local agency is determining the registrant's eligibility for general assistance under part 9500.1316, subpart 2, or 9500.1258, subpart 2.

Subp. 3. **Eligibility criteria.** If the local agency determines that the applicant is ineligible for general assistance, it must determine the applicant's eligibility for the work readiness program. An applicant or registrant is

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eligible for the work readiness program if the applicant or registrant meets the conditions in items A to D:

A. The applicant or registrant is not categorically eligible for general assistance under part 9500.1209, subpart 3, item A ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~.

B. The applicant or registrant meets the eligibility requirements under part 9500.1209, subpart 4 ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~. If the applicant or registrant is married and resides with his or her spouse, the income and property of the applicant or registrant and his or her spouse shall be considered in accordance with part 9500.1209, subpart 4, ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~.

C. The applicant or registrant has not exhausted his or her eligibility period as provided by part 9500.1312.

D. The applicant or registrant is not in a disqualification period under part 9500.1254, 9500.1266, or 9500.1316.

9500.1308 REQUIREMENT TO INFORM APPLICANTS.

Subpart 1. **Duty to inform applicants of ineligibility for the work readiness program.** Upon determining an applicant ineligible for the work readiness program, the local agency must inform the applicant of the determination and the right to appeal as provided in part 9500.1318.

Subp. 2. **Duty to inform eligible applicants of work readiness requirements.** At the time the local agency determines that an applicant is eligible for the work readiness program, the local agency must provide the applicant with a notice of the determination on a form prescribed by the commissioner, a copy of the program description prescribed under part 9500.1304, subpart 2, and a written notice meeting the standards established in part 9500.1252, which informs the applicant of:

A. the limited time during which the applicant may be eligible for work readiness services and payments;

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B. the applicant's right to choose the months in which he or she will receive work readiness services and payments, including the option to elect to receive work readiness services and payments immediately; ~~and~~

C. the disqualification that will be imposed if a registrant is terminated from suitable employment for misconduct, quits suitable employment without good cause, refuses without good cause to accept an offer of suitable employment, or fails, without good cause, to comply with other work readiness program requirements; and

D. that an assessment of continuing eligibility for work readiness services and payments will be conducted during the registrant's second program month.

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. **Requirement of concurrent services and payments.** In order for ~~a monthly work readiness payment or~~ a program month ~~of work readiness services~~ to count toward the two or six program month limitation on eligibility for the work readiness program, as provided by part 9500.1312, the registrant must receive work readiness services during the program month ~~that~~ for which a work readiness ~~payments are~~ payment is made. Upon an eligible applicant's election to begin receiving work readiness services and payments, the local agency shall provide the services and payments to the registrant. ~~If~~ A program month preceding the program month in which the written employability assessment and the employability development plan are ~~not~~ completed ~~within the first month of an election to receive work readiness services or payments, that month~~, in accordance with subpart 2, items A and B, must not be counted against a registrant's total program months of work readiness eligibility, provided the registrant did not fail, without good cause, to cooperate with the assessment and plan development. A program month during which a registrant fails, without good cause, to comply with the requirements of the work readiness program but for which the registrant receives a work readiness payment shall

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be considered a program month during which work readiness services and payments were received.

Subp. 2. **Work readiness services.** The following services must be provided to a work readiness registrant;

A. In consultation with the registrant, a vocational advisor shall complete a written employability assessment. The assessment must include an examination of the registrant's education, training, prior work experience, and suitable employment that is or may become available, and must identify barriers to the registrant successfully seeking and securing suitable employment.

B. The vocational advisor shall develop a written employability development plan for each registrant within the registrant's first ~~30-days-that-work-readiness-services-are provided-to-a-registrant~~ program month. The plan must be based on the assessment provided under item A and the vocational advisor's knowledge of the level of competition for employment that is or may become available, and must be designed to address the registrant's barriers to employment and prepare the registrant for suitable employment. The registrant must be given a copy of his or her plan and the plan must:

(1) include an estimation of the length of time it will take the registrant to obtain suitable employment;

(2) require the registrant to accept any offer of suitable employment;

(3) provide for referral to appropriate employment assistance programs;

(4) require a registrant to spend at least eight but no more than 32 hours per week in job search or other work readiness activities;

(5) specify ~~that~~ the registrant's job search requirements, which must be limited to the local labor market, must be reasonable, and must be based upon the assessment performed under item A;

(6) specify any other reasonable activities designed to prepare the registrant for permanent suitable

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employment that are required of the registrant; and

(7) include provisions for assessing the registrant's progress in securing suitable employment.

C. No work readiness program shall require a registrant to travel to a potential job, training, or other activity site unless the local agency provides funds in advance to the registrant, in addition to the monthly program payment, to cover the cost of the transportation or unless transportation is otherwise available to the registrant without cost, or is unnecessary.

D. A registrant who is categorically eligible under part 9500.1258, subpart 1, item L, and who is the sole parent or stepparent residing with one or more children under the age of 12 shall not be required to participate in any work readiness program activities during hours in which the child is at home unless the local agency provides funds in advance to the registrant, in addition to the monthly program payment, to cover the cost of child care~~, or unless child care is otherwise available to the individual without cost~~.

E. A local agency that requires a registrant to participate in any type of employment experience program shall require that the employment experience program meet the standards established in Minnesota Statutes, section 256D.113, and that the work to be done is not work ordinarily performed by a regular public employee.

F. A local agency may contract with a public or private entity to perform any or all of the services prescribed by this subpart if the entity can document that it has the resources and expertise necessary to perform the services. A contract entered into under this item must contain a description of the services to be performed under the contract. The local agency must monitor the entity to ensure that it is performing the services required under this subpart and specified in the contract. Upon request, the local agency shall provide the department with a copy of the contract and a description of the resources and expertise of the entity under contract with the

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local agency.

Subp. 3. **Work readiness payments.** A registrant who meets the eligibility conditions of part 9500.1306, subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility. If the registrant is married and lives with his or her spouse, the couple is considered a filing unit comprised of two individuals. If the registrant's spouse is also a registrant, the couple shall be considered one assistance unit composed of two persons for purposes of determining the applicable standard of assistance, the amount of countable income, the amount of real and personal property, and the monthly work readiness payment amount.

The payment amount must be equal to the amount of assistance that would be paid to the registrant's assistance unit if the assistance unit was eligible for general assistance under part 9500.1209 ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~. If the registrant resides with his or her spouse and the spouse receives general assistance, the monthly work readiness payment to the registrant under this part must be equal to the amount the general assistance monthly payment made to the registrant's spouse would increase if the registrant were added to the spouse's general assistance grant.

The first work readiness payment must be prorated ~~for~~ to cover the period beginning with the effective date of the completed application for the work readiness program, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services and payments, whichever is later, and ending with the last day of that month. The amount of the first payment must be determined by dividing the number of days to be covered by the payment by the number of days in the month, to determine the percentage of days in the month that are covered by the payment, and multiplying the monthly payment amount by this percentage.

Subsequent work readiness payments must be made monthly on

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the first day of the month. A registrant shall continue to receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306. The final payment must be prorated to cover the number of program days ~~equal to the number of days in the registrant's first month of work readiness services and payments which were not covered by the registrant's first work readiness payment~~ for which the registrant is eligible in that month. The amount of the final payment must be determined by subtracting the percentage of days in the first month covered by the first work readiness payment from 100 percent, and multiplying the final monthly payment amount by the remaining percentage. Emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

9500.1312 ASSESSMENT ~~DURING SECOND MONTH~~ FOR ADDITIONAL ELIGIBILITY; NOTICES TO REGISTRANTS.

Subpart 1. **Required assessment.** Except for registrants participating in work readiness under part 9500.1262, the local agency shall conduct an assessment of the registrant's progress in securing suitable employment and an assessment of the registrant's eligibility for an additional four program months of work readiness services and payments during the registrant's second program month of work readiness services and payments under part 9500.1310.

The local agency must offer the registrant an opportunity to meet with the local agency and to provide information relevant to the assessment. If the registrant does not meet with the local agency or provide information relevant to the assessment, the local agency must complete the assessment based on the information contained in the registrant's case file.

Subp. 2. **Notice of assessment.** ~~When the second work readiness payment is mailed or given to the registrant,~~ The local agency shall provide a written notice meeting the standards established under part 9500.1252 to inform the

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registrant that the local agency will be assessing the registrant's eligibility for an additional four program months of work readiness services and payments. The notice must be mailed or given to the registrant no later than ten days before the assessment and must include the following:

A. The notice must identify the conditions that must be met in order for the registrant to be eligible for an additional four program months.

B. The notice must inform the registrant that the registrant will not receive work readiness payments beyond the second program month until the assessment has been completed and the registrant found eligible for four additional program months.

C. The notice must offer the registrant an opportunity to meet with the local agency in order to provide information relevant to the assessment.

D. The notice must inform the registrant that the registrant has a right to submit to the local agency information relevant to the determination within ten days from the date that the notice is mailed or given to the registrant.

Subp. 3. **Assessment of additional eligibility.** A registrant is eligible for four additional program months of work readiness services and payments if the registrant meets one or more of the following conditions:

A. The registrant lives in a distressed county.

B. The registrant is medically certified as having borderline mental retardation.

C. The registrant is certified by a qualified professional as exhibiting perceptible symptoms of mental illness but the registrant is not eligible for general assistance under part 9500.1258, subpart 1, because the mental illness interferes with the medical certification process.

D. The registrant, as determined by a vocational advisor, cannot reasonably be expected to secure suitable employment at this time given the registrant's work history, skills, education, physical and mental ability, and the availability of suitable employment.

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If the local agency believes that the registrant may have borderline mental retardation, or if the registrant or a representative of the registrant asserts that he or she has borderline mental retardation, the local agency shall seek medical certification of the registrant's condition. If medical certification establishes that the registrant has borderline mental retardation, the condition in item B is met.

If the registrant's behavior, mood, conduct, or appearance suggests or demonstrates that the individual has a mental illness, or if the registrant or a representative of the registrant asserts that the registrant has a mental illness, the local agency shall seek medical certification of the registrant's condition. If the registrant's mental illness interferes with the medical certification, the local agency shall seek an assessment of the registrant's condition from a qualified professional. If the qualified professional certifies that the registrant exhibits symptoms of mental illness, the condition in item C is met.

Subp. 4. **Notice of determination.** If the local agency determines through the assessment that the registrant meets one or more of the conditions in subpart 3, items A to D, the local agency must notify the registrant that he or she is eligible for work readiness services and payments for a combined total of six program months in any consecutive 12-calendar month period. If the local agency determines, upon completion of the assessment under subpart 1, that the registrant does not meet one or more of the conditions in subpart 3, items A to D, the local agency must terminate the registrant's work readiness services and payments effective at the end of the registrant's second program month of participation in the work readiness program. If the local agency determines that the registrant is ineligible for continued work readiness services and payments, the local agency shall notify the registrant of its determination and that the registrant is not eligible to receive work readiness services and payments for more than two program months during any consecutive 24-calendar month period.

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Subp. 5. **Registrant moves to another county after ~~second~~ month assessment** for additional eligibility **is completed.** If a registrant moves to another county after the ~~second-month~~ assessment for additional eligibility required under subpart 1 is completed, the new county of residence must complete another ~~second-month~~ assessment for additional eligibility and determine the registrant's eligibility for additional work readiness services and payments. A registrant shall not receive more than a total of six program months of work readiness services and payments in any consecutive 12-month period, regardless of the number of assessments conducted.

Subp. 6. **Notice of termination.** A registrant who is in the last program month of his or her two or six program months of work readiness services and payments shall be notified of the termination of services and payments and of the appeal rights in accordance with the procedures specified in part 9500.1318.

Subp. 7. **Assessment following reapplication.** If an individual, whose eligibility for work readiness was terminated after two program months because the local agency determined that the individual did not meet one or more of the conditions under subpart 3, items A to D, applies for work readiness, the local agency must determine if the applicant's circumstances have changed and if the applicant is eligible for any additional work readiness services or payments.

9500.1314 REGISTRANT DUTIES.

A registrant shall comply with all requirements of the local agency work readiness program ~~as~~, including the requirements explained under part 9500.1308, subpart 2, and the requirements specified in the employability development plan provided under part 9500.1310, subpart 2, item B. Except for registrants participating in work readiness under part 9500.1262, a registrant who fails, without good cause, to comply with the local agency work readiness requirements shall be disqualified from the receipt of work readiness services and payments under part 9500.1316.

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9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1. **Determination and notice of failure to comply.** If a local agency determines that a registrant has failed, without good cause, to comply with the requirements of the work readiness program, the local agency must notify the registrant of its determination. The notice must meet the standards established in part 9500.1252, and must contain the information in items A to E.

A. The notice must state the specific work readiness requirement the registrant has failed to meet and the facts that support the local agency's determination.

B. The notice must specify the particular action the registrant must take to meet the requirements.

C. The notice must specify a certain date by which the action must be taken. The registrant must be given a minimum of 15 calendar days to take the specified action following the date the notice is mailed or given to the registrant.

D. The notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date.

E. The notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency.

Subp. 2. **Disqualification.** A registrant who is notified of the local agency determination as provided in subpart 1 shall comply with the requirements of the work readiness program as stated in the notice by the specified date.

If the local agency determines that a registrant has taken the required action on or before the date specified in the notice, a period of disqualification must not be imposed. If the local agency determines that the registrant failed, without good cause, to take the required action by the specified date,

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the local agency must assess the registrant's eligibility for general assistance under part 9500.1209 ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986),~~ before disqualifying the registrant for not meeting the requirements.

If the local agency determines that the registrant is eligible for general assistance, the registrant shall be terminated from work readiness services and payments and shall be eligible for general assistance.

If the local agency determines that the registrant is ineligible for general assistance under part 9500.1209 ~~as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)~~, the registrant shall be disqualified from receiving work readiness services and payments.

Subp. 3. **Notice of disqualification.** The local agency shall notify the registrant of the disqualification from receiving work readiness services and payments under subpart 2 and of the registrant's appeal rights as provided in part 9500.1318.

Subp. 4. **Period of disqualification.** A registrant disqualified under subpart 2 is ineligible during the period of disqualification for any remaining or additional work readiness services or payments for which he or she would otherwise be eligible in accordance with the provisions in items A to F.

A. The period of disqualification shall be two months.

B. The disqualification period begins on the first day of the work readiness payment period following the date on which the determination was made. If the notice of disqualification is given or mailed so late in a payment period that ten-day prior notice required under part 9500.1318 cannot be given, the disqualification period begins on the first day of the second work readiness payment period following the date the determination was made. If the registrant appeals on or before the proposed disqualification date, the disqualification process must stop and work readiness payments and services must continue until a final decision is made or until the registrant's period

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of eligibility is exhausted, and payments and services are terminated in accordance with part 9500.1312, subpart 6, whichever is earlier. If the registrant loses the appeal, the disqualification period must begin on the first day of the next work readiness payment period.

C. If an individual who is disqualified applies for the work readiness program during the period of disqualification, eligibility for work readiness services and payments must be denied.

D. Disqualification under subpart 2 must not affect a registrant's eligibility for general assistance or general assistance medical care.

E. The period of disqualification under subpart 2 must not be counted against a registrant's two ~~months~~ or six program months of work readiness eligibility. Following a period of disqualification a registrant who has been disqualified under subpart 2 must complete a new application for work readiness and the local agency must determine if the registrant is eligible for any additional or remaining work readiness services or payments.

F. If a registrant is disqualified under subpart 2, the local agency may use vouchers and vendor payments, or both, to meet the financial needs of the remaining eligible members of the registrant's assistance unit. The assistance standard used must be based on the number of remaining eligible members in the registrant's assistance unit.

9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

Subpart 1. **Actions requiring notice.** The local agency shall notify an applicant or registrant of the following determinations before taking any adverse actions:

A. a determination of ineligibility for work readiness services or payments under part 9500.1306, subpart 3;

B. a determination of ineligibility for four additional program months of work readiness services or payments under part 9500.1312, subpart 1;

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C. a determination of disqualification from receiving work readiness services and payments under part 9500.1316, subpart 2; and

D. a determination that the registrant has exhausted eligibility to receive work readiness services and payments under part 9500.1312, subpart 3.

Subp. 2. **Notice requirements.** The notice required under subpart 1 must meet the standards established in part 9500.1252, and must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the applicant or registrant no later than ten days before the suspension, termination, or reduction of the work readiness payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which work readiness services and payments can be continued pending an appeal.

Subp. 3. **Appeal of adverse action.** An applicant or registrant who is the subject of an adverse action under subpart 1 may appeal the local agency determination. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If a registrant appeals on or before the effective date of the adverse action, the registrant, if otherwise eligible, shall continue to receive work readiness services and payments while the appeal is pending, unless the registrant requests in writing that assistance be discontinued pending a hearing decision. If the registrant's appeal of an action specified under subpart 1, item A, B, or D is not upheld, the registrant shall pay back to the local agency the amount of work readiness payments received during the pendency of the appeal.

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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 17 1986
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
July 17 1986
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ATTORNEY GENERAL
BY MJ Lassely
SPECIAL ASSISTANT ATTORNEY GENERAL

RECEIVED
APR 16 1986
ADMINISTRATIVE HEARINGS

Department of Human Services

Proposed Rules Relating to General Assistance Eligibility; Work Readiness

Rules as Proposed

9500.1200 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 9500.1200 to ~~9500.1256~~ 9500.1270 establish the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance as they pertain to the administration of the general assistance program.

Subp. 2. [Unchanged.]

9500.1206 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1200 to ~~9500.1256~~ 9500.1270 and 9500.1300 to 9500.1320, the following terms have the meanings given them.

Subp. 2. to 19. [Unchanged.]

Subp. 19a. **Local labor market.** "Local labor market" means the geographic area in which a registrant can reasonably be expected to search for suitable employment. The geographic area must be limited to an area within two hours' round trip of the registrant's residence, exclusive of time needed to transport his or her children to and from child care.

Subp. 20. to 31. [Unchanged.]

Subp. 32. **Suitable employment.** "Suitable employment" means a job within the local labor market that:

A. and B. [Unchanged.]

C. pays at least the minimum wage prescribed by state or federal law and provides more than ~~60~~ 80 hours of work per month; and

D. includes employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options, but does not include temporary day labor.

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Subp. 33. [Unchanged.]

Rules as Proposed (all new material)

9500.1258 CATEGORIES OF ELIGIBILITY.

Subpart 1. **Categories of ongoing eligibility.** When the local agency determines the composition of an applicant's or recipient's assistance unit under part 9500.1209, subpart 3, as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986) the local agency must determine whether the applicant or recipient meets the conditions of one or more of the categories of eligibility under the following items:

A. The applicant or recipient suffers from a permanent illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment.

B. The applicant or recipient suffers from a temporary illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment for a period of at least 15 days and, if a rehabilitation plan is specified in the medical certification, the applicant or recipient is following the rehabilitation plan. An applicant or recipient is eligible under this item only for the period of the illness, injury, or incapacity.

C. The applicant or recipient is needed at home on a substantially continuous basis because another individual who resides with the applicant or recipient requires care due to the age or medically certified illness, injury, or incapacity of the other individual. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself.

D. The applicant or recipient is residing in a facility licensed under Minnesota Statutes, sections 245.781 to 245.812 and certified under Minnesota Statutes, chapter 144 for

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purposes of physical or mental health or rehabilitation, or in a chemical dependency domiciliary facility licensed under parts 9530.2600 to 9530.4000 or 4625.0100 to 4625.2300. Residence in the facility must be due to illness or incapacity and based on a plan developed or approved by the director of the local agency.

E. The applicant or recipient resides in a shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3.

F. The applicant or recipient is enrolled as a full-time student and is or may be eligible for displaced homemaker services, programs, or assistance under Minnesota Statutes, section 4.40.

G. The applicant or recipient is unable to communicate in the English language as assessed by an English as a second language specialist, a vocational specialist, or the local agency.

H. The applicant or recipient does not meet the condition in item A, B, or D but is medically certified as having mental retardation or mental illness.

I. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program, or a pending appeal of the denial of an application or termination from those programs.

J. The applicant or recipient is unable to obtain or retain suitable employment due to advanced age.

K. The applicant or recipient is completing high school.

L. The applicant or recipient is a minor child who resides with his or her parent or stepparent, or an adult who resides with one or more of his or her minor children or the minor children of his or her spouse.

M. The applicant or recipient meets one or more of the following:

(1) lives more than two hours round trip from all potential suitable employment, not including time needed to transport his or her children to and from child care;

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(2) is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day;

(3) is in the last trimester of pregnancy;

(4) is evaluated by a vocational specialist or a vocational advisor and is found to be unable to obtain or retain suitable employment;

(5) exhibits severe symptoms of chemical dependency but refuses evaluation or treatment;

(6) exhibits evidence of severely diminished functioning in areas of daily living such as social skills or personal relations;

(7) shows circumstances, at the time of application for general assistance, that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or anticipated receipt of income, and the applicant has not received general assistance under this condition for at least 60 days; or

(8) is completing a GED program, the time commitment of which precludes participation in work readiness.

N. The applicant or recipient is certified under part 3320.0025 [Emergency] by the commissioner of the Department of Economic Security before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment.

O. The applicant or recipient is medically certified as being learning disabled. For purposes of this item, "learning disabled" means the individual has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. It does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; of mental retardation; of emotional disturbance; or of environmental, cultural, or economic disadvantage. The condition must severely limit the individual in obtaining, performing, or maintaining suitable employment.

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P. The applicant or recipient is functionally illiterate. For purposes of this item, "functionally illiterate" means the individual is unable to read at or above the eighth grade level. An applicant or recipient shall be determined functionally illiterate according to subitems (1) to (3):

(1) The local agency may determine that the applicant or recipient is obviously functionally illiterate based on personal observations and information in the applicant's or recipient's case file.

(2) If an applicant or recipient is not determined to be functionally illiterate as provided in subitem (1), but the local agency believes that the applicant or recipient may be functionally illiterate, or if the applicant or recipient asserts or presents evidence that he or she may be functionally illiterate, the local agency shall offer the applicant or recipient the opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the applicant or recipient and in time to allow a determination of eligibility within the time limits prescribed under Minnesota Statutes, section 256D.07, that takes into account the results of the test. The local agency shall either administer the test or offer to make the arrangements for the test. If the applicant or recipient attains a score lower than the eighth grade, he or she shall be considered functionally illiterate unless the local agency determines, through compelling evidence documented in the applicant's or recipient's case file, that there is a substantial likelihood that the test result is inaccurately low.

(3) If, in accordance with subitem (2), the local agency determines that an applicant's or recipient's standardized test score is inaccurately low, the local agency shall inform the applicant or recipient that he or she may seek certification of the functional illiteracy from a licensed psychologist, or an individual licensed under parts 8700.3800, 8700.5300, 8700.5406, 8700.5500, 8700.5800, 8700.6300, or

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8700.6310, or an individual with the equivalent or higher qualifications. The local agency shall provide the applicant or recipient with a list of individuals or agencies in the county who are qualified to make the certification. The applicant or recipient is considered functionally illiterate if the certification specifies that he or she cannot read at or above the eighth grade level.

Subp. 2. **Categories providing for six months of eligibility.** An applicant who is not eligible for general assistance under subpart 1, but who meets the conditions of part 9500.1209, subpart 4, as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986) and who has received six months of work readiness services and payments is eligible to receive general assistance for a maximum of six months during any consecutive 12-calendar month period if the conditions in item A or B are met:

A. the individual is medically certified as having borderline mental retardation, as defined in part 9500.1302, subpart 2; or

B. the individual is certified by a qualified professional, as defined in part 9500.1302, subpart 6, as exhibiting perceptible symptoms of mental illness and the mental illness interferes with medical certification of the individual's condition.

After issuing the monthly general assistance payment during the sixth and final month, the local agency shall provide the recipient with written notice of his or her termination from general assistance, of the right to appeal as specified in part 9500.1260, and notice that the recipient may be eligible for work readiness services and payments if he or she meets the criteria of part 9500.1306, subpart 3.

9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subpart 1. **Determination of ineligibility and right to appeal.** Upon determining that an applicant or recipient is

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ineligible for general assistance, the local agency shall inform the applicant or recipient of the determination and of the right to appeal the determination under Minnesota Statutes, section 256.045.

Subp. 2. **Work readiness notice.** Upon determining that an applicant or recipient is not eligible for general assistance because he or she does not meet a category of eligibility under part 9500.1258, the local agency shall inform the individual of the availability of its work readiness program and shall determine the individual's eligibility for services and payments under part 9500.1306, subpart 3. If an applicant or recipient is eligible for work readiness services and payments, he or she shall be informed that an appeal of the general assistance determination of ineligibility may be made under Minnesota Statutes, section 256.045 while receiving work readiness services and payments. If the applicant or recipient subsequently wins the appeal, the assistance received under the work readiness program pending appeal must be considered general assistance. The local agency shall also inform the individual that eligibility for work readiness services and payments is time limited.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. **Requirements for continued eligibility for specific categories of ongoing eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 1, item G or L, and who is not eligible under another category of eligibility under part 9500.1258, must comply with the following requirements as conditions for continued eligibility.

A. Recipients who are eligible under part 9500.1258, subpart 1, item G shall participate in an English language skills program if assigned to a program by the local agency. If the recipient does not participate in the assigned English language skills program, the recipient must be disqualified from receiving general assistance as prescribed in part 9500.1266.

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B. Adult recipients who are eligible for general assistance under part 9500.1258, subpart 1, item L, must comply with the following:

(1) If all of the minor children are six years of age or older, the adults must participate in and comply with the work readiness program.

(2) If one or more of the minor children are under the age of six and two adults are eligible under part 9500.1258, subpart 1, item L, one adult must participate in and comply with the work readiness program.

(3) An adult who is required to participate in and comply with the work readiness program under subitem (1) or (2) who does not participate in and comply with the requirements of the work readiness program must be disqualified from general assistance as provided in part 9500.1266. The standard of assistance applicable to the disqualified member's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 2. **Requirements for continued eligibility under categories of six-month eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 2 must comply with the following requirements to remain eligible for general assistance:

A. A recipient certified as exhibiting perceptible symptoms of mental illness as provided by part 9500.1258, subpart 2, item B must cooperate with social services, treatment, or other reasonable plans developed by the local agency to address the illness. If the local agency determines that the recipient has failed, without good cause, to comply with the plan, the recipient shall be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. The local agency may assign a recipient who is eligible for general assistance under part 9500.1258, subpart 2 to the work readiness program for work readiness services. A recipient so assigned must comply with the work readiness program requirements established by the local agency. If the

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local agency determines that the recipient has failed, without good cause, to comply with work readiness requirements, the recipient is disqualified from receiving general assistance as provided in part 9500.1266.

9500.1264 NOTICE OF DISQUALIFICATION.

If the local agency determines that a recipient must be disqualified for failing to comply with the requirements of part 9500.1262, the local agency shall notify the recipient of the determination. The notice must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the recipient not later than ten days before reducing, suspending, or terminating the monthly payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

9500.1266 DISQUALIFICATION.

A recipient who fails, without good cause, to comply with the requirements of part 9500.1262, is disqualified from receiving general assistance as provided in items A to D.

A. The period of disqualification is two months for each occurrence.

B. The disqualification period begins on the first calendar day of the month following the month in which the recipient is finally determined to have failed to comply. If the determination is made so late in a month that prior notice under part 9500.1264 cannot be given, the disqualification period begins on the first calendar day of the second month following the finding of noncompliance.

If the recipient appeals on or before the proposed disqualification date, the disqualification process must stop and assistance will continue under part 9500.1268 until a final decision is made. If the final decision is that the recipient

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is disqualified, the disqualification period begins on the first day of the month following the final decision.

C. If an individual who is disqualified applies for general assistance during the period of disqualification, the individual is considered a recipient and the application shall be denied.

D. If a recipient who received a notice of disqualification complies with the requirements of part 9500.1262, on or before the effective date of the disqualification, assistance must be continued without a period of disqualification.

9500.1268 APPEAL OF DISQUALIFICATION.

A recipient who is disqualified from receiving general assistance under part 9500.1266 may appeal the decision. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If appeal is made on or before the effective date of the disqualification and the recipient is otherwise eligible, he or she shall continue to receive general assistance while the appeal is pending.

9500.1270 SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

The local agency may provide general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if the applicant, recipient, or registrant does not have a residence address. The local agency may provide separate vouchers or vendor payments for food, shelter, and other needs and may divide the monthly assistance standard into daily or weekly payments, whether in cash or by voucher or vendor payment, until the applicant, recipient, or registrant has secured an address at which he or she resides. If the local agency elects to use these provisions, the local agency shall either provide for the individual's needs through placement in a negotiated rate facility, or provide for all of the individual's food, shelter, or other daily needs, regardless of the standard of assistance. For purposes of this part,

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"address" includes migrant labor camp as defined in part 4630.4800, subpart 3.

9500.1300 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 9500.1300 to 9500.1318 is to establish standards for the work readiness program provided to eligible registrants by local agencies.

Subp. 2. **Applicability.** Parts 9500.1300 to 9500.1318 apply to applicants and registrants in the work readiness program, to applicants and recipients of general assistance, and to local agencies that are required to administer the work readiness and general assistance programs under Minnesota Statutes, sections 256D.051, 256D.09, subdivision 4, 256D.101, and 256D.111, subdivision 5. Parts 9500.1300 to 9500.1318 must be read together with parts 9500.1200 to 9500.1270. When parts 9500.1300 to 9500.1318 conflict with parts 9500.1200 to 9500.1270, parts 9500.1300 to 9500.1318 prevail.

9500.1302 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1300 to 9500.1318, the following terms have the meanings given them.

Subp. 2. **Borderline mental retardation.** "Borderline mental retardation" means the condition of an individual who has demonstrated deficits in adaptive behavior and intellectual functioning that is at least one but less than two standard deviations below the mean of a professionally-recognized standardized test. The condition must limit the individual in obtaining, performing, or maintaining suitable employment.

Subp. 3. **Distressed county.** "Distressed county" means a county or a designated portion of a county with an average unemployment rate of ten percent or more as determined annually by the commissioner of the Department of Jobs and Training.

Subp. 4. **Employment assistance programs.** "Employment assistance programs" means the Minnesota employment and economic development (MEED) program and other programs offered by public or private agencies that provide services to develop, enhance, or promote an individual's employability, job placement, and

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training.

Subp. 5. **Misconduct.** "Misconduct" means conduct that would result in the disqualification of a claimant for unemployment insurance benefits under Minnesota Statutes, section 268.09, subdivision 1, clauses (2) and (3).

Subp. 6. **Qualified professional.** "Qualified professional" means a social worker employed by the local agency, a social worker with a master's degree in social work, a licensed consulting psychologist, a licensed psychologist, a licensed physician or psychiatrist, or a public health nurse.

Subp. 7. **Registrant.** "Registrant" means an individual who has applied for work readiness services and payments, who has been determined eligible for those services and payments by the local agency, and who has elected to begin receiving those services and payments. "Registrant" also means a recipient who is required to participate in the work readiness program under part 9500.1262.

Subp. 8. **Vocational advisor.** "Vocational advisor" means an individual employed by or under contract with the local agency who has sufficient education, training, or experience to identify the types of available suitable employment in a registrant's local labor market and the qualifications required for that employment; to identify the registrant's physical, social, vocational, and educational barriers to obtaining available suitable employment; and to identify the types of services and activities necessary to enable the registrant to overcome the barriers and obtain suitable employment.

9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION.

Subpart 1. **Requirement to provide a work readiness program.** Each local agency shall provide a work readiness program. The program must provide work readiness services and payments to all applicants residing within the local agency's jurisdiction who meet the eligibility conditions of part 9500.1306, and must provide work readiness services to adult recipients of general

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assistance who are eligible under part 9500.1258, subpart 1, item L. The local agency may continue to provide work readiness services to recipients of general assistance who are categorically eligible under part 9500.1258, subpart 2.

Subp. 2. **Preparation of work readiness program description.** Each local agency shall develop a written description of its work readiness program. The description must:

A. meet the standards established in part 9500.1252;

B. identify the work readiness program's purpose, service components, operating procedures, and service provider;

C. contain a summary of work readiness program requirements including a registrant's responsibility to cooperate when the local agency assesses the registrant's employability and prepares the registrant's employability development plan; and

D. state that a period of disqualification will be imposed for failure to comply with work readiness requirements.

Subp. 3. **Distribution of work readiness program description.** The local agency must give a copy of the work readiness program description to an applicant at the time he or she applies for general assistance or work readiness, and to any individual upon request.

Subp. 4. **Filing of program description.** The local agency must file a copy of its work readiness program description with the commissioner annually, on January 1. The local agency must also file a copy of amendments to its work readiness program description with the commissioner at the time it makes the amendments.

9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

Subpart 1. **Assessment of general assistance eligibility.** Before determining an applicant's eligibility for work readiness services and payments, the local agency must determine the applicant's need for emergency general assistance under Minnesota Statutes, section 256D.07, and the applicant's eligibility for the general assistance program under part

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9500.1209 as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the applicant is eligible for general assistance, the applicant is ineligible for work readiness services and payments except as provided in part 9500.1262, subparts 1, item B, and 2. If the applicant is ineligible for general assistance, the local agency shall notify the applicant of the determination and of the right to appeal the decision as provided under part 9500.1260.

Subp. 2. **Work readiness application.** A completed application for general assistance is considered to be a completed application for the work readiness program effective on the date that the local agency determines the applicant ineligible for general assistance. A registrant shall not be required to complete a new application for general assistance when the local agency is determining the registrant's eligibility for general assistance under part 9500.1316, subpart 2, or 9500.1258, subpart 2.

Subp. 3. **Eligibility criteria.** If the local agency determines that the applicant is ineligible for general assistance, it must determine the applicant's eligibility for the work readiness program. An applicant or registrant is eligible for the work readiness program if the applicant or registrant meets the conditions in items A to D:

A. The applicant or registrant is not categorically eligible for general assistance under part 9500.1209, subpart 3, item A as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986).

B. The applicant or registrant meets the eligibility requirements under part 9500.1209, subpart 4 as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the applicant or registrant is married and resides with his or her spouse, the income and property of the applicant or registrant and his or her spouse shall be considered in accordance with part 9500.1209, subpart 4, as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986).

C. The applicant or registrant has not exhausted his

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or her eligibility period as provided by part 9500.1312.

D. The applicant or registrant is not in a disqualification period under part 9500.1254, 9500.1266, or 9500.1316.

9500.1308 REQUIREMENT TO INFORM APPLICANTS.

Subpart 1. **Duty to inform applicants of ineligibility for the work readiness program.** Upon determining an applicant ineligible for the work readiness program, the local agency must inform the applicant of the determination and the right to appeal as provided in part 9500.1318.

Subp. 2. **Duty to inform eligible applicants of work readiness requirements.** At the time the local agency determines that an applicant is eligible for the work readiness program, the local agency must provide the applicant with a notice of the determination on a form prescribed by the commissioner, a copy of the program description prescribed under part 9500.1304, subpart 2, and a written notice meeting the standards established in part 9500.1252, which informs the applicant of:

A. the limited time during which the applicant may be eligible for work readiness services and payments;

B. the applicant's right to choose the months in which he or she will receive work readiness services and payments, including the option to elect to receive work readiness services and payments immediately; and

C. the disqualification that will be imposed if a registrant is terminated from suitable employment for misconduct, quits suitable employment without good cause, refuses without good cause to accept an offer of suitable employment, or fails, without good cause, to comply with other work readiness program requirements.

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. **Requirement of concurrent services and payments.** In order for a monthly work readiness payment or a month of work readiness services to count toward the two or six month limitation on eligibility for the work readiness program,

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as provided by part 9500.1312, the registrant must receive work readiness services during the month that work readiness payments are made. Upon an eligible applicant's election to begin receiving work readiness services and payments, the local agency shall provide the services and payments to the registrant. If the written employability assessment and the employability development plan are not completed within the first month of an election to receive work readiness services or payments, that month must not be counted against a registrant's total months of work readiness eligibility, provided the registrant did not fail, without good cause, to cooperate with the assessment and plan development. A month during which a registrant fails to comply with the requirements of the work readiness program but for which the registrant receives a work readiness payment shall be considered a month during which work readiness services and payments were received.

Subp. 2. **Work readiness services.** The following services must be provided to a work readiness registrant;

A. In consultation with the registrant, a vocational advisor shall complete a written employability assessment. The assessment must include an examination of the registrant's education, training, prior work experience, and suitable employment that is or may become available, and must identify barriers to the registrant successfully seeking and securing suitable employment.

B. The vocational advisor shall develop a written employability development plan for each registrant within the first 30 days that work readiness services are provided to a registrant. The plan must be based on the assessment provided under item A and the vocational advisor's knowledge of the level of competition for employment that is or may become available, and must be designed to address the registrant's barriers to employment and prepare the registrant for suitable employment. The registrant must be given a copy of his or her plan and the plan must:

(1) include an estimation of the length of time

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it will take the registrant to obtain suitable employment;

(2) require the registrant to accept any offer of suitable employment;

(3) provide for referral to appropriate employment assistance programs;

(4) require a registrant to spend at least eight but no more than 32 hours per week in job search or other work readiness activities;

(5) specify that the registrant's job search requirements, which must be limited to the local labor market, must be reasonable, and must be based upon the assessment performed under item A;

(6) specify any other reasonable activities designed to prepare the registrant for permanent suitable employment that are required of the registrant; and

(7) include provisions for assessing the registrant's progress in securing suitable employment.

C. No work readiness program shall require a registrant to travel to a potential job, training, or other activity site unless the local agency provides funds to the registrant, in addition to the monthly program payment, to cover the cost of the transportation or unless transportation is otherwise available to the registrant without cost, or is unnecessary.

D. A registrant who is categorically eligible under part 9500.1258, subpart 1, item L, and who is the sole parent or stepparent residing with one or more children under the age of 12 shall not be required to participate in any work readiness program activities during hours in which the child is at home unless the local agency provides funds to the registrant, in addition to the monthly program payment, to cover the cost of child care, or unless child care is otherwise available to the individual without cost.

E. A local agency that requires a registrant to participate in any type of employment experience program shall require that the employment experience program meet the

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standards established in Minnesota Statutes, section 256D.113, and that the work to be done is not work ordinarily performed by a regular public employee.

F. A local agency may contract with a public or private entity to perform any or all of the services prescribed by this subpart if the entity can document that it has the resources and expertise necessary to perform the services. A contract entered into under this item must contain a description of the services to be performed under the contract. The local agency must monitor the entity to ensure that it is performing the services required under this subpart and specified in the contract. Upon request, the local agency shall provide the department with a copy of the contract and a description of the resources and expertise of the entity under contract with the local agency.

Subp. 3. **Work readiness payments.** A registrant who meets the eligibility conditions of part 9500.1306, subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility. If the registrant is married and lives with his or her spouse, the couple is considered a filing unit comprised of two individuals. If the registrant's spouse is also a registrant, the couple shall be considered one assistance unit composed of two persons for purposes of determining the applicable standard of assistance, the amount of countable income, the amount of real and personal property, and the monthly work readiness payment amount.

The payment amount must be equal to the amount of assistance that would be paid to the registrant's assistance unit if the assistance unit was eligible for general assistance under part 9500.1209 as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the registrant resides with his or her spouse and the spouse receives general assistance, the monthly work readiness payment to the registrant under this part must be equal to the amount the general assistance monthly payment made to the registrant's spouse would increase if the registrant were added to the spouse's general

assistance grant.

The first work readiness payment must be prorated for the period beginning with the effective date of the completed application for the work readiness program, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services and payments, whichever is later, and ending with the last day of that month. Subsequent work readiness payments must be made monthly on the first day of the month. A registrant shall continue to receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306. The final payment must be prorated to cover the number of days equal to the number of days in the registrant's first month of work readiness services and payments which were not covered by the registrant's first work readiness payment. Emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

9500.1312 ASSESSMENT DURING SECOND MONTH; NOTICES TO REGISTRANTS.

Subpart 1. **Required assessment.** Except for registrants participating in work readiness under part 9500.1262, the local agency shall conduct an assessment of the registrant's progress in securing suitable employment and an assessment of the registrant's eligibility for an additional four months of work readiness services and payments during the registrant's second month of work readiness services and payments under part 9500.1310.

The local agency must offer the registrant an opportunity to meet with the local agency and to provide information relevant to the assessment. If the registrant does not meet with the local agency or provide information relevant to the assessment, the local agency must complete the assessment based on the information contained in the registrant's case file.

Subp. 2. **Notice of assessment.** When the second work

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readiness payment is mailed or given to the registrant, the local agency shall provide a written notice meeting the standards established under part 9500.1252 to inform the registrant that the local agency will be assessing the registrant's eligibility for an additional four months of work readiness services and payments. The notice must include the following:

A. The notice must identify the conditions that must be met in order for the registrant to be eligible for an additional four months.

B. The notice must inform the registrant that the registrant will not receive work readiness payments beyond the second month until the assessment has been completed and the registrant found eligible for four additional months.

C. The notice must offer the registrant an opportunity to meet with the local agency in order to provide information relevant to the assessment.

D. The notice must inform the registrant that the registrant has a right to submit to the local agency information relevant to the determination within ten days from the date that the notice is mailed or given to the registrant.

Subp. 3. **Assessment of additional eligibility.** A registrant is eligible for four additional months of work readiness services and payments if the registrant meets one or more of the following conditions:

A. The registrant lives in a distressed county.

B. The registrant is medically certified as having borderline mental retardation.

C. The registrant is certified by a qualified professional as exhibiting perceptible symptoms of mental illness but the registrant is not eligible for general assistance under part 9500.1258, subpart 1, because the mental illness interferes with the medical certification process.

D. The registrant, as determined by a vocational advisor, cannot reasonably be expected to secure suitable employment given the registrant's work history, skills,

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education, physical and mental ability, and the availability of suitable employment.

If the local agency believes that the registrant may have borderline mental retardation, or if the registrant or a representative of the registrant asserts that he or she has borderline mental retardation, the local agency shall seek medical certification of the registrant's condition. If medical certification establishes that the registrant has borderline mental retardation, the condition in item B is met.

If the registrant's behavior, mood, conduct, or appearance suggests or demonstrates that the individual has a mental illness, or if the registrant or a representative of the registrant asserts that the registrant has a mental illness, the local agency shall seek medical certification of the registrant's condition. If the registrant's mental illness interferes with the medical certification, the local agency shall seek an assessment of the registrant's condition from a qualified professional. If the qualified professional certifies that the registrant exhibits symptoms of mental illness, the condition in item C is met.

Subp. 4. **Notice of determination.** If the local agency determines through the assessment that the registrant meets one or more of the conditions in subpart 3, items A to D, the local agency must notify the registrant that he or she is eligible for work readiness services and payments for a combined total of six months in any consecutive 12-calendar month period. If the local agency determines, upon completion of the assessment under subpart 1, that the registrant does not meet one or more of the conditions in subpart 3, items A to D, the local agency must terminate the registrant's work readiness services and payments effective at the end of the registrant's second month of participation in the work readiness program. If the local agency determines that the registrant is ineligible for continued work readiness services and payments, the local agency shall notify the registrant of its determination and that the registrant is not eligible to receive work readiness services

and payments for more than two months during any consecutive 24-calendar month period.

Subp. 5. **Registrant moves to another county after second month assessment is completed.** If a registrant moves to another county after the second month assessment required under subpart 1 is completed, the new county of residence must complete another second month assessment and determine the registrant's eligibility for additional work readiness services and payments. A registrant shall not receive more than a total of six months of work readiness services and payments in any consecutive 12-month period, regardless of the number of assessments conducted.

Subp. 6. **Notice of termination.** A registrant who is in the last month of his or her two or six months of work readiness services and payments shall be notified of the termination of services and payments and of the appeal rights in accordance with the procedures specified in part 9500.1318.

9500.1314 REGISTRANT DUTIES.

A registrant shall comply with all requirements of the local agency work readiness program as explained under part 9500.1308, subpart 2, and specified in the employability development plan provided under part 9500.1310, subpart 2, item B. Except for registrants participating in work readiness under part 9500.1262, a registrant who fails, without good cause, to comply with the local agency work readiness requirements shall be disqualified from the receipt of work readiness services and payments under part 9500.1316.

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1. **Determination and notice of failure to comply.** If a local agency determines that a registrant has failed to comply with the requirements of the work readiness program, the local agency must notify the registrant of its determination. The notice must meet the standards established in part 9500.1252, and must contain the information in items A to E.

A. The notice must state the specific work readiness requirement the registrant has failed to meet and the facts that support the local agency's determination.

B. The notice must specify the particular action the registrant must take to meet the requirements.

C. The notice must specify a certain date by which the action must be taken. The registrant must be given a minimum of 15 calendar days to take the specified action following the date the notice is mailed or given to the registrant.

D. The notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date.

E. The notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency.

Subp. 2. **Disqualification.** A registrant who is notified of the local agency determination as provided in subpart 1 shall comply with the requirements of the work readiness program as stated in the notice by the specified date.

If the local agency determines that a registrant has taken the required action on or before the date specified in the notice, a period of disqualification must not be imposed. If the local agency determines that the registrant failed, without good cause, to take the required action by the specified date, the local agency must assess the registrant's eligibility for general assistance under part 9500.1209 as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986), before disqualifying the registrant for not meeting the requirements.

If the local agency determines that the registrant is eligible for general assistance, the registrant shall be terminated from work readiness services and payments and shall be eligible for general assistance.

If the local agency determines that the registrant is

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ineligible for general assistance under part 9500.1209 as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986), the registrant shall be disqualified from receiving work readiness services and payments.

Subp. 3. **Notice of disqualification.** The local agency shall notify the registrant of the disqualification from receiving work readiness services and payments under subpart 2 and of the registrant's appeal rights as provided in part 9500.1318.

Subp. 4. **Period of disqualification.** A registrant disqualified under subpart 2 is ineligible during the period of disqualification for any remaining or additional work readiness services or payments for which he or she would otherwise be eligible in accordance with the provisions in items A to F.

A. The period of disqualification shall be two months.

B. The disqualification period begins on the first day of the work readiness payment period following the date on which the determination was made. If the notice of disqualification is given or mailed so late in a payment period that ten-day prior notice required under part 9500.1318 cannot be given, the disqualification period begins on the first day of the second work readiness payment period following the date the determination was made. If the registrant appeals on or before the proposed disqualification date, the disqualification process must stop and work readiness payments and services must continue until a final decision is made or until the registrant's period of eligibility is exhausted, whichever is earlier. If the registrant loses the appeal, the disqualification period must begin on the first day of the next work readiness payment period.

C. If an individual who is disqualified applies for the work readiness program during the period of disqualification, eligibility for work readiness services and payments must be denied.

D. Disqualification under subpart 2 must not affect a registrant's eligibility for general assistance or general assistance medical care.

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E. The period of disqualification under subpart 2 must not be counted against a registrant's two months or six months of work readiness eligibility. Following a period of disqualification a registrant who has been disqualified under subpart 2 must complete a new application for work readiness and the local agency must determine if the registrant is eligible for any additional or remaining work readiness services or payments.

F. If a registrant is disqualified under subpart 2, the local agency may use vouchers and vendor payments, or both, to meet the financial needs of the remaining eligible members of the registrant's assistance unit. The assistance standard used must be based on the number of remaining eligible members in the registrant's assistance unit.

9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

Subpart 1. **Actions requiring notice.** The local agency shall notify an applicant or registrant of the following determinations before taking any adverse actions:

A. a determination of ineligibility for work readiness services or payments under part 9500.1306, subpart 3;

B. a determination of ineligibility for four additional months of work readiness services or payments under part 9500.1312, subpart 1;

C. a determination of disqualification from receiving work readiness services and payments under part 9500.1316, subpart 2; and

D. a determination that the registrant has exhausted eligibility to receive work readiness services and payments under part 9500.1312, subpart 3.

Subp. 2. **Notice requirements.** The notice required under subpart 1 must meet the standards established in part 9500.1252, and must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the applicant or registrant

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

no later than ten days before the suspension, termination, or reduction of the work readiness payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which work readiness services and payments can be continued pending an appeal.

Subp. 3. **Appeal of adverse action.** An applicant or registrant who is the subject of an adverse action under subpart 1 may appeal the local agency determination. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If a registrant appeals on or before the effective date of the adverse action, the registrant, if otherwise eligible, shall continue to receive work readiness services and payments while the appeal is pending. If the registrant's appeal of an action specified under subpart 1, item A, B, or D is not upheld, the registrant shall pay back to the local agency the amount of work readiness payments received during the pendency of the appeal.

APPROVED BY THE REVISOR OF STATUTES

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD872

Agency: Department of Human Services

Division:

Agency Contact: Rae Bly

Minnesota Rules: Parts 9500.1200; 9500.1206; 9500.1258; 9500.1260; 9500.1262; 9500.1264; 9500.1266; 9500.1268; 9500.1270; 9500.1300; 9500.1302; 9500.1304; 9500.1306; 9500.1308; 9500.1310; 9500.1312; 9500.1314; 9500.1316; and 9500.1318

Title: Proposed Rules Relating to General Assistance Eligibility; Work Readiness

Type of Rules: Permanent

Incorporations by Reference: None

APPROVED AS TO FORM AND LEGALITY
July 17 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Carsley
SPECIAL ASSISTANT ATTORNEY GENERAL

Steven C. Cross

Steven C. Cross
Revisor of Statutes

Susan Quayle

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Date: April 11, 1986

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rules of the State Department of Human Services Governing General Assistance Eligibility and Work Readiness, (Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1209, 9500.1216, 9500.1222, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318)	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT A PUBLIC HEARING.

Notice of the Commissioner's proposed adoption of the above-entitled rules was published in the State Register on April 28, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 on April 24, 1986. The statement of need and reasonableness was prepared before the date of the notice of proposed adoption of the rules without a public hearing and was available to the public.

All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. One request for a public hearing on the rule was received by the agency.

One request for notice of submission to the attorney general was received by the agency.

The findings and conclusions presented herein reference the rules as proposed unless the text indicated otherwise. Based on the comments and evidence in the record before the agency, I find the following:

1. Part 9500.1206, subpart 32, provides a definition of the term "suitable employment." Item C proposed, as one criterion for suitable employment, that the job must be one that "pays at least the minimum wage prescribed by state or federal law and provides more than 80 hours of work per month." The department selected this criteria because it approximated the amount of a monthly general assistance payment for a single person, calculated as follows:

   1. minimum wage of $3.35 multiplied by 80 hours equals $268;

   2. the first $50 of earned income is deducted from earned income ($268 minus $50 = $218);

   3. employment expenses for meals, transportation, and certain other items are deducted from earned income. The representative sum of $15 was selected to represent average employment expenses, and this sum is subtracted from the remaining earned income ($218 minus $15 = $203);

4. the monthly standard of assistance for a single person is $203.

The result is that countable income from employment at 80 hours paying minimum wage (subtracting the first $50 of earned income and certain employment expenses) equals a general assistance grant for one person. Thus, if employment were offered to a recipient which would pay a wage equal to or greater than $268, the recipient would be required to accept such employment. This requirement is reasonable because it assures that recipients will be required to accept employment only when the employment offers an opportunity to significantly reduce public assistance expenditures or when the employment offers an opportunity to move off of public assistance. Moreover, this requirement facilitates employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Kevin Kenney, Associate County Administrator of Hennepin County, commenting on this item, suggested that basing the decision of whether or not a job offers suitable employment "...on the number of hours worked results in an inequitable situation where one registrant may be forced to take a job which pays the minimum wage for 80 hours per month for a total monthly earnings of $268 while another registrant who could obtain a job for 60 hours per month at $7.00 per hour for total monthly earnings of $420 would not be required to go to work." The department has considered this comment, and agrees that substituting a minimum income of $268 in place of the proposed requirement that the job pay minimum wage for at least 80 hours "...will result in more equitable and sensible decisions regarding which registrants must accept job offers." The department has, therefore, adopted part 9500.1206, subpart 32, item C, with the following modification, and finds that the change is not substantial because it does not change the definition of suitable employment either in terms of an increased number of hours of work or in terms of a decreased minimum monthly income.

9500.1206 DEFINITIONS.

Subp. 32. Suitable employment. "Suitable employment" means a job within the local labor market that:

A. and B. [unchanged]

C. pays at least the minimum wage prescribed by state or federal law and provides ~~more than 80 hours of work~~ a gross income of at least $268 per month; and

D. [unchanged]

2. Part 9500.1258 replaces parts 9500.1102 and 9500.1220 [Emergency], which were adopted by the department in September, 1985. Parts 9500.1264 to 9500.1268 replace parts 9500.1105 to 9500.1107 [Emergency]. Permanent rules governing general assistance standards of assistance and reduced standards of assistance, which were adopted by the department and which will be effective

July 1, 1986, contain several internal references to the emergency rules governing categories of eligibility and disqualification for failure to comply with conditions for continuing eligibility. It is necessary to replace these references to the emergency rules with references to the adopted permanent rules to avoid confusion in the administration of the general assistance program. The department has therefore adopted the following modifications to parts 9500.1209, 9500.1216 and 9500.1222, and finds that these technical changes are not substantial.

The references to parts 9500.1102 [Emergency] and 9500.1220 [Emergency] contained in part 9500.1209 are changed to part 9500.1258. (See page 2, lines 7 to 8, and 12 to 13 of the adopted rules).

The references to parts 9500.1105 to 9500.1107 [Emergency] contained in parts 9500.1209 and 9500.1216 are changed to parts 9500.1264 to 9500.1268. (See page 2, lines 14 to 15, and 33 to 34 of the adopted rules).

The reference to part 9500.1102 [Emergency], item A, B, H, I, J, O, or P, contained in part 9500.1222 is changed to part 9500.1258, subpart 1, item A, B, H, I, J, O, or P. (See page 3, lines 19 to 21 of the adopted rules).

The reference to part 9500.1102 [Emergency], item A, B, H, or J, contained in part 9500.1222 is changed to part 9500.1258, subpart 1, item A, B, H, or J. (See page 4, lines 1 and 2 of the adopted rules).

3. Under the provisions of part 9500.1209, when the local agency determines the composition of an applicant's or recipient's assistance unit, the local agency must determine whether the applicant or recipient meets the conditions of one of the categories of eligibility established in part 9500.1258. Mr. Kenney suggested that the phrase "based on evidence provided by the applicant or recipient" should be added to subpart 1 of part 9500.1258 "...to clarify the division of responsibility between the applicant and the agency in determining eligibility." The department has considered this comment and believes that the suggested change is not needed. Part 9500.1214 requires applicants and recipients to "...provide verification of the assistance unit's income and circumstances relevant to its eligibility, standard of assistance, and monthly payment."(emphasis added) In addition to information the applicant or recipient provides, the local agency must also consider information already contained in the client's case records, information that is a matter of public record, and information provided by other interested parties. The department, therefore, has adopted part 9500.1258, subpart 1 (page 2, lines 5 to 12) without modification.

4. Part 9500.1258, subpart 1, contains two categories of eligibility based on educational status. Item K provides eligibility for individuals completing high school, and item M, subitem (8) provides eligibility for individuals who are completing a GED program. Comments on part 9500.1258, subpart 1, item K and item M, subitem (8), were received from both Kevin Kenney, and Stephen Swanson of the Legal Services Advocacy Project.

Mr. Kenney suggested deleting item M, subitem (8) in its entirety, stating that "The desirability of obtaining the GED for purposes of increasing the employment options of registrants is undeniable. However, it is not documented that suitable employment cannot be obtained without the certificate, and further, the correlation of employment to the successful completion of the equivalency certificate is proven."

Mr. Swanson commented that "...the suggested distinction between high school and a GED program runs contrary to the language of S 256D.05, subd. 1(a)(10). A GED program is a 'secondary education program' because it can result in the completion of secondary school requirements, and because an equivalency certificate is comparable to a high school diploma. 4 Minn Rules, part 3500.3100, subp. 4."

The department has carefully considered both Mr. Kenney's and Mr. Swanson's comments. The department agrees with Mr. Swanson that "...the lack of a high school diploma or equivalency certificate is a profound bar to securing meaningful employment...." and that "...DHS should encourage GA recipients to attend GED programs and secure equivalency certificates." The department, therefore, has not deleted item M, subitem (8).

The department also agrees with Mr. Swanson's suggestion that item M, subitem (8), as proposed, "...contain[s] no objective standards for decision making...." However, the department believes that the distinction between attending high school and participating in a GED program is valid, and that it is valid to establish minimum requirements for GED program attendance. The department has therefore adopted part 9500.1258, subpart 1, item K, without modification, and has adopted part 9500.1258, subpart 1, item M, subitem (8), with the following modification.

9500.1258 CATEGORIES OF ELIGIBILITY.

Subpart 1. Categories of ongoing eligibility.

(8) is ~~completing~~ regularly attending a GED program ~~; the time commitment of which precludes participation in work readiness~~ with a minimum of six hours of classroom instruction per week.

This modification is necessary in order to provide an objective standard that local agencies can apply uniformly throughout the state. The requirement of six hours is reasonable because it is consistent with attendance requirements in various GED programs throughout the state. The department finds, therefore, that the modification of Item M, subitem (8) is not substantial because it provides an objective standard which local agencies can use to determine if an individual's time commitment to a GED program precludes participation in the work readiness program.

5. Annabell Larsen, of Mille Lacs County, commenting on part 9500.1258, subpart 1, item L, suggested that the term "minor child" was open to several possible interpretations and should therefore be defined. The term "minor

child", however, has already been defined in part 9500.1206, subpart 23.

6. Mr. Swanson suggested a "technical amendment" to part 9500.1258, subpart 1, item M, subitem (1). The department agrees with Mr. Swanson that "Because of the proposed definition of 'local labor market' and 'suitable employment' in part 9500.1206, subps. 19a and 32, the language of [item M] subitem (1) is redundant." The department, therefore, has adopted part 9500.1258, subpart 1, item M, subitem (1), with the following modification, and finds that the change is not substantial because it does not modify the meaning of the provision.

9500.1258 CATEGORIES OF ELIGIBILITY.

Subpart 1. Categories of ongoing eligibility.

M. The applicant or recipient meets one or more of the following:

(1) lives ~~more than two hours round trip from all~~ in a local labor market with no potential suitable employment~~; not including time needed to transport his or her children to and from child care~~;

7. Two commentators, Mr. Swanson and Mr. Kenney, suggested amending part 9500.1258, subpart 1, item M, subitem (5). Mr. Swanson suggested adding "short-term or long-term emotional disability or" on page 4, line 8. Mr. Kenney suggested deleting this subitem in its entirety. The department has carefully considered these comments and has chosen to adopt part 9500.1258, subpart 1, item M, subitem (5) without modification.

The department believes that the proposed and adopted language of this subitem, "exhibits severe symptoms...", includes all individuals who are currently exhibiting symptoms. It is therefore unnecessary to specify "short-term or long-term" because both are already implicitly included. The department also believes that it is unnecessary and unreasonable to add "emotional disability" to this subitem. The legislature has indicated that it intends for individuals with "perceptible symptoms of mental illness" to be provided for through the work readiness program. (Minnesota Statutes, section 256D.051, subdivision 5, paragraph (2).) In addition, the term "emotional disability" is vague and subjective. The department believes that subitem (6), "exhibits evidence of severely diminished functioning in areas of daily living such as social skills or personal relations" provides a more objective standard for local agencies to follow.

The department also rejects the suggestion to delete subitem (5) in its entirety because the department believes that eliminating assistance under this subitem would not induce significant numbers of these persons to accept evaluation or treatment for chemical dependency, and could potentially subject persons who are unable to care for themselves because of their chemical dependency to the risk of severe destitution.

8. One commentator, Mr. Swanson, suggested adding, as part 9500.1258, subpart 1, item M, subitem (8), "is having an individual or family crisis." The department has carefully considered this suggestion and chosen to retain subitem (8) with the modifications identified in finding number 3. The department is charged by Minnesota Statutes, section 256D.04, clause (1), with the responsibility to "Promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...." The department believes that "an individual or family crisis" is too subjective to be applied uniformly throughout the state. The legislature's intent in establishing categories of eligibility was that "unemployable" persons be found eligible for general assistance and that employable persons be provided with work readiness assistance. A person having "an individual or family crisis" is not necessarily unemployable, and should be provided for through the work readiness program.

9. Part 9500.1258, subpart 1, item O, establishes a category of eligibility for individuals who are "learning disabled." Mr. Swanson commented that requiring a determination that the impairment limit the person's ability to work "...cannot be imposed by DHS through rulemaking." The department has considered Mr. Swanson's comment and believes that Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (14), requires the commissioner to adopt rules which establish criteria for the local agencies to apply when making their determinations of whether an individual is learning disabled. Learning disabilities vary widely both in the degree to which they effect an individual and in the degree to which they effect an individual's employment opportunities. The department believes that the term used by the legislature, "learning disabled", indicates the legislature's intent to include only those individuals whose learning disability limits the individual from obtaining, performing, or maintaining employment. The legislature has provided for those persons who are employable by establishing a work readiness program. Therefore, the term "learning disabled" must be interpreted to identify only those persons whose learning disability prevents them from working. The department has therefore adopted part 9500.1258, subpart 1, item O, without modification.

10. Part 9500.1258, subpart 1, item P, which establishes a category of eligibility for individuals who are determined to be functionally illiterate, was discussed by four commentators: Mr. Swanson, Mr. Kenney, Ms. Larsen, and Mr. Lien. The department has carefully considered all of the comments, and has adopted this item with only one modification.

Mr. Kenney commented that "the Work Readiness law was written in an attempt to assist employable individuals in finding suitable employment," and suggested that because "substantial numbers of minimum wage jobs require only a minimum ability to read," functional illiteracy "...should be set at the fourth grade level." Throughout the emergency rulemaking process and the permanent rulemaking process, the department received considerable evidence that functional illiteracy should be defined to mean the inability to read at the 8th grade level. No support has been provided in either rulemaking process to

support a 4th grade level. Therefore, the department finds no basis for modification of the grade level which is used in the definition of functional illiteracy.

Ms. Larsen and Mr. Lien both suggested that the department add a requirement that individuals eligible for general assistance under this category be required to participate in remedial reading programs. Nothing in the rules prevents local agencies from referring functionally illiterate individual's to remedial reading programs, and encouraging them to improve their reading skills. Nothing in the rules prevents the local agencies from providing work readiness services on a voluntary basis for individuals who are functionally illiterate. The department believes, however, that the legislature did not intend that the department add such provision as a mandatory requirement through rulemaking. In other instances where the legislature intended general assistance eligibility to be conditioned on meeting additional requirements, such requirements have been specified in law (see Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clauses (6) and (11). The department has, therefore, adopted this item without the suggested change.

Mr. Swanson suggested changing the word "and" on page 5, line 9, to the word "or" to clarify that "personal observations" and "information in the applicant's or recipient's case file" are alternative sources for determining functional illiteracy. The department accepts Mr. Swanson's suggestion, and has adopted part 9500.1258, subpart 1, item P, subitem 0, with the suggested modification. The department feels that this change is not substantial since it clarifies the department's intent to accept a decision of functional illiteracy based on personal observations or information in the applicant's or recipient's case file.

11. Part 9500.1258, subpart 2, establishes six-month categories of eligibility for general assistance, as required under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), clause (2). Mr. Swanson suggested amending the language of this subpart, at page 6, lines 25 to 31, to incorporate language from the emergency rule which clarifies that "...recipients who had become categorically eligible during the six months of special general assistance eligibility would not be needlessly referred back to the work readiness program to begin the cycle over again." The department believes that while a local agency is not required to complete a new eligibility determination or investigation, the local agency is always, implicitly, required to act on any information it may have that a recipient's circumstances have changed and the recipient is therefore eligible for general assistance under an ongoing category of eligibility. To clarify this point, the department has adopted part 9500.1258, subpart 2 (page 6, lines 25 to 31) with the following modification, and finds that the change is not substantial.

9500.1258 CATEGORIES OF ELIGIBILITY

Subp. 2. Categories providing for six months of eligibility.

~~After issuing the monthly general assistance payment during the sixth and final month,~~ Unless the local agency has information that a recipient meets one or more of the categories of eligibility under subpart 1, the local agency shall provide the recipient with written notice of his or her termination from general assistance, after issuing the monthly general assistance payment during the sixth and final month. The notice must inform the recipient of the right to appeal as specified in part 9500.1260, and ~~notice~~ that the recipient may be eligible for work readiness services and payments if he or she meets the criteria of part 9500.1306, subpart 3.

12. Part 9500.1260, subpart 2, specifies that an applicant or recipient who is determined categorically ineligible for general assistance may appeal the determination and also receive any work readiness assistance that he or she may be eligible for during the pendancy of the appeal. Mr. Swanson commented that the proposed rule is slightly different from the emergency rule and that the differences will result in the "very significant unintended result" that a recipient who appeals termination of general assistance and who loses the appeal will have his or her assistance during pendency of the appeal considered work readiness. Such a procedure would reduce the recipient's eligibility for work readiness services. The department agrees with Mr. Swanson that subpart 2 as proposed does not clearly identify whether work readiness payments received during an appeal of general assistance ineligibility should be considered general assistance or work readiness assistance.

A general assistance recipient who files a timely appeal of the proposed termination of general assistance benefits may continue to receive general assistance benefits during the appeal. Such benefits should always be considered general assistance and not work readiness assistance since such benefits continue until the appeal decision is reached, regardless of the availability of assistance from other programs.

A general assistance recipient who files an un-timely appeal of the proposed termination of general assistance benefits may not receive continued general assistance benefits during the appeal. In such an instance, the individual may apply for and, if found eligible, may receive work readiness services during the appeal. If the individual wins the appeal, the work readiness services received during the appeal should be considered general assistance benefits since the appeal decision has verified that the individual should have been receiving general assistance. If the individual loses the appeal, the appeal decision has verified that the individual was not eligible for general assistance, and that the individual was eligible only for work readiness assistance. In this instance, the work readiness received during the appeal of general assistance ineligibility should properly be considered work readiness assistance since general assistance eligibility did not exist.

In no instance will general assistance benefits be paid to an applicant during an appeal of the denial of an application for general assistance, since the applicant has not been determined eligible for assistance. Such applicants may apply for and, if eligible, receive work readiness assistance during the time of general assistance appeal. If the applicant receives work readiness assistance and subsequently wins the general assistance appeal, the work readiness assistance received during the appeal should be considered general assistance, because the appeal decision has verified that the applicant should have been eligible for general assistance in the first place. If the applicant loses the general assistance appeal, the assistance received during the appeal should be considered work readiness assistance since the appeal has verified that the applicant was not eligible for general assistance.

The department has adopted part 9500.1260, subpart 2, with the following modifications, and finds that the changes are not substantial because they merely clarify the department's current practices.

9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subp. 2. Work Readiness Notice. Upon determining that an applicant or recipient is not eligible for general assistance because he or she does not meet a category of eligibility under part 9500.1258, the local agency shall inform the individual of the availability of its work readiness program and shall determine the individual's eligibility for services and payments under part 9500.1306, subpart 3. If an applicant or recipient is eligible for work readiness services and payments, he or she shall be informed that an appeal of the general assistance determination of ineligibility may be made under Minnesota Statutes, section 256.045 while receiving work readiness services and payments. The local agency shall also inform the individual that eligibility for work readiness services and payments is time limited.

If the applicant or recipient subsequently wins the appeal, the assistance received under the work readiness program pending appeal must be considered general assistance. ~~The local agency shall also inform the individual that eligibility for work readiness services and payments~~ is time limited. If a recipient files an appeal prior to the effective date of the termination of his or her general assistance, continues to receive general assistance pending the appeal, in accordance with part 9500.1268, and does not prevail in the appeal, the assistance received pending the appeal shall be considered general assistance and not work readiness payments, and the recipient's participation in work readiness services pending the outcome of the appeal shall not be counted toward the two or six month limitation on eligibility for the work readiness program. If a recipient files an appeal after the effective date of the termination of his or her general assistance, receives work readiness services and payments pending the appeal, and does not prevail in the appeal, the assistance received pending the appeal shall be considered work readiness assistance and shall be counted toward the two or six month limitation on eligibility for the work readiness program.

13. Part 9500.1262, subpart 1, item A, establishes the requirement that recipients who are categorically eligible for general assistance under the provisions of part 9500.1258, subpart 1, item G, shall participate in an English language skills program, and that the recipient shall be disqualified from receiving general assistance for failing to participate. Mr. Swanson commented that "the program should be accessible to the recipient in terms of transportation and travel time." The department believes that the provisions of part 9500.1206, subpart 15, which define the term "good cause", provide for a recipient who cannot comply with the requirement to participate in an English language skills program because he or she lacks transportation. The department does agree, however, that the recipient should be required to participate in the English language skills program only if the program is located in the recipient's local labor market so the recipient's travel time is held to a reasonable level.

In addition, Mr. Swanson suggested deleting "does not" on page 7, line 33, and inserting "fails, without good cause." The department accepts this suggestion.

The department therefore, has adopted part 9500.1262, subpart 1, item A, with the following modifications, and finds that the changes are not substantial because they create consistency with part 9500.1266.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. Requirements for continued eligibility for specific categories of ongoing eligibility.

A. Recipients who are eligible under part 9500.1258, subpart 1, item G shall participate in an english language skills program if assigned to a program by the local agency and if the program is available in the recipient's local labor market. If the recipient ~~does not~~ fails, without good cause, to participate in the assigned English language skills program, the recipient must be disqualified from receiving general assistance as prescribed in part 9500.1266.

14. Part 9500.1262, subpart 1, item B, subitem (3) requires an applicant who is eligible for general assistance under part 9500.1258, subpart 1, item L, to participate and comply with the work readiness program, and specifies that disqualification will be imposed if the recipient does not participate. Mr. Swanson suggests deleting "does not" on page 8, line 13, and inserting "fails, without good cause" in order to create consistency with part 9500.1266. The department accepts Mr. Swanson's suggestion, has adopted part 9500.1262, subpart 1, item B with the following modification, and finds that the change is not substantial.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. Requirements for continued eligibility for specific categories of ongoing eligibility.

(3) An adult who is required to participate in and comply with the work readiness program under subitem (1) or (2) who ~~does not~~ fails, without good cause, to participate in and comply with the requirements of the work readiness program must be disqualified from general assistance as provided in part 9500.1266. The standard of assistance applicable to the disqualified member's assistance unit must be based on the number of remaining eligible members of the assistance unit.

15. Part 9500.1262, subpart 2, item B specifies that the local agency may assign a recipient who is eligible for general assistance under one of the six-month categories of eligibility to the work readiness program for services, and that the recipient must comply with the work readiness requirements or face disqualification from general assistance. Mr. Swanson suggested that "established" be deleted, that "determined" be inserted on page 8, line 36, and that "to be applicable to the recipient" be inserted at the end of line 36 after "agency." The department's intent is that local agencies be provided the discretion necessary to allow them to determine which work readiness requirements would apply to a general assistance recipient who must participate and comply with work readiness services. To clarify this point the department has adopted part 9500.1262, subpart 2, item B with the following modification, and finds that the change is not substantial.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subp. 2. Requirements for continued eligibility under categories of six-month eligibility.

B. The local agency may assign a recipient who is eligible for general assistance under part 9500.1258, subpart 2 to the work readiness program for work readiness services. A recipient so assigned must comply with the work readiness program requirements ~~established~~ determined by the local agency to be applicable to the recipient. If the local agency determines that the recipient has failed, without good cause, to comply with work readiness requirements, the recipient is disqualified from receiving general assistance as provided in part 9500.1266.

16. Part 9500.1266, item C requires that the local agency deny general assistance eligibility to a recipient who is disqualified for failure to comply with the provisions of part 9500.1262 and who submits a new application for assistance during the disqualification period. Mr. Swanson suggested that the practical effect of this provision "is to deny an individual the opportunity to establish GA eligibility under a category that is not subject to the disqualification provisions." The department's intent in establishing

part 9500.1266, item C is to restrict eligibility for a disqualified individual under the categories that have requirements which must be complied with, and that if the individual can establish eligibility under a category of eligibility which does not have compliance requirements, that such eligibility should nullify the disqualification. To clarify this point, the department has adopted part 9500.1266, item C with the following modification, and finds that the change is not substantial.

9500.1266 DISQUALIFICATION.

C. If an individual who is disqualified applies for general assistance during the period of disqualification, the individual is considered a recipient and the application shall be denied~~.~~ unless the individual is eligible for general assistance on the basis of a category of eligibility other than the categories in part 9500.1258, subpart 1, items G or L.

17. Part 9500.1266, item D specifies that a recipient who complies with the requirements of part 9500.1262 on or before the effective date of the disqualification shall not be disqualified. Mr. Swanson suggested that "the language in item D 'effective date of the disqualification' is ambiguous because the 'effective date' is not clarified in the provisions of part 9500.1266." The department agrees that the term "effective date of the disqualification" is ambiguous, and intends that the term mean the commencement of the disqualification period. The department accepts Mr. Swanson's suggestion, and has adopted part 9500.1266, item D with the following modification, and finds that the change is not substantial because it does not change the meaning of the provision.

9500.1266 DISQUALIFICATION.

D. If a recipient who received a notice of disqualification complies with the requirements of part 9500.1262, on or before the ~~effective date~~ commencement of the disqualification period, assistance must be continued without a period of disqualification.

18. Part 9500.1268 establishes a recipient's right to appeal a local agency disqualification decision, and the right to a continuation of general assistance benefits during the appeal. The department notes that the language of this part might be read to imply that a recipient who appeals a disqualification on or before the effective date of the disqualification must accept continued general assistance benefits, regardless of the recipient's wishes. The department does not intend to force recipients to accept the continuation of general assistance benefits against their will. To clarify this point, the department has adopted part 9500.1268 with the following modification, and finds that the change is not substantial because it does not change current practices.

9500.1268 APPEAL OF DISQUALIFICATION.

A recipient who is disqualified from receiving general assistance under part 9500.1266 may appeal the decision. The appeal must be a written request for a hearing submitted to the department of the local agency under Minnesota Statutes, section 256.045. If appeal is made on or before the ~~effective date~~ commencement of the disqualification period and the recipient is otherwise eligible, he or she shall continue to receive general assistance while the appeal is pending~~.~~, unless the recipient requests in writing that assistance be discontinued pending a hearing decision.

19. Part 9500.1270 provides authority to local agencies to issue general assistance, emergency general assistance, and work readiness payments in the form of vouchers or vendor payments for applicants, recipients, and registrants who do not have a residence address. Further, this part provides local agencies with authority to issue such vouchers or vendor payments for food, shelter, and other needs, and to divide the monthly assistance standard into daily or weekly payments until the recipient has secured an address at which he or she resides. This part also specifies that if the local agency chooses to use this provision, the local agency must provide for the individual's needs through placement in a negotiated rate facility or provide for all of the individual's food, shelter, or other daily needs, regardless of the standard of assistance. Mr. Kenney suggested that the rule be modified to make optional the requirement that local agencies place the individual in a negotiated rate facility, and to delete the alternative requirement that the individual's food, shelter, or other daily needs be provided for regardless of the standard of assistance. Mr. Kenney commented that "the proposed rule allows for no upper limit on the grant amounts that the local agency must provide," and that "a client. . . could presumably establish his/her own standards of assistance depending on where they choose to live or eat and whether or not they safeguard their clothing and other personal possessions." The department believes that the language of part 9500.1270 clearly establishes a local agency's option to use or not use the provisions of this part. Since it is the local agency's option to use or not use these provisions, a client cannot "establish his/her own standards of assistance depending on where they choose to live or eat." As stated in the department's statement of need and reasonableness, the department also believes that providing daily or weekly payments can very seriously limit a recipient's ability to obtain a permanent address. If a recipient is paid daily or weekly payments, the recipient must use those payments to provide daily or weekly shelter and food, and cannot save a sum sufficient to pay for monthly rent. Thus the individual would be prevented from establishing a permanent address, and would be "locked into" daily or weekly payments. The department, therefore, has adopted part 9500.1270 without modification.

20. Part 9500.1302 provides definitions applicable to parts 9500.1300 to 9500.1318. Mr. Kenney suggested the addition of a definition of the term "month." Mr. Kenney states that "the proposed rule is confusing because it

uses the word 'month' to mean several different things." The department has reviewed parts 9500.1300 to 9500.1318 and agrees with Mr. Kenney that the meaning of the term "month" as used throughout those parts is unclear.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that a work readiness registrant is eligible for either two or six months of work readiness assistance. Clearly, the intent of the law is to provide the equivalent of either two or six calendar months of assistance. Not all registrants apply on the first day of a calendar month. In fact, most individuals apply for assistance after the first day of a month. A major concern then is specifying the length of time that such individuals are eligible for work readiness such that the equivalent of two or six months of work readiness assistance is provided. Part 9500.1205, subpart 14 defines "month" to mean a calendar month. If two or six months of work readiness eligibility were defined to mean actual calendar months, an individual who applied after the first day of a month would receive less than two or six full calendar months of assistance. In such instances, therefore, the definition of month in part 9500.1205, subpart 14 should not be applied.

Minnesota Statutes, section 256D.051, subdivision 1 specifies that a registrant is eligible to receive assistance (payments) in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12 month period. The amount of a general assistance payment is determined based on an individual's needs for a calendar month. The intent of this provision then is to provide work readiness assistance to a registrant, equal to the amount that would be received by a general assistance recipient for a calendar month, for either the two or six months during which the registrant is eligible for work readiness assistance.

Part 9500.1310, subpart 3 specifies that work readiness payments must be prorated for the first payment month, and must be paid on the first day of the month thereafter. The definition of month provided under part 9500.1205, subpart 14 applies in this instance because the meaning of "month" is obviously a calendar month.

In order to clarify the period of time for which a registrant is eligible to receive work readiness assistance, to assure that a registrant does not receive less than the equivalent of two or six full months of services and payments, and to specify when certain work readiness notices must be provided to a registrant, the department has developed the term "program month" to mean a 30 day period. (In general use, a month commonly means a 30 day period.) Therefore, regardless of when an registrant applies for work readiness, the registrant will be eligible for either two "program months" or for six "program months" of assistance. Moreover, since part 9500.1310 subpart 3 specifies that the first payment and the last payment must be prorated based on the percent of the first month for which a work readiness payment is made, a registrant is assured of receiving the equivalent of either two or six full calendar months of work readiness payments.

The department has, therefore, adopted parts 9500.1300 to 9500.1318 with the following modifications to the rules as proposed which clarify the meaning of "month" and believes that the changes are not substantial since they assure that registrants will receive the equivalent of two or six full calendar months of assistance as required by Minnesota Statutes, section 256D.051, subdivisions 1 and 4.

9500.1302 DEFINITIONS.

1. Page 12, line 5, after the period insert the following:

   Subp. 6. Program month. "Program month" means a 30-day period of eligibility for work readiness assistance beginning with the first date for which a work readiness payment is made to the registrant, and each subsequent 30-day period in which the registrant is eligible for work readiness assistance and for which the registrant is provided with work readiness payments.

   Renumber each subsequent subpart accordingly.

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. Requirement of concurrent services and payments.

1. Page 15, line 33, delete "a monthly work readiness payment or".

2. Page 15, line 34, insert "program" before "month", and delete "of work readiness services".

3. Page 15, line 35, insert "program" before "month".

4. Page 16, line 2, delete "that" and "payments are". Insert "program" before "month" and "for which a" before "work".

5. Page 16, line 3, delete "are", and insert "payment is" before "made."

6. Page 16, line 5, delete "If".

7. Page 16, line 6, insert "A program month preceding the program month in which" before the first "the".

8. Page 16, line 7, delete "not" and "within the first month of an".

9. Page 16, line 8, delete the entire line.

10. Page 16, line 9, delete "month", and insert ",in accordance with subpart 2, items A and B," before "must". Insert "program" before "months".

11. Page 16, line 12, insert "program" before "month", and ", without good cause," before "to".

12. Page 16, line 15, insert "program" before "month".

Subpart 2. Work readiness services.

1. Page 16, line 27, insert "registrant's" after "the".

2. Page 16, line 28, insert "program month." after "first, and delete "30 days that work readiness services are provided to a".

3. Page 16, line 29, delete "registrant."

9500.1312 ASSESSMENT ~~DURING SECOND MONTH~~ FOR ADDITIONAL ELIGIBILITY; NOTICES TO REGISTRANTS.

Subpart 1. Required assessment.

1. Page 19, line 25, insert "program" after "four".

2. Page 19, line 27, insert "program" before "month".

Subp. 2. Notice of assessment.

1. Page 20, line 5, insert "program" before "months".

2. Page 20, line 10, insert "program" after "four".

3. Page 20, line 13, insert "program" after "second".

4. Page 20, line 14, insert "program" after "additional".

Subp. 3. Assessment of additional eligibility.

1. Page 20, line 23, insert "program" after "additional".

Subp. 4. Notice of determination.

1. Page 21, line 26, insert "program" before "months".

2. Page 21, line 31, insert "program" after "second".

3. Page 22, line 1, insert "program" after "two".

Subp. 5. Registrant moves to another county after ~~second month~~ assessment for additional eligibility is completed.

1. Page 22, line 5, delete "second month" and insert "for additional eligibility" after "assessment".

2. Page 22, line 7, delete "second month" and insert "for additional eligibility" after "assessment".

3. Page 22, line 10, insert "program" after "six".

Subp. 6. Notice of termination.

1. Page 22, line 14, insert "program" after "last" and after "six".

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 4. Period of disqualification.

1. Page 25, line 2, delete "months".

2. Page 25, line 3, insert "program" before "months".

9500.1318 NOTICE OF ADVERSE ACTION.

Subpart 1. Actions requiring notice.

1. Page 25, line 22, insert "program" after "additional".

21. Part 9500.1302, subpart 9 provides a definition of "vocational advisor" which is used throughout parts 9500.1300 to 9500.1318. Ms. Annabell Larsen, Financial Assistance Supervisor with Mille Lacs County Family Service and Welfare Department, states that she is unsure of the meaning of "sufficient education" as used in subpart 9. The department has reviewed the definition of "vocational advisor" and believes that the definition permits local agencies to exercise a reasonable amount of latitude when establishing employment or contractual qualifications for "vocational advisors." Under the provisions of parts 9500.1300 to 9500.1318, a local agency is permitted to tailor its work readiness program to meet local needs and requirements. The definition of "vocational advisor" permits the local agency to specify the criteria needed by a "vocational advisor" in its program, and at the same time imposes reasonable minimum statewide requirements. The department has, therefore, adopted part 9500.1302 without modification.

22. Part 9500.1304, subpart 2, establishes the requirement for local agencies to develop work readiness program descriptions in accordance with the

provisions specified in items A to D. Mr. Swanson commented on the provisions in item C, and suggested the addition of several requirements that were contained in the department's emergency rules. The department accepts Mr. Swanson's suggestion because the change provides the registrant with an adequate explanation of the program and informs the registrant of his or her compliance requirements. The department finds that the change is not substantial because it is consistent with the requirements in the emergency rule which the local agencies are currently operating under, and adopts part 9500.1304, subpart 2, item C, with the following modifications at page 13, line 15:

9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION

Subp. 2. Preparation of work readiness program description.

C. contain a summary of work readiness program requirements including a registrant's responsibility to cooperate when the local agency assesses the registrant's employability and prepares the registrant's employability development plan, and the responsibility to comply with job registration, work search, and employment acceptance and retention requirements as conditions for continuing eligibility; and

23. Mr. Swanson also commented on the importance of retaining copies of client's employability assessments, employability development plans, and other forms given to and completed by applicants and registrants, and suggested adding a new subpart 5 to part 9500.1304. The department agrees with Mr. Swanson's suggestion. Local agencies are currently required to maintain information in the registrant's case file which documents eligibility and service provision so that such information is available during an appeal hearing and so the department may review the delivery of services by the local agency. However, this requirement is not stated in rule. It is reasonable to include this provision in the rule parts in order to inform local agencies of their obligations. The department has adopted part 9500.1304 with the addition of the following new subpart at page 13, line 28, and finds that the change is not substantial because it conforms to standard, current practices and therefore does not create a new requirement.

Part 9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION.

Subp. 5. Retention of documents in case files. The local agency shall retain copies of all work readiness program notices, assessments, plans, and other documents given to or completed by an applicant or registrant, in accordance with parts 9500.1300 to 9500.1318, in the applicant's or registrant's case file.

24. Part 9500.1308, subpart 2, establishes the local agency's duty to inform eligible applicants of work readiness requirements. Mr. Swanson commented on this subpart, and suggested that because of the importance of the assessment for continuing eligibility during the registrant's second month, the registrant would benefit from being informed of the assessment at the time the registrant is determined eligible for work readiness. The department agrees that the two month assessment for continuing work readiness eligibility is important and that it is reasonable to inform applicants of the second month assessment at the time the applicant is determined eligible for work readiness so the registrant can prepare for the upcoming assessment and can provide information which may effect the outcome of the assessment. The department has, therefore, modified part 9500.1308, subpart 2, by adding a new item D, as follows:

Part 9500.1308 REQUIREMENT TO INFORM APPLICANTS.

Subp. 2. Duty to inform eligible applicants of work readiness requirements.

A. [no change]

B. [strike the second "and" at page 15, line 24]

C. [strike the "." and add "; and" at page 15, line 30]

D. that an assessment of continuing eligibility for work readiness services and payments will be conducted during the registrant's second program month.

The department has not added Mr. Swanson's suggested language regarding "...the requirement that the registrant cooperate with the assessment" for the reasons stated in the department's finding number 31.

25. In part 9500.1310, subpart 1, the requirement that the local agencies provide concurrent payments and services to registrants is established. This requirement assures that registrants are provided with payments and meaningful services. Mr. Swanson commented that the department's proposed language implies that "...the second month [of work readiness payments] could be counted even though the employability assessment and development plan were not completed...." The department agrees with Mr. Swanson's comment. The department believes that an assessment of the registrant's employability and the development of an employability development plan are crucial to the provision of meaningful work readiness services. If an individual registrant is to benefit from receiving work readiness services, an employability development plan must be developed to meet that individual's needs. In order to assure that local agencies develop employability assessments which meet the requirements of part 9500.1310, subpart 2, and to assure that individual registrant's needs are recognized and addressed through the work readiness program, it is reasonable to specify that a program month will not count

towards the two or six month eligibility limitation unless an employability development plan has been completed. The department has, therefore, adopted part 9500.1310, subpart 1, with the following modifications, and finds that the changes are not substantial because they clarify an otherwise ambiguous provision and because they assure that registrant's receive meaningful work readiness services. Moreover, this provision facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Part 9500.1310. WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. Requirement of concurrent services and payments. In order for ~~a monthly work readiness payment or~~ a program month ~~of work readiness services~~ to count toward the two or six program month limitation on eligibility for the work readiness program, as provided by part 9500.1312, the registrant must receive work readiness services during the program month ~~that~~ for which a work readiness ~~payments are~~ payment is made. Upon an eligible applicant's election to begin receiving work readiness services and payments, the local agency shall provide the services and payments to the registrant. ~~If~~ A program month preceding the program month in which the written employability assessment and the employability development plan are ~~not~~ completed ~~within the first month of an election to receive work readiness services or payments, that month~~ , in accordance with subpart 2, items A and B, must not be counted against a registrant's total program months of work readiness eligibility, provided the registrant did not fail, without good cause, to cooperate with the assessment and plan development. A program month during which a registrant fails, without good cause, to comply with the requirements of the work readiness program but for which the registrant receives a work readiness payment shall be considered a program month during which work readiness services and payments were received.

Changes made at page 15, line 33, to page 16, line 3, are necessary to clarify the distinction between "calendar months" and "program months". These changes are supported by the department's finding number 20, and are not substantial since they merely clarify the meaning of "months" as used in the rule and do not change the substance of the rule in any way.

The addition of ", without good cause," at page 16, line 12, was made at the suggestion of Mr. Swanson. This change is consistent with the department's intent, as evidenced by the language on page 16, line 11, and page 23, line 25, and is therefore not a substantial change.

26. The department has deleted the word "that" at page 17, line 9, in response to a comment by Mr. Swanson. This modification is a clerical correction and is therefore not a substantial change.

27. Part 9500.1310, subpart 2, establishes requirements the local agencies must comply with when providing work readiness services. Item C under this

subpart address a registrant's need for and the local agency's obligation to provide funds, in addition to the monthly payment, to cover the cost of transportation. Mr. Swanson commented on item C, and suggested adding the requirement that the local agency provide transportation funds to registrants "in advance" when the local agency requires the registrant to travel to a potential job or training site. (at page 17, line 20) The department has considered this comment and agrees with the need for change. The department recognizes that a registrant who is paid a $203 monthly work readiness payment will not have sufficient funds with which to pay transportation costs and to cover his or her maintenance needs. It is reasonable, therefore, to require that the local agency provide transportation funds in advance of the monthly payment in order to assure that the registrant is not forced to use his or her subsistence payment to pay for required travel costs instead of the costs of existence. The department, therefore, has adopted the change suggested by Mr. Swanson, and finds that the modification is not substantial because it merely creates consistency between the work readiness program rules and the Department of Jobs and Training's rules (part 3301.0640 [EMERGENCY], subpart 1) which govern work and training programs, including the work readiness program, which local agencies are already required to comply with.

28. Item D, under part 9500.1310, subpart 2, addresses a registrant's need for and the local agency's obligation to provide funds, in addition to the monthly payment, to cover the cost of child care. Mr. Swanson also commented on the provisions in item D, suggested adding the requirement that the local agency provide child care funds to registrant's "in advance" (at page 17, line 30), and suggested deleting the reference (at page 17, lines 32 and 33) to "child care [that is] otherwise available to the individual without cost." The department has carefully considered these comments and agrees that a modification is needed. A registrant who receives $203 monthly to subsist with cannot use some portion of that money to also pay for child care when the local agency requires the registrant to participate in work readiness services. It is reasonable, therefore, to require that the local agency provide funds to provide for child care when the local agency requires the registrant to participate in work readiness services in order to prevent the destitution of and harm to the registrant. This requirement will not be a hardship on the local agency because if funds are short for child care, the local agency can avoid the cost by not requiring the registrant to participate when child care is required. The department has, therefore, accepted the changes suggested by Mr. Swanson, and finds that the modifications are not substantial changes for two reasons: 1) the changes merely make the work readiness rules consistent with the Department of Jobs and Training's rules ... and 2) since the local agency is only required to "cover the cost of child care" (at page 17, lines 31 to 32), the local agency will not be required to provide funds to a registrant unless the registrant will actually incur some costs for child care. Thus, child care payments will not be made for registrants without costs for child care.

29. Part 9500.1310, subpart 3, establishes the requirements local agencies must comply with when issuing work readiness payments. Mr. Kenney commented

that "...the payment provisions of the proposed rule are contrary to the statute and should be modified." Mr. Kenney suggested three alternative revisions, which the department has carefully considered and rejected. Mr. Kenney suggested that payments be made to cover a period from the time of application to the same time the next month (have payments go from mid-month to mid-month), and that counties should have the option of paying either on the first of the month or from mid-month to mid-month.

The department believes that Minnesota Statutes, section 256D.04, paragraph (2), requires that the rules adopted by the commissioner must insure that the general assistance and work readiness programs be administered "as uniformly as possible throughout the state." Moreover, as stated in the department's statement of need and reasonableness, registrants experience the greatest financial need on the first of the month when rent and other bills come due. To have payments take place after that time would place unreasonable burdens on registrants to save a subsistence payment in order to pay monthly rent. The department acknowledges the difficulties that local agencies have encountered in administering the work readiness program, but believes that the fact that all 87 counties have implemented the work readiness program payment provisions under emergency rules that required payments to be prorated in the first and last months and paid on the first of the month at all other times is proof that this requirement is workable. Furthermore, the expense of conforming to the emergency rule's payment requirements has already been incurred, and to change the payment provisions at this time would only create yet more expense for the local agencies. Finally, problems in this section of the rule were only reported by one county, with representatives of other counties on the General Assistance County Panel reporting that the payment provisions were workable, with few if any problems.

30. The department has modified part 9500.1310, subpart 3, (at page 19, lines 2 to 19) to clarify the method that must be used in calculating the first and last work readiness payments, and to insure that recipients receive the equivalent of two or six full months of assistance. The department finds these modification to be non-substantial because they do not increase or decrease the amounts of a recipient's payments, but merely describe with added clarity how the payments are to be calculated.

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subp. 3. Work readiness payments.

[no changes in the first two paragraphs]

The first work readiness payment must be prorated ~~for~~ to cover the period beginning with the effective date of the completed application for the work readiness program, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services and payments, whichever is later, and ending with the last day of that month. The amount of the first

payment must be determined by dividing the number of days to be covered by the payment by the number of days in the month, to determine the percentage of days in the month that are covered by the payment, and multiplying the monthly payment amount by this percentage.

Subsequent work readiness payments must be made monthly on the first day of the month. A registrant shall continue to receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306. The final payment must be prorated to cover the number of program days ~~equal to the number of days in the registrant's first month of work readiness services and payments which were not covered by the registrant's first work readiness payment~~ for which the registrant is eligible in that month. The amount of the final payment must be determined by subtracting the percentage of days in the first month covered by the first work readiness payment from 100 percent, and multiplying the final monthly payment amount by the remaining percentage. Emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

31. Part 9500.1312 establishes requirements for the assessment for additional eligibility that the local agency must conduct in a registrant's second month of work readiness, and establishes requirements for the notices that must be sent to a registrant regarding the assessment. Both Mr. Kenney and Mr. Swanson commented extensively on these provisions. Mr. Kenney recommended removal of the requirement that registrants be given an opportunity to participate in the assessment for additional eligibility and Mr. Swanson recommended making the registrant's participation in the assessment a requirement. Mr. Kenney also recommended deletion of the requirement that the local agency assess the registrant's progress in securing suitable employment.

The department has carefully considered the comments and the recommendations of both of the commentators, and has adopted part 9500.1312, subparts 1 and 2, without modification, except for the addition of the word "program", as explained in the department's finding number 20. The department believes that because of the competing interests, 1) in completing the assessment and making a determination of eligibility for additional work readiness assistance, and 2) in insuring that an individual has an opportunity to present relevant information either orally or in writing regarding his or her eligibility for four additional months, the language in the adopted rule is fair to both the local agency and the registrant. The department is aware that some counties experienced a very high rate of registrants who did not show up for the assessment of the registrant's additional eligibility. This would result in high numbers of rescheduling if the registrant were required to participate. In addition, the registrant could perpetuate eligibility by simply not showing up for the assessment since the registrant would be disqualified rather than being terminated if ineligible for four additional months of assistance. The department believes that such outcome was not intended by the legislature.

The department also believes that the local agency can perform an adequate assessment of the registrant's eligibility for four additional months of work readiness without the registrant's presence since the local agency will have information in the case file to use and will have dealt with the registrant for up to two months prior to the performance of the assessment. Moreover, the registrant is permitted to provide information relevant to the assessment to the local agency which can be used in completing the assessment. Thus, it is reasonable to specify that the local agency must perform the assessment if the registrant does not meet with the local agency or provide relevant information.

The department believes that an assessment of the registrant's progress in securing suitable employment is necessary to determine if the employability plan is successful or needs modification, and may be relevant to determining the registrant's eligibility for additional work readiness assistance. If the registrant has not participated in work readiness activities, the assessment of progress in securing suitable employment will reflect such, and may suggest that disqualification procedures be initiated.

32. Proposed part 9500.1312, subpart 2, required the local agency to provide a separate written notice to a registrant with the second work readiness payment to inform the registrant that the local agency will be conducting an assessment of the registrant's eligibility for four additional months of work readiness assistance. Mr. Swanson suggested that the notice be sent at least 7 days before the assessment. Mr. Kenney suggested that the rule be changed to state that "the notice must be provided to the registrant at least twelve days prior to the date of the assessment and must include the following:..." Mr. Kenney suggests this change because the current rule language "...can also result in lengthy advance notice to the registrant which could result in the registrant's forgetting about the assessment." The department has reviewed this suggestion and agrees with Mr. Kenney that provision of the notice with the second work readiness payment may cause the notice to be issued to the registrant so far in advance of the assessment that by the time the assessment is due the registrant has forgotten that the assessment is to be performed. The department believes that providing the notice at least 10 days prior to the assessment provides the registrant with the same amount of time to prepare as is provided with other program notices. This amount of time also assures that notice issuance is not required so far in advance of the assessment that the notice value is lost. The department believes it is reasonable to tie the issuance of the notice to the date of the scheduled assessment itself rather than the date of the issuance of the second check, the timing of which may not coincide with the scheduled assessment. The department has, therefore, adopted part 9500.1312, subpart 2 with the following modifications and believes that the changes are not substantial because they assure that the notice of the assessment is provided prior to the assessment, which was a provision of the proposed rule.

9500.1312 ASSESSMENT FOR ADDITIONAL ELIGIBILITY; NOTICES TO REGISTRANTS.

Subp. 2. Notice of assessment. ~~When the second work readiness payment is mailed or given to the registrant;~~ The local agency shall provide a written notice meeting the standards established under part 9500.1252 to inform the registrant that the local agency will be assessing the registrant's eligibility for an additional four program months of work readiness services and payments. The notice must be mailed or given to the registrant no later than 10 days before the assessment and must include the following:

33. Part 9500.1312, subpart 3, implements Minnesota Statutes, section 256D.051, subdivision 5, by establishing the requirements which must be met for a registrant to be determined eligible for an additional four months of work readiness services and payments. Both Mr. Swanson and Mr. Kenney commented on part 9500.1312, subpart 3, item D. Mr. Swanson suggested the following amendments to the proposed rule:

Page 21, line 10, after the first comma insert "thought processes,".

Page 21, line 10, after the second comma insert "perceptions,".

Page 21, line 15, delete "registrant's mental illness" and insert "registrant fails to cooperate".

Page 21, line 16, delete "interferes".

The department has reviewed Mr. Swanson's comments and has adopted part 9500.1312, subpart 3, item D without the recommended changes. The department believes that the words "thought processes" and "perceptions" are not observable, objective, quantifiable manifestations of an individual's mental state, and that such language would not aid in determining if the individual has a mental illness. An individual's mental condition is determined by observing the individual's behavior and hearing statements of his or her mental state (also observable behavior). The suggestion to delete the words "registrant's mental illness" and "interferes" is not accepted because the department believes the language of Minnesota Statutes, section 256D.051, subdivision 5, clause (2) is clear: "A person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under section 256D.05, subdivision 1, because the mental illness interferes with the medical certification process;" (emphasis added).

Mr. Kenney suggests that the words "...at this time..." be inserted in the second and third lines of part 9500.1312, subpart 3, item D, in order to draw a distinction between eligibility for four additional months of work readiness under this item and general assistance eligibility under part 9500.1258, subpart 1, item M, subitem (4). The department has carefully reviewed the requirements of these two parts and agrees with Mr. Kenney that further clarification of the difference between the two rule parts is necessary. The additional language also reflects the policy underlying this category of

eligibility, which is to provide additional benefits and services to registrants who may need four additional months of services and training to prepare to enter the job market. The department has, therefore, adopted part 9500.1312, subpart 3, item D with the following modifications.

9500.1312 ASSESSMENT FOR ADDITIONAL ELIGIBILITY; NOTICES TO REGISTRANTS.

Subp. 3. Assessment of additional eligibility.

D. The registrant, as determined by a vocational advisor, cannot reasonably be expected to secure suitable employment <u>at this time</u> given the registrant's work history, skills, education, physical and mental ability, and the availability of suitable employment.

(next two paragraphs unchanged).

This clarification differentiates part 9500.1312, subpart 3, item D from part 9500.1258, subpart 1, item M, subitem (4) by clarifying that item D relates to a person who cannot secure employment currently (for reasons such as poor interviewing skills) but who may be assisted by work readiness services, whereas part 9500.1258, subpart 1, item M, subitem (4) refers to a person who is, for all intents and purposes, unemployable, unlikely to become employed in the forseeable future, and for whom work readiness assistance is not likely to be of significant help. The department believes that this modification meets the legislative intent to place "unemployable" persons on general assistance and to place persons who are "employable" but in need of assistance or training on work readiness assistance. The change is not substantial because it merely clarifies rule language and departmental intent.

34. Part 9500.1312, subpart 4 requires the local agency to inform a registrant of the outcome of the assessment of the registrant's eligibility for four additional months of work readiness assistance. Mr. Swanson suggested the following modifications:

Page 21, line 28, after "1" insert "and subject to the provisions of part 9500.1316".

Page 21, line 31, after "the" insert "period which coincides with the".

Page 21, line 31, delete "second month of".

Page 21, line 32, after "participation" insert "for two full months".

Page 21, line 35, after "that" insert ", subject to the provisions of part 9500.1318,".

Mr. Swanson suggests that the proper method of "insuring that a registrant is advised of the importance of the assessment is to make the registrant's failure to participate a condition of disqualification..." The department has

considered this matter very carefully (see discussion in finding number 31). The department agrees with Mr. Swanson that a registrant should be encouraged to participate in the assessment of his or her eligibility for four additional months of work readiness assistance. In order to accomplish this, the department has included provisions in part 9500.1308, subpart 2, item D which explain to a registrant at the time of eligibility that an assessment will be conducted in the second program month, and which require an explanation of the time limited nature of the work readiness program (see finding number 21). The department has also included provisions in part 9500.1312, subpart 2, which require that the local agency provide another notice of the upcoming assessment to a registrant at least 10 days prior to the assessment, which explains the conditions which must be met in order to be eligible for four additional months, which offers the registrant an opportunity to meet with the local agency to provide information about the assessment, and which informs the registrant that he or she has the right to submit information relevant to the assessment to the local agency prior to the assessment. Therefore, the registrant will receive more than one notification of the upcoming assessment and its importance. In addition, the department proposes to permit an individual who was assessed and found not eligible for four additional months of work readiness assistance to be reassessed if the registrant's circumstances have changed.

The department feels that such provisions provide ample notification of the importance of the assessment, encouragement to participate, and an opportunity to change an eligibility decision once it is made. The department has adopted part 9500.1312, subpart 4 without the modifications suggested by Mr. Swanson.

The department recognizes in Mr. Swanson's comments a concern for registrants whose circumstances change and who could be found eligible for four additional months of work readiness assistance if the registrant were permitted to apply for assistance, even though the registrant was earlier found ineligible for the additional four months of work readiness. Currently, a local agency must take an application whenever one is presented, and must act to determine the applicant's eligibility. In doing so, the local agency must determine if the applicant's circumstances have changed and if the applicant now fits the eligibility criteria. It is reasonable, therefore, to require the local agency to determine if a registrant's circumstances have changed and determine if the applicant is now eligible, even though the applicant has previously been determined ineligible for assistance, because this provision implements current policy and it protects the applicant's right to assistance if circumstances change causing the applicant to be eligible.

The department has adopted part 9500.1312 with the following related modification which it feels will assure that registrants whose circumstances have changed will receive another assessment, and believes that the changes are not substantial since the local agency must currently accept an application at any time and act to determine the applicant's eligibility or ineligibility.

9500.1312 ASSESSMENT FOR ADDITIONAL ELIGIBILITY; NOTICES TO REGISTRANTS.

Subp. 7. Assessment following re-application. If an individual, whose eligibility for work readiness was terminated after two program months because the local agency determined that the individual did not meet one or more of the conditions under subpart 3, items A to D, applies for work readiness, the local agency must determine if the applicant's circumstances have changed and if the applicant is eligible for any additional work readiness services or payments.

35. Part 9500.1314 establishes the requirement that a work readiness registrant comply with all requirements of the local agency work readiness program as explained in the program description provided under part 9500.1308, subpart 2, and specified in the employability plan provided under part 9500.1310, subpart 2, item B. Mr. Kenney suggested that on page 22, line 21, "and" be deleted and "or" be inserted in its place because the proposed language implies that registrants can only be disqualified if the requirement is listed in the employability development plan. The department has reviewed the language of this part and agrees that clarification is needed. The program description will most likely contain only general statements about the requirements that registrants must comply with, or requirements which apply to all registrants. The employability development plan will include requirements specific to individual registrants. It is not necessary to include all requirements in both places since the registrant will receive both items. The department's intent in drafting part 9500.1314 was to assure that the registrant must comply with all requirements of the work readiness program, whether they are listed in the program description or in the employability assessment plan. The department has, therefore, adopted part 9500.1314 with the following modification and believes that the change is not substantial since it merely clarifies the provisions of this part and does not affect the substance of this provision.

9500.1314 REGISTRANT DUTIES.

A registrant shall comply with all requirements of the local agency work readiness program, including the requirements explained under part 9500.1308, subpart 2, and the requirements specified in the employability development plan provided under part 9500.1310, subpart 2, item B. Except for registrants participating in work readiness under part 9500.1262, a registrant who fails, without good cause, to comply with the local agency requirements shall be disqualified from the receipt of work readiness services and payments under part 9500.1316.

36. Part 9500.1316, subpart 1 establishes the requirement that the local agency must inform a registrant of its determination that the registrant has failed to comply with work readiness requirements prior to disqualification of the registrant. Mr. Swanson suggested that the words ", without good cause," be added on page 22, line 31, after "failed" in the proposed rule. The

proposed modification is consistent with part 9500.1316, subpart 2. Therefore the department accepts Mr. Swanson's suggestion, has adopted part 9500.1316, subpart 1 with the following change, and finds that the change is not substantial because it is consistent with the provisions of subpart 2.

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1. Determination and notice of failure to comply. If a local agency determines that a registrant has failed, without good cause, to comply with the requirements of the work readiness program, the local agency must notify the registrant of its determination. The notice must meet the standards established in part 9500.1252, and must contain the information in items A to E.

37. Part 9500.1316, subpart 4, item B, establishes the beginning date of a period of disqualification and specifies that if the registrant appeals the disqualification on or before the disqualification date that the disqualification process must stop until an appeal decision is rendered. Mr. Swanson suggested that the following change be made:

Page 24, line 23, after the period insert "If the registrant takes the action required in the notice issued under subpart 1 on or before the proposed disqualification date, the disqualification process must stop and a period of disqualification must not be imposed."

Minnesota Statutes, section 256D.101 clearly states that a registrant must comply with the requirements stated in the notice (required by part 9500.1316, subpart 1) by a date certain, which must be at least 15 days following the date the notification is mailed or delivered to the registrant, or the registrant will be disqualified from receiving work readiness assistance. The department believes that Mr. Swanson's suggestion is contrary to the statute. Moreover, permitting the registrant to comply with the work readiness requirements up to and including the first day of disqualification renders the notice provided by part 9500.1316, subpart 1, meaningless. The intent of the statute and the notice is to provide a specific period of time within which to comply, and if the registrant fails to comply, that disqualification will be invoked. The department has, therefore, adopted part 9500.1316, subpart 4, item B without Mr. Swanson's suggested modification.

Mr. Swanson also suggested modifying part 9500.1316, subpart 4, item B of the proposed rules with the following changes:

Page 24, line 26, delete "period" and insert "payments and services are terminated in accordance with the provisions of part 9500.1312, subpart 6"

Page 24, line 27, delete "of eligibility is exhausted"

The department has considered Mr. Swanson's suggestions and recognizes that all terminations from work readiness assistance require that the local agency provide a termination notice to the registrant. The department feels, however, that Minnesota Statutes, section 256D.051, subdivisions 4 and 5 prescribe a limit of either two or six months of work readiness assistance, and that an individual should not be permitted to extend that period by appealing a disqualification. The department has, therefore, adopted part 9500.1316, subpart 4, item B with the following change, which specifies that a registrant's benefits will end at the end of either two or six months, regardless of whether the registrant is appealing a disqualification, provided the local agency sends a 10-day notice to the registrant informing him or her of the end of the period of eligibility. The department finds that the change is not substantial since it merely specifies what the local agency must already do in order to terminate a registrant's assistance.

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subp. 4. Period of disqualification.

B. The period of disqualification begins on the first day of the work readiness payment period following the date on which the determination was made. If the notice of disqualification is given or mailed so late in a payment period that ten-day prior notice required part 9500.1318 cannot be given, the disqualification period begins on the first day of the second work readiness payment period following the date the determination was made. If the registrant appeals on or before the proposed disqualification date, the disqualification process must stop and work readiness payments and services must continue until a final decision is made or until the registrant's period of eligibility is exhausted, and payments and services are terminated in accordance with part 9500.1312, subpart 6, whichever is earlier. If the registrant loses the appeal, the disqualification period must begin on the first day of the next work readiness payment period.

38. Part 9500.1318, subpart 3, specifies a registrant's right to appeal an adverse action and the conditions under which work readiness assistance will continue pending an appeal. Mr. Swanson suggests the following changes:

Page 26, lines 8 and 13, delete "adverse".

Page 26, line 8, delete "under" and insert "listed in".

Page 26, line 16, delete "specified under" and insert "listed in".

The department has carefully reviewed these suggestions and has chosen to implement part 9500.1318, subpart 3 without the suggested changes. The department believes that the term "adverse action" clearly relates to any effort to terminate, suspend or reduce assistance to a registrant. The

determinations in subpart 1 are all preparatory to an adverse action. Thus, use of the term "adverse action" in this subpart is appropriate and relevant.

Mr. Swanson also suggested that the words ", if otherwise eligible," on page 26, line 13 be deleted because "... it apparently has been interpreted by local agencies as including time limited monthly eligibility." A local agency may find a registrant ineligible for work readiness for reasons of excess income, excess resources, or exhaustion of the registrant's period of eligibility. The local agency is permitted to propose termination for any of these reasons, even during an appeal regarding a different issue. If the registrant disagrees with the determination, he or she can appeal that action and assistance may be continued pending the appeal decision. For example, a registrant who appeals his or her termination from work readiness at the end of two months may continue to receive benefits pending the appeal. However, if the registrant's income and resources exceed the program limits during the pendancy of the appeal, the local agency has an independent basis for terminating the registrant's assistance, aside from the end of his or her two months. Thus, a registrant must continue to be financially eligible for the program to be eligible for benefits pending appeal. Thus, the department has adopted part 9500.1318, subpart 3 without adopting Mr. Swanson's suggestion.

39. Part 9500.1318, subpart 3 also establishes a registrant's right to appeal a local agency adverse decision, and the right to a continuation of work readiness benefits during the appeal. The department notes that the language of this part may be read to imply that a registrant who appeals an adverse decision on or before the effective date of the proposed action must accept continued work readiness benefits, regardless of the client's wishes. The department does not intend to force recipients to accept the continuation of work readiness benefits against their will. To clarify this point, the department has adopted part 9500.1268 with the following modification, and finds that the change is not substantial since it protects a registrant's right to refuse to receive public assistance.

9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

Subp. 3. Appeal of adverse action. An applicant or registrant who is the subject of an adverse action under subpart 1 may appeal the local agency determination. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If a registrant appeals on or before the effective date of the adverse action, the registrant, if otherwise eligible, shall continue to receive work readiness services and payments while the appeal is pending unless the recipient requests in writing that assistance be discontinued pending a hearing decision. If the registrant's appeal of an action specified under subpart 1, item A, B, or D is not upheld, the registrant shall pay back to the local agency the amount of work readiness payments received during the pendancy of the appeal.

40. The department has also removed references to the State Register publication in which rule part 9500.1209 was proposed. This technical change is necessary since the proposed rules, including part 9500.1209, were adopted with an effective date of July 1, 1986. Accordingly, the department has deleted the phrase "as proposed at State Register, Volume 10, Number 36, pages 1803-1804 (March 3, 1986)" from the proposed rule at the following locations:

Page 2, lines 7 to 9

Page 6, lines 11 to 12

Page 14, lines 1 to 2, 26 to 27, 29 to 30, and 34 to 35

Page 18, lines 30 to 31

Page 23, lines 28 to 29

Page 24, lines 1 to 3

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-entitled rules was given as required by law, and all interested persons were afforded an opportunity to submit data and views on the proposed rules.

3. All modifications made to the proposed rules are supported by the data and views submitted to the department, and are not substantial changes.

4. The above-entitled 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.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1209, 9500.1216, 9500.1222, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318, as modified, are adopted this ____ day of July, 1986, pursuant to authority vested in me by Minnesota Statutes, sections 256D.04; 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.10; 256D.101; and 256D.111, subdivision 3.

7-7-86

DATE

LEONARD W. LEVINE, Commissioner
Department of Human Services

RECEIVED
APR 30 1986
ADMINISTRATIVE
HEARINGS

Ethical Practices Board

Notice of 1986 Nonelection Year Campaign Expenditure and Contribution Limits

In accordance with Minn. Stat. §§ 10A.25, 10A.255, and 10A.27, the following are nonelection year campaign expenditure and contribution limits for 1986:

Office sought or held	Nonelection year contribution limits: From individual, political committee or fund	Nonelection year contribution limits: From political party, in aggregate	Nonelection year Campaign expenditure limits*
Governor & Lt. Governor	$12,000	$60,000	$245,160
Attorney General	$ 2,000	$10,000	$ 42,360
Secretary of State	$ 1,000	$ 5,000	$ 21,180
State Treasurer	$ 1,000	$ 5,000	$ 21,180
State Auditor	$ 1,000	$ 5,000	$ 21,180
State Senator	$ 300	$ 1,500	$ 6,354
State Representative	$ 150	$ 750	$ 3,355
Elective Judgeships	No limit	No limit	No limit

*Subject to adjustment under Minn. Stat. §§ 10A.25 and 10A.255 after June 1, 1986.

1986 election year campaign expenditure limits will be calculated and published by June 1, 1986, under Minn. Stat. § 10A.255.

Department of Finance

Maximum Interest Rate for Municipal Obligations, December, 1985

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of December will be ten (10) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to eleven (11) percent per annum.

For further information, contact,

Peter Sausen, Assistant Commissioner
Cash and Debt Management
State of Minnesota
Department of Finance
(612) 296-8372.

Department of Human Services Assistance Payments Division

Outside Opinion Sought Concerning Proposed Rules Governing the General Assistance Program Categories of Eligibility and the Work Readiness Program

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate permanent rules governing the General Assistance Program categories of eligibility and the work readiness program. The proposed permanent rules will replace Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency] and 9500.1210 to 9500.1221 [Emergency].

The promulgation of permanent rules is authorized by Minnesota Statutes 1985 Supplement, sections 256D.05, subdivision 1; 256D.051; and 256D.09, subdivisions 1 and 4; 256D.101; and 256D.111, subdivision 5.

The Minnesota Department of Human Services requests information and comments concerning the subject of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing.

Written statements should be addressed to:

Ray Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, Minnesota 55101

Oral statements of information and comment will be received over the telephone at (612) 297-1489 between the hours of 9:00 a.m. and 4:00 p.m.

Department of Human Services Licensing Division

Outside Opinion Sought Concerning Amendments to Licensing Standards for Family Day Care and Group Family Care Homes

Notice is hereby given that the Minnesota Department of Human Services is considering amendments to Minnesota Rules, Parts 9502.0300 to 9502.0445, Licensing Standards for Family Day Care and Group Family Day Care Homes.

The Commissioner is authorized to promulgate rules for the licensing of day care facilities under Minnesota Statutes, section 245.781 to 245.812. Rule parts considered for amendment are definitions, purpose, licensing process, negative licensing actions, agency records, caregiver qualifications, licensed capacity, reporting to the agency, training, behavior guidance, provider records, activities and equipment, physical environment, sanitation and health, and water, food and nutrition.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Kay E. Weber
Licensing Division
Department of Human Services
6th Floor, Space Center
444 Lafayette Road
St. Paul, MN 55101

Oral statements of information and comments will be received by the telephone at (612) 297-3528 between 9:00 a.m. and 4:00 p.m. Mondays through Fridays.

Statements of information and comment will be accepted until further notice. Any written material received by the Department shall become part of the hearing record. Oral statements will be considered but will not become part of the hearing record.

Office of the Secretary of State

Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is December 24, 1985.

ELEMENTARY-SECONDARY-VOCATIONAL (ESV) COMPUTER COUNCIL has 1 vacancy open for an urban administrator from Congressional District 5 or 6. The council advises and assists the State Board of Education in the development of plans and standards for ESV-IS (elementary, secondary and vocational education management information systems) and SDE-IS (State Department of Education information system). Members are appointed by the Governor. Members receive $35 per diem. For specific information contact the Elementary-Secondary-Vocational (ESV) Computer Council, Board of Education, Capital Square Bldg., 550 Cedar St., St. Paul 55101; (612) 297-3152.

COUNCIL ON BLACK MINNESOTANS has 1 vacancy open for a public member. The council makes recommendations to the Governor and legislature to improve the economic and social conditions of Black Minnesotans; serves as a referral agency and liaison to federal, state and local governments and private organizations on matters relating to Blacks; studies solutions to problems of Blacks in employment, human rights, health, housing, social welfare and other areas; reviews applications for federal grants which will have primary effect on Black Minnesotans. Members are appointed by the Governor and shall be broadly representatives of the Black Community. For specific information contact the Council on Black Minnesotans, 289 E. 5th St., Suite 210, St. Paul 55101; (612) 297-3708.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, 9500.1300 to 9500.1318

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED this 10th day of April, 1986, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Human Services for that purpose and be published in the State Register .

STATE OF MINNESOTA



LEONARD W. LEVINE, Commissioner
Department of Human Services

RECEIVED
APR 11 1986
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, 9500.1300 to 9500.1318

ORDER FOR HEARING

IT IS ORDERED THIS 10th of April, 1986, that a public hearing on the proposed rules captioned above be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th Floor on June 6, 1986 commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be given to all persons who have registered their names with the Department of Human Services for that purpose and be published in the State Register.

STATE OF MINNESOTA



LEONARD W. LEVINE, Commissioner
Department of Human Services

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, 9500.1300 to 9500.1318

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JUNE 6, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone (612) 297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 28, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

General Assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resourses to maintain a subsistence reasonably compatible with decency and health". (Minnesota Statutes, section 256D.01, subdivision 1).

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.0512, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency], and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provision, including notice and appeal provisions, that govern disqualifications for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories of eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

A copy of this rule is available upon request for your review from:

Mike Sirovy
Assistance Payments Division
Department of Human Services
444 Lafayette Road, 2nd Floor
St. Paul, MN 55101
Telephone (612) 297-2011

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mike Sirovy upon request. 12

The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e). 13

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Rae Bly. 9

4-10-86
Date

State of Minnesota

LEONARD W. LEVINE, Commissioner
Department of Human Services

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, 9500.1300 to 9500.1318

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th floor on June 6, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Adminsitrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

General assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health". (Minnesota Statutes, section 256D.01, subdivision 1.)

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created the general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.051, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency] and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provisions, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories for eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04,

and 256D.10. The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mike Sirovy, Assistance Payments Division, Department of Human Services, 444 Lafayette Road, 2nd floor, St. Paul, MN 55101, telephone 612/ 297-2011.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mike Sirovy.

NOTICE: Any person may request notification of the date on which the Administration Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10a, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or adminstrative action by communication or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone 612/296-5615.



LEONARD W. LEVINE, Commissioner
Department of Human Services

Dated: 4-10-86

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING GENERAL ASSISTANCE ELIGIBILITY AND WORK READINESS, MINNESOTA RULES, PARTS 9500.1200, 9500.1206, 9500.1258 TO 9500.1270, 9500.1300 TO 9500.1318

AFFIDAVIT OF MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 23rd day of April, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-five or More Persons Request a Hearing; and Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to 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 hearing by this Department.

Nancy Storelee

Subscribed and sworn to before me

this 23rd day of April, 19 86.

Notary Public

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, 9500.1300 to 9500.1318

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JUNE 6, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone (612) 297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 28, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

General Assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resourses to maintain a subsistence reasonably compatible with decency and health". (Minnesota Statutes, section 256D.01, subdivision 1).

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.0512, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency], and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provision, including notice and appeal provisions, that govern disqualifications for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories of eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

A copy of this rule is available upon request for your review from:

Mike Sirovy
Assistance Payments Division
Department of Human Services
444 Lafayette Road, 2nd Floor
St. Paul, MN 55101
Telephone (612) 297-2011

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mike Sirovy upon request.

The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Rae Bly.

State of Minnesota

4-10-86
Date

LEONARD W. LEVINE, Commissioner
Department of Human Services

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF DEPARTMENT OF HUMAN SERVICES RULES GOVERNING GENERAL ASSISTANCE ELIGIBILITY AND WORK READINESS, MINNESOTA RULES, PARTS 9500.1200, 9500.1206, 9500.1258 TO 9500.1270, 9500.1300 TO 9500.1318

AFFIDAVIT OF ADDITIONAL MAILING

Nancy Storelee, being first duly sworn, deposes and says:

That on the 23rd day of April 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-five or More Persons Request a Hearing; and Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing 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 groups:

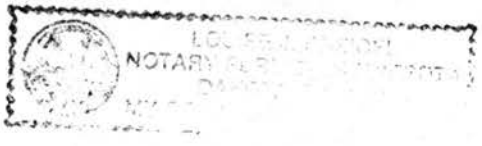
.The 87 Minnesota County Human Services Agencies
.GA County Panel
.GA Rules Public Advisory Committee

Nancy Storelee

Subscribed and sworn to before me

this 23rd day of April, 1986.

Lonna J. Brandt





STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, 9500.1300 to 9500.1318

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th floor on June 6, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Adminsitrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

General assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health". (Minnesota Statutes, section 256D.01, subdivision 1.)

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created the general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.051, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency] and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provisions, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories for eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04,

and 256D.10. The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mike Sirovy, Assistance Payments Division, Department of Human Services, 444 Lafayette Road, 2nd floor, St. Paul, MN 55101, telephone 612/ 297-2011.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mike Sirovy.

NOTICE: Any person may request notification of the date on which the Administration Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10a, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or adminstrative action by communication or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone 612/296-5615.



LEONARD W. LEVINE, Commissioner
Department of Human Services

Dated: 4-10-86

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF HUMAN SERVICES GOVERNING GENERAL ASSISTANCE ELIGIBILITY AND WORK READINESS, MINNESOTA RULES, PARTS 9500.1200, 9500.1206, 9500.1258 TO 9500.1270, 9500.1300 TO 9500.1318

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 23rd day of April, 1986.

Nancy Storelee

REPEALER. Minnesota Rules, part 2640.5100, subparts 2, 4, 5, 7, and 9 are repealed. Minnesota Rules, part 2640.5100, subparts 6 and 8 are repealed effective January 1, 1988.

RECEIVED
APR 30 1986
ADMINISTRATIVE

Department of Human Services

Proposed Rules Relating to General Assistance Eligibility and Work Readiness

Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JUNE 6, 1986 IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Rae Bly
Rulemaking Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
Telephone (612) 297-1489

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on May 28, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

General Assistance is a public assistance program authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health." (Minnesota Statutes, section 256D.01, subdivision 1).

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.0512, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency], and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide indi-

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.

viduals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provision, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories of eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

A copy of this rule is available upon request for your review from:

Mike Sirovy
Assistance Payments Division
Department of Human Services
444 Lafayette Road, 2nd Floor
St. Paul, MN 55101
Telephone (612) 297-2011

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mike Sirovy upon request.

The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Rae Bly.

10 April 1986

Leonard W. Levine, Commissioner
Department of Human Services

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Service Building, 20 West 12th St., St. Paul, Minnesota 55155 in Room D, 5th floor on June 6, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between May 29, 1986 and June 5, 1986 at (612) 297-1489.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is

to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

General assistance is a public assistance authorized by Minnesota Statutes, chapter 256D. The purpose of the general assistance program is "to maximize the use of federal money for public assistance purposes for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health." (Minnesota Statutes, section 256D.01, subdivision 1.)

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created the general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.051, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency] and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the lcoal agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provisions, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories for eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256D.05, subdivision 1; 256D.051; 256D.09, subdivision 4; 256D.101; 256D.111, subdivision 5; and Minnesota Statutes, sections 256D.04, and 256D.10. The Department estimates that no additional spending will be required by local public bodies as a result of adoption of these rules. A fiscal note is not required for these rules according to Minnesota Statutes, section 3.983, subdivision 3(e).

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mike Sirovy, Assistance Payments Division, Department of Human Services, 444 Lafayette Road, 2nd floor, St. Paul, MN 55101, telephone 612/297-2011.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Mike Sirovy.

NOTICE: Any person may request notification of the date on which the Administration Law Judge's report will be available,

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after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10a, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone 612/296-5615.

10 April 1986

Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed

9500.1200 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 9500.1200 to ~~9500.1256~~ 9500.1270 establish the rights and responsibilities of the Department of Human Services, local agencies, and recipients of general assistance as they pertain to the administration of the general assistance program.

Subp. 2. [Unchanged.]

9500.1206 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1200 to ~~9500.1256~~ 9500.1270 and 9500.1300 to 9500.1320, the following terms have the meanings given them.

Subp. 2. to 19. [Unchanged.]

Subp. 19a. **Local labor market.** "Local labor market" means the geographic area in which a registrant can reasonably be expected to search for suitable employment. The geographic area must be limited to an area within two hours' round trip of the registrant's residence, exclusive of time needed to transport his or her children to and from child care.

Subp. 20. to 31. [Unchanged.]

Subp. 32. **Suitable employment.** "Suitable employment" means a job within the local labor market that:

A. and B. [Unchanged.]

C. pays at least the minimum wage prescribed by state or federal law and provides more than ~~60~~ 80 hours of work per month; and

D. includes employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options, but does not include temporary day labor.

Subp. 33. [Unchanged.]

Rules as Proposed (all new material)

9500.1258 CATEGORIES OF ELIGIBILITY.

Subpart 1. **Categories of ongoing eligibility.** When the local agency determines the composition of an applicant's or recipient's assistance unit under part 9500.1209, subpart 3, as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986) the local agency must determine whether the applicant or recipient meets the conditions of one or more of the categories of eligibility under the following items:

A. The applicant or recipient suffers from a permanent illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment.

B. The applicant or recipient suffers from a temporary illness, injury, or incapacity that is medically certified and prevents the applicant or recipient from obtaining or retaining suitable employment for a period of at least 15 days and, if a rehabilitation plan is specified in the medical certification, the applicant or recipient is following the rehabilitation plan. An applicant or recipient is eligible under this item only for the period of the illness, injury, or incapacity.

C. The applicant or recipient is needed at home on a substantially continuous basis because another individual who resides with the applicant or recipient requires care due to the age or medically certified illness, injury, or incapacity of the other individual. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself.

D. The applicant or recipient is residing in a facility licensed under Minnesota Statutes, sections 245.781 to 245.812 and certified under Minnesota Statutes, chapter 144 for purposes of physical or mental health or rehabilitation, or in a chemical dependency domiciliary facility licensed under parts 9530.2600 to 9530.4000 or 4625.0100 to 4625.2300. Residence in the facility must be due to illness or incapacity and based on a plan developed or approved by the director of the local agency.

E. The applicant or recipient resides in a shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3.

F. The applicant or recipient is enrolled as a full-time student and is or may be eligible for displaced homemaker services, programs, or assistance under Minnesota Statutes, section 4.40.

G. The applicant or recipient is unable to communicate in the English language as assessed by an English as a second language specialist, a vocational specialist, or the local agency.

H. The applicant or recipient does not meet the condition in item A, B, or D but is medically certified as having mental retardation or mental illness.

I. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program, or a pending appeal of the denial of an application or termination from those programs.

J. The applicant or recipient is unable to obtain or retain suitable employment due to advanced age.

K. The applicant or recipient is completing high school.

L. The applicant or recipient is a minor child who resides with his or her parent or stepparent, or an adult who resides with one or more of his or her minor children or the minor children of his or her spouse.

M. The applicant or recipient meets one or more of the following:

(1) lives more than two hours round trip from all potential suitable employment, not including time needed to transport his or her children to and from child care;

(2) is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day;

(3) is in the last trimester of pregnancy;

(4) is evaluated by a vocational specialist or a vocational advisor and is found to be unable to obtain or retain suitable employment;

(5) exhibits severe symptoms of chemical dependency but refuses evaluation or treatment;

(6) exhibits evidence of severely diminished functioning in areas of daily living such as social skills or personal relations;

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(7) shows circumstances, at the time of application for general assistance, that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or anticipated receipt of income, and the applicant has not received general assistance under this condition for at least 60 days; or

(8) is completing a GED program, the time commitment of which precludes participation in work readiness.

N. The applicant or recipient is certified under part 3320.0025 [Emergency] by the commissioner of the Department of Economic Security before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment.

O. The applicant or recipient is medically certified as being learning disabled. For purposes of this item, "learning disabled" means the individual has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. It does not include learning problems that are primarily the result of visual, hearing, or motor handicaps; of mental retardation; of emotional disturbance; or of environmental, cultural, or economic disadvantage. The condition must severely limit the individual in obtaining, performing, or maintaining suitable employment.

P. The applicant or recipient is functionally illiterate. For purposes of this item, "functionally illiterate" means the individual is unable to read at or above the eighth grade level. An applicant or recipient shall be determined functionally illiterate according to subitems (1) to (3):

(1) The local agency may determine that the applicant or recipient is obviously functionally illiterate based on personal observations and information in the applicant's or recipient's case file.

(2) If an applicant or recipient is not determined to be functionally illiterate as provided in subitem (1), but the local agency believes that the applicant or recipient may be functionally illiterate, or if the applicant or recipient asserts or presents evidence that he or she may be functionally illiterate, the local agency shall offer the applicant or recipient the opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the applicant or recipient and in time to allow a determination of eligibility within the time limits prescribed under Minnesota Statutes, section 256D.07, that takes into account the results of the test. The local agency shall either administer the test or offer to make the arrangements for the test. If the applicant or recipient attains a score lower than the eighth grade, he or she shall be considered functionally illiterate unless the local agency determines, through compelling evidence documented in the applicant's or recipient's case file, that there is a substantial likelihood that the test result is inaccurately low.

(3) If, in accordance with subitem (2), the local agency determines that an applicant's or recipient's standardized test score is inaccurately low, the local agency shall inform the applicant or recipient that he or she may seek certification of the functional illiteracy from a licensed psychologist, or an individual licensed under parts 8700.3800, 8700.5300, 8700.5406, 8700.5500, 8700.5800, 8700.6300, or 8700.6310, or an individual with the equivalent or higher qualifications. The local agency shall provide the applicant or recipient with a list of individuals or agencies in the county who are qualified to make the certification. The applicant or recipient is considered functionally illiterate if the certification specifies that he or she cannot read at or above the eighth grade level.

Subp. 2. **Categories providing for six months of eligibility.** An applicant who is not eligible for general assistance under subpart 1, but who meets the conditions of part 9500.1209, subpart 4, as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986) and who has received six months of work readiness services and payments is eligible to receive general assistance for a maximum of six months during any consecutive 12-calendar month period if the conditions in item A or B are met:

A. the individual is medically certified as having borderline mental retardation, as defined in part 9500.1302, subpart 2; or

B. the individual is certified by a qualified professional, as defined in part 9500.1302, subpart 6, as exhibiting perceptible symptoms of mental illness and the mental illness interferes with medical certification of the individual's condition.

After issuing the monthly general assistance payment during the sixth and final month, the local agency shall provide the recipient with written notice of his or her termination from general assistance, of the right to appeal as specified in part 9500.1260, and notice that the recipient may be eligible for work readiness services and payments if he or she meets the criteria of part 9500.1306, subpart 3.

9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subpart 1. **Determination of ineligibility and right to appeal.** Upon determining that an applicant or recipient is ineligible for general assistance, the local agency shall inform the applicant or recipient of the determination and of the right to appeal the determination under Minnesota Statutes, section 256.045.

Subp. 2. **Work readiness notice.** Upon determining that an applicant or recipient is not eligible for general assistance because he or she does not meet a category of eligibility under part 9500.1258, the local agency shall inform the individual of the availability of its work readiness program and shall determine the individual's eligibility for services and payments under part 9500.1306, subpart 3. If an applicant or recipient is eligible for work readiness services and payments, he or she shall be informed that an appeal of the

general assistance determination of ineligibility may be made under Minnesota Statutes, section 256.045 while receiving work readiness services and payments. If the applicant or recipient subsequently wins the appeal, the assistance received under the work readiness program pending appeal must be considered general assistance. The local agency shall also inform the individual that eligibility for work readiness services and payments is time limited.

9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. **Requirements for continued eligibility for specific categories of ongoing eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 1, item G or L, and who is not eligible under another category of eligibility under part 9500.1258, must comply with the following requirements as conditions for continued eligibility.

A. Recipients who are eligible under part 9500.1258, subpart 1, item G shall participate in an English language skills program if assigned to a program by the local agency. If the recipient does not participate in the assigned English language skills program, the recipient must be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. Adult recipients who are eligible for general assistance under part 9500.1258, subpart 1, item L, must comply with the following:

(1) If all of the minor children are six years of age or older, the adults must participate in and comply with the work readiness program.

(2) If one or more of the minor children are under the age of six and two adults are eligible under part 9500.1258, subpart 1, item L, one adult must participate in and comply with the work readiness program.

(3) An adult who is required to participate in and comply with the work readiness program under subitem (1) or (2) who does not participate in and comply with the requirements of the work readiness program must be disqualified from general assistance as provided in part 9500.1266. The standard of assistance applicable to the disqualified member's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 2. **Requirements for continued eligibility under categories of six-month eligibility.** A recipient of general assistance whose eligibility is based on part 9500.1258, subpart 2 must comply with the following requirements to remain eligible for general assistance:

A. A recipient certified as exhibiting perceptible symptoms of mental illness as provided by part 9500.1258, subpart 2, item B must cooperate with social services, treatment, or other reasonable plans developed by the local agency to address the illness. If the local agency determines that the recipient has failed, without good cause, to comply with the plan, the recipient shall be disqualified from receiving general assistance as prescribed in part 9500.1266.

B. The local agency may assign a recipient who is eligible for general assistance under part 9500.1258, subpart 2 to the work readiness program for work readiness services. A recipient so assigned must comply with the work readiness program requirements established by the local agency. If the local agency determines that the recipient has failed, without good cause, to comply with work readiness requirements, the recipient is disqualified from receiving general assistance as provided in part 9500.1266.

9500.1264 NOTICE OF DISQUALIFICATION.

If the local agency determines that a recipient must be disqualified for failing to comply with the requirements of part 9500.1262, the local agency shall notify the recipient of the determination. The notice must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the recipient not later than ten days before reducing, suspending, or terminating the monthly payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

9500.1266 DISQUALIFICATION.

A recipient who fails, without good cause, to comply with the requirements of part 9500.1262, is disqualified from receiving general assistance as provided in items A to D.

A. The period of disqualification is two months for each occurrence.

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B. The disqualification period begins on the first calendar day of the month following the month in which the recipient is finally determined to have failed to comply. If the determination is made so late in a month that prior notice under part 9500.1264 cannot be given, the disqualification period begins on the first calendar day of the second month following the finding of noncompliance.

If the recipient appeals on or before the proposed disqualification date, the disqualification process must stop and assistance will continue under part 9500.1268 until a final decision is made. If the final decision is that the recipient is disqualified, the disqualification period begins on the first day of the month following the final decision.

C. If an individual who is disqualified applies for general assistance during the period of disqualification, the individual is considered a recipient and the application shall be denied.

D. If a recipient who received a notice of disqualification complies with the requirements of part 9500.1262, on or before the effective date of the disqualification, assistance must be continued without a period of disqualification.

9500.1268 APPEAL OF DISQUALIFICATION.

A recipient who is disqualified from receiving general assistance under part 9500.1266 may appeal the decision. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If appeal is made on or before the effective date of the disqualification and the recipient is otherwise eligible, he or she shall continue to receive general assistance while the appeal is pending.

9500.1270 SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

The local agency may provide general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if the applicant, recipient, or registrant does not have a residence address. The local agency may provide separate vouchers or vendor payments for food, shelter, and other needs and may divide the monthly assistance standard into daily or weekly payments, whether in cash or by voucher or vendor payment, until the applicant, recipient, or registrant has secured an address at which he or she resides. If the local agency elects to use these provisions, the local agency shall either provide for the individual's needs through placement in a negotiated rate facility, or provide for all of the individual's food, shelter, or other daily needs, regardless of the standard of assistance. For purposes of this part, "address" includes migrant labor camp as defined in part 4630.4800, subpart 3.

9500.1300 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 9500.1300 to 9500.1318 is to establish standards for the work readiness program provided to eligible registrants by local agencies.

Subp. 2. **Applicability.** Parts 9500.1300 to 9500.1318 apply to applicants and registrants in the work readiness program, to applicants and recipients of general assistance, and to local agencies that are required to administer the work readiness and general assistance programs under Minnesota Statutes, sections 256D.051, 256D.09, subdivision 4, 256D.101, and 256D.111, subdivision 5. Parts 9500.1300 to 9500.1318 must be read together with parts 9500.1200 to 9500.1270. When parts 9500.1300 to 9500.1318 conflict with parts 9500.1200 to 9500.1270, parts 9500.1300 to 9500.1318 prevail.

9500.1302 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9500.1300 to 9500.1318, the following terms have the meanings given them.

Subp. 2. **Borderline mental retardation.** "Borderline mental retardation" means the condition of an individual who has demonstrated deficits in adaptive behavior and intellectual functioning that is at least one but less than two standard deviations below the mean of a professionally-recognized standardized test. The condition must limit the individual in obtaining, performing, or maintaining suitable employment.

Subp. 3. **Distressed county.** "Distressed county" means a county or a designated portion of a county with an average unemployment rate of ten percent or more as determined annually by the commissioner of the Department of Jobs and Training.

Subp. 4. **Employment assistance programs.** "Employment assistance programs" means the Minnesota employment and economic development (MEED) program and other programs offered by public or private agencies that provide services to develop, enhance, or promote an individual's employability, job placement, and training.

Subp. 5. **Misconduct.** "Misconduct" means conduct that would result in the disqualification of a claimant for unemployment insurance benefits under Minnesota Statutes, section 268.09, subdivision 1, clauses (2) and (3).

Subp. 6. **Qualified professional.** "Qualified professional" means a social worker employed by the local agency, a social worker with a master's degree in social work, a licensed consulting psychologist, a licensed psychologist, a licensed physician or psychiatrist, or a public health nurse.

Subp. 7. **Registrant.** "Registrant" means an individual who has applied for work readiness services and payments, who has been

determined eligible for those services and payments by the local agency, and who has elected to begin receiving those services and payments. "Registrant" also means a recipient who is required to participate in the work readiness program under part 9500.1262.

Subp. 8. **Vocational advisor.** "Vocational advisor" means an individual employed by or under contract with the local agency who has sufficient education, training, or experience to identify the types of available suitable employment in a registrant's local labor market and the qualifications required for that employment; to identify the registrant's physical, social, vocational, and educational barriers to obtaining available suitable employment; and to identify the types of services and activities necessary to enable the registrant to overcome the barriers and obtain suitable employment.

9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION.

Subpart 1. **Requirement to provide a work readiness program.** Each local agency shall provide a work readiness program. The program must provide work readiness services and payments to all applicants residing within the local agency's jurisdiction who meet the eligibility conditions of part 9500.1306, and must provide work readiness services to adult recipients of general assistance who are eligible under part 9500.1258, subpart 1, item L. The local agency may continue to provide work readiness services to recipients of general assistance who are categorically eligible under part 9500.1258, subpart 2.

Subp. 2. **Preparation of work readiness program description.** Each local agency shall develop a written description of its work readiness program. The description must:

A. meet the standards established in part 9500.1252;

B. identify the work readiness program's purpose, service components, operating procedures, and service provider;

C. contain a summary of work readiness program requirements including a registrant's responsibility to cooperate when the local agency assesses the registrant's employability and prepares the registrant's employability development plan; and

D. state that a period of disqualification will be imposed for failure to comply with work readiness requirements.

Subp. 3. **Distribution of work readiness program description.** The local agency must give a copy of the work readiness program description to an applicant at the time he or she applies for general assistance or work readiness, and to any individual upon request.

Subp. 4. **Filing of program description.** The local agency must file a copy of its work readiness program description with the commissioner annually, on January 1. The local agency must also file a copy of amendments to its work readiness program description with the commissioner at the time it makes the amendments.

9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

Subpart 1. **Assessment of general assistance eligibility.** Before determining an applicant's eligibility for work readiness services and payments, the local agency must determine the applicant's need for emergency general assistance under Minnesota Statutes, section 256D.07, and the applicant's eligibility for the general assistance program under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the applicant is eligible for general assistance, the applicant is ineligible for work readiness services and payments except as provided in part 9500.1262, subparts 1, item B, and 2. If the applicant is ineligible for general assistance, the local agency shall notify the applicant of the determination and of the right to appeal the decision as provided under part 9500.1260.

Subp. 2. **Work readiness application.** A completed application for general assistance is considered to be a completed application for the work readiness program effective on the date that the local agency determines the applicant ineligible for general assistance. A registrant shall not be required to complete a new application for general assistance when the local agency is determining the registrant's eligibility for general assistance under part 9500.1316, subpart 2, or 9500.1258, subpart 2.

Subp. 3. **Eligibility criteria.** If the local agency determines that the applicant is ineligible for general assistance, it must determine the applicant's eligibility for the work readiness program. An applicant or registrant is eligible for the work readiness program if the applicant or registrant meets the conditions in items A to D:

A. The applicant or registrant is not categorically eligible for general assistance under part 9500.1209, subpart 3, item A as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986).

B. The applicant or registrant meets the eligibility requirements under part 9500.1209, subpart 4 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the applicant or registrant is married and resides with his or

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her spouse, the income and property of the applicant or registrant and his or her spouse shall be considered in accordance with part 9500.1209, subpart 4, as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986).

C. The applicant or registrant has not exhausted his or her eligibility period as provided by part 9500.1312.

D. The applicant or registrant is not in a disqualification period under part 9500.1254, 9500.1266, or 9500.1316.

9500.1308 REQUIREMENT TO INFORM APPLICANTS.

Subpart 1. **Duty to inform applicants of ineligibility for the work readiness program.** Upon determining an applicant ineligible for the work readiness program, the local agency must inform the applicant of the determination and the right to appeal as provided in part 9500.1318.

Subp. 2. **Duty to inform eligible applicants of work readiness requirements.** At the time the local agency determines that an applicant is eligible for the work readiness program, the local agency must provide the applicant with a notice of the determination on a form prescribed by the commissioner, a copy of the program description prescribed under part 9500.1304, subpart 2, and a written notice meeting the standards established in part 9500.1252, which informs the applicant of:

A. the limited time during which the applicant may be eligible for work readiness services and payments;

B. the applicant's right to choose the months in which he or she will receive work readiness services and payments, including the option to elect to receive work readiness services and payments immediately; and

C. the disqualification that will be imposed if a registrant is terminated from suitable employment for misconduct, quits suitable employment without good cause, refuses without good cause to accept an offer of suitable employment, or fails, without good cause, to comply with other work readiness program requirements.

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subpart 1. **Requirement of concurrent services and payments.** In order for a monthly work readiness payment or a month of work readiness services to count toward the two or six month limitation on eligibility for the work readiness program, as provided by part 9500.1312, the registrant must receive work readiness services during the month that work readiness payments are made. Upon an eligible applicant's election to begin receiving work readiness services and payments, the local agency shall provide the services and payments to the registrant. If the written employability assessment and the employability development plan are not completed within the first month of an election to receive work readiness services or payments, that month must not be counted against a registrant's total months of work readiness eligibility, provided the registrant did not fail, without good cause, to cooperate with the assessment and plan development. A month during which a registrant fails to comply with the requirements of the work readiness program but for which the registrant receives a work readiness payment shall be considered a month during which work readiness services and payments were received.

Subp. 2. **Work readiness services.** The following services must be provided to a work readiness registrant;

A. In consultation with the registrant, a vocational advisor shall complete a written employability assessment. The assessment must include an examination of the registrant's education, training, prior work experience, and suitable employment that is or may become available, and must identify barriers to the registrant successfully seeking and securing suitable employment.

B. The vocational advisor shall develop a written employability development plan for each registrant within the first 30 days that work readiness services are provided to a registrant. The plan must be based on the assessment provided under item A and the vocational advisor's knowledge of the level of competition for employment that is or may become available, and must be designed to address the registrant's barriers to employment and prepare the registrant for suitable employment. The registrant must be given a copy of his or her plan and the plan must:

(1) include an estimation of the length of time it will take the registrant to obtain suitable employment;

(2) require the registrant to accept any offer of suitable employment;

(3) provide for referral to appropriate employment assistance programs;

(4) require a registrant to spend at least eight but no more than 32 hours per week in job search or other work readiness activities;

(5) specify that the registrant's job search requirements, which must be limited to the local labor market, must be reasonable, and must be based upon the assessment performed under item A;

(6) specify any other reasonable activities designed to prepare the registrant for permanent suitable employment that are required of the registrant; and

(7) include provisions for assessing the registrant's progress in securing suitable employment.

C. No work readiness program shall require a registrant to travel to a potential job, training, or other activity site unless the local agency provides funds to the registrant, in addition to the monthly program payment, to cover the cost of the transportation or unless transportation is otherwise available to the registrant without cost, or is unnecessary.

D. A registrant who is categorically eligible under part 9500.1258, subpart 1, item L, and who is the sole parent or stepparent residing with one or more children under the age of 12 shall not be required to participate in any work readiness program activities during hours in which the child is at home unless the local agency provides funds to the registrant, in addition to the monthly program payment, to cover the cost of child care, or unless child care is otherwise available to the individual without cost.

E. A local agency that requires a registrant to participate in any type of employment experience program shall require that the employment experience program meet the standards established in Minnesota Statutes, section 256D.113, and that the work to be done is not work ordinarily performed by a regular public employee.

F. A local agency may contract with a public or private entity to perform any or all of the services prescribed by this subpart if the entity can document that it has the resources and expertise necessary to perform the services. A contract entered into under this item must contain a description of the services to be performed under the contract. The local agency must monitor the entity to ensure that it is performing the services required under this subpart and specified in the contract. Upon request, the local agency shall provide the department with a copy of the contract and a description of the resources and expertise of the entity under contract with the local agency.

Subp. 3. **Work readiness payments.** A registrant who meets the eligibility conditions of part 9500.1306, subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility. If the registrant is married and lives with his or her spouse, the couple is considered a filing unit comprised of two individuals. If the registrant's spouse is also a registrant, the couple shall be considered one assistance unit composed of two persons for purposes of determining the applicable standard of assistance, the amount of countable income, the amount of real and personal property, and the monthly work readiness payment amount.

The payment amount must be equal to the amount of assistance that would be paid to the registrant's assistance unit if the assistance unit was eligible for general assistance under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986). If the registrant resides with his or her spouse and the spouse receives general assistance, the monthly work readiness payment to the registrant under this part must be equal to the amount the general assistance monthly payment made to the registrant's spouse would increase if the registrant were added to the spouse's general assistance grant.

The first work readiness payment must be prorated for the period beginning with the effective date of the completed application for the work readiness program, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services and payments, whichever is later, and ending with the last day of that month. Subsequent work readiness payments must be made monthly on the first day of the month. A registrant shall continue to receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306. The final payment must be prorated to cover the number of days equal to the number of days in the registrant's first month of work readiness services and payments which were not covered by the registrant's first work readiness payment. Emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

9500.1312 ASSESSMENT DURING SECOND MONTH; NOTICES TO REGISTRANTS.

Subpart 1. **Required assessment.** Except for registrants participating in work readiness under part 9500.1262, the local agency shall conduct an assessment of the registrant's progress in securing suitable employment and an assessment of the registrant's eligibility for an additional four months of work readiness services and payments during the registrant's second month of work readiness services and payments under part 9500.1310.

The local agency must offer the registrant an opportunity to meet with the local agency and to provide information relevant to the assessment. If the registrant does not meet with the local agency or provide information relevant to the assessment, the local agency must complete the assessment based on the information contained in the registrant's case file.

Subp. 2. **Notice of assessment.** When the second work readiness payment is mailed or given to the registrant, the local agency shall provide a written notice meeting the standards established under part 9500.1252 to inform the registrant that the local agency will be assessing the registrant's eligibility for an additional four months of work readiness services and payments. The notice must include the following:

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A. The notice must identify the conditions that must be met in order for the registrant to be eligible for an additional four months.

B. The notice must inform the registrant that the registrant will not receive work readiness payments beyond the second month until the assessment has been completed and the registrant found eligible for four additional months.

C. The notice must offer the registrant an opportunity to meet with the local agency in order to provide information relevant to the assessment.

D. The notice must inform the registrant that the registrant has a right to submit to the local agency information relevant to the determination within ten days from the date that the notice is mailed or given to the registrant.

Subp. 3. **Assessment of additional eligibility.** A registrant is eligible for four additional months of work readiness services and payments if the registrant meets one or more of the following conditions:

A. The registrant lives in a distressed county.

B. The registrant is medically certified as having borderline mental retardation.

C. The registrant is certified by a qualified professional as exhibiting perceptible symptoms of mental illness but the registrant is not eligible for general assistance under part 9500.1258, subpart 1, because the mental illness interferes with the medical certification process.

D. The registrant, as determined by a vocational advisor, cannot reasonably be expected to secure suitable employment given the registrant's work history, skills, education, physical and mental ability, and the availability of suitable employment.

If the local agency believes that the registrant may have borderline mental retardation, or if the registrant or a representative of the registrant asserts that he or she has borderline mental retardation, the local agency shall seek medical certification of the registrant's condition. If medical certification establishes that the registrant has borderline mental retardation, the condition in item B is met.

If the registrant's behavior, mood, conduct, or appearance suggests or demonstrates that the individual has a mental illness, or if the registrant or a representative of the registrant asserts that the registrant has a mental illness, the local agency shall seek medical certification of the registrant's condition. If the registrant's mental illness interferes with the medical certification, the local agency shall seek an assessment of the registrant's condition from a qualified professional. If the qualified professional certifies that the registrant exhibits symptoms of mental illness, the condition in item C is met.

Subp. 4. **Notice of determination.** If the local agency determines through the assessment that the registrant meets one or more of the conditions in subpart 3, items A to D, the local agency must notify the registrant that he or she is eligible for work readiness services and payments for a combined total of six months in any consecutive 12-calendar month period. If the local agency determines, upon completion of the assessment under subpart 1, that the registrant does not meet one or more of the conditions in subpart 3, items A to D, the local agency must terminate the registrant's work readiness services and payments effective at the end of the registrant's second month of participation in the work readiness program. If the local agency determines that the registrant is ineligible for continued work readiness services and payments, the local agency shall notify the registrant of its determination and that the registrant is not eligible to receive work readiness services and payments for more than two months during any consecutive 24-calendar month period.

Subp. 5. **Registrant moves to another county after second month assessment is completed.** If a registrant moves to another county after the second month assessment required under subpart 1 is completed, the new county of residence must complete another second month assessment and determine the registrant's eligibility for additional work readiness services and payments. A registrant shall not receive more than a total of six months of work readiness services and payments in any consecutive 12-month period, regardless of the number of assessments conducted.

Subp. 6. **Notice of termination.** A registrant who is in the last month of his or her two or six months of work readiness services and payments shall be notified of the termination of services and payments and of the appeal rights in accordance with the procedures specified in part 9500.1318.

9500.1314 REGISTRANT DUTIES.

A registrant shall comply with all requirements of the local agency work readiness program as explained under part 9500.1308, subpart 2, and specified in the employability development plan provided under part 9500.1310, subpart 2, item B. Except for registrants participating in work readiness under part 9500.1262, a registrant who fails, without good cause, to comply with the local agency work readiness requirements shall be disqualified from the receipt of work readiness services and payments under part 9500.1316.

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1. **Determination and notice of failure to comply.** If a local agency determines that a registrant has failed to comply with the requirements of the work readiness program, the local agency must notify the registrant of its determination. The notice must

meet the standards established in part 9500.1252, and must contain the information in items A to E.

A. The notice must state the specific work readiness requirement the registrant has failed to meet and the facts that support the local agency's determination.

B. The notice must specify the particular action the registrant must take to meet the requirements.

C. The notice must specify a certain date by which the action must be taken. The registrant must be given a minimum of 15 calendar days to take the specified action following the date the notice is mailed or given to the registrant.

D. The notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date.

E. The notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency.

Subp. 2. **Disqualification.** A registrant who is notified of the local agency determination as provided in subpart 1 shall comply with the requirements of the work readiness program as stated in the notice by the specified date.

If the local agency determines that a registrant has taken the required action on or before the date specified in the notice, a period of disqualification must not be imposed. If the local agency determines that the registrant failed, without good cause, to take the required action by the specified date, the local agency must assess the registrant's eligibility for general assistance under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986), before disqualifying the registrant for not meeting the requirements.

If the local agency determines that the registrant is eligible for general assistance, the registrant shall be terminated from work readiness services and payments and shall be eligible for general assistance.

If the local agency determines that the registrant is ineligible for general assistance under part 9500.1209 as proposed at *State Register*, Volume 10, Number 36, pages 1803-1804 (March 3, 1986), the registrant shall be disqualified from receiving work readiness services and payments.

Subp. 3. **Notice of disqualification.** The local agency shall notify the registrant of the disqualification from receiving work readiness services and payments under subpart 2 and of the registrant's appeal rights as provided in part 9500.1318.

Subp. 4. **Period of disqualification.** A registrant disqualified under subpart 2 is ineligible during the period of disqualification for any remaining or additional work readiness services or payments for which he or she would otherwise be eligible in accordance with the provisions in items A to F.

A. The period of disqualification shall be two months.

B. The disqualification period begins on the first day of the work readiness payment period following the date on which the determination was made. If the notice of disqualification is given or mailed so late in a payment period that ten-day prior notice required under part 9500.1318 cannot be given, the disqualification period begins on the first day of the second work readiness payment period following the date the determination was made. If the registrant appeals on or before the proposed disqualification date, the disqualification process must stop and work readiness payments and services must continue until a final decision is made or until the registrant's period of eligibility is exhausted, whichever is earlier. If the registrant loses the appeal, the disqualification period must begin on the first day of the next work readiness payment period.

C. If an individual who is disqualified applies for the work readiness program during the period of disqualification, eligibility for work readiness services and payments must be denied.

D. Disqualification under subpart 2 must not affect a registrant's eligibility for general assistance or general assistance medical care.

E. The period of disqualification under subpart 2 must not be counted against a registrant's two months or six months of work readiness eligibility. Following a period of disqualification a registrant who has been disqualified under subpart 2 must complete a new application for work readiness and the local agency must determine if the registrant is eligible for any additional or remaining work readiness services or payments.

F. If a registrant is disqualified under subpart 2, the local agency may use vouchers and vendor payments, or both, to meet

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the financial needs of the remaining eligible members of the registrant's assistance unit. The assistance standard used must be based on the number of remaining eligible members in the registrant's assistance unit.

9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

Subpart 1. **Actions requiring notice.** The local agency shall notify an applicant or registrant of the following determinations before taking any adverse actions:

A. a determination of ineligibility for work readiness services or payments under part 9500.1306, subpart 3;

B. a determination of ineligibility for four additional months of work readiness services or payments under part 9500.1312, subpart 1;

C. a determination of disqualification from receiving work readiness services and payments under part 9500.1316, subpart 2; and

D. a determination that the registrant has exhausted eligibility to receive work readiness services and payments under part 9500.1312, subpart 3.

Subp. 2. **Notice requirements.** The notice required under subpart 1 must meet the standards established in part 9500.1252, and must:

A. be in writing on a form prescribed by the commissioner;

B. be mailed or given to the applicant or registrant no later than ten days before the suspension, termination, or reduction of the work readiness payment; and

C. clearly state what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which work readiness services and payments can be continued pending an appeal.

Subp. 3. **Appeal of adverse action.** An applicant or registrant who is the subject of an adverse action under subpart 1 may appeal the local agency determination. The appeal must be a written request for a hearing submitted to the department or the local agency under Minnesota Statutes, section 256.045. If a registrant appeals on or before the effective date of the adverse action, the registrant, if otherwise eligible, shall continue to receive work readiness services and payments while the appeal is pending. If the registrant's appeal of an action specified under subpart 1, item A, B, or D is not upheld, the registrant shall pay back to the local agency the amount of work readiness payments received during the pendency of the appeal.

Bureau of Mediation Services

Proposed Rule Relating to Transfer of Exclusive Representative Status

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Director, Bureau of Mediation Services, proposes to amend the above-entitled rules without a public hearing. The Director has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

Persons interested in this rule are encouraged to submit comment in support of or in opposition to the proposed rule and shall have 30 days to do so. Each comment should identify the portion of the proposed rule being addressed, the reason the comment is being made, and any changes in the proposed rule which are being suggested. The proposed rule may be modified if the modifications are supported by the date and comments received by the Bureau and do not result in substantial change in the intent and purpose of the proposed rule.

Unless 25 or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing must state their name and address, and are encouraged to identify the portion of the proposed rule addressed by their request, the reason for the request, and any changes in the proposed rule which are being suggested. In the event a public hearing is required, the Bureau will proceed pursuant to Minnesota Statutes, sections 14.11-14.20.

Comments or written requests for a public hearing on these proposed rules should be submitted to:

Paul W. Goldberg, Director
Minnesota Bureau of Mediation Services
205 Aurora Avenue
St. Paul, MN 55103
(612) 296-2525

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF THE STATE OF MINNESOTA DEPARTMENT OF HUMAN SERVICES RULES GOVERNING GENERAL ASSISTANCE CATEGORIES OF ELIGIBILITY AND THE WORK READINESS PROGRAM, PARTS 9500.1200, 9500.1206, 9500.1258 TO 9500.1270, AND 9500.1300 TO 9500.1318 (PROPOSED).

STATEMENT OF NEED AND REASONABLENESS

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The proposed rules, parts 9500.1258 to 9500.1270, govern general assistance categories of eligibility. The authority for the establishment of these rules is found in Minnesota Statutes, sections 256D.04, paragraph (2); 256D.05, subdivision 1; 256D.09, subdivision 4; and 256D.10. The proposed rules, parts 9500.1300 to 9500.1318, govern the work readiness program. The authority for the establishment of these rules is found in Minnesota Statutes, sections 256D.051; 256D.101; and 256D.111, subdivision 5. Amendments have also been proposed that will expand the scope of parts 9500.1200 and 9500.1206, and insure uniform statewide administration of the general assistance and work readiness programs, as required under Minnesota Statutes, section 256D.04, paragraph (2).

BACKGROUND

In 1985 the legislature modified provisions in Minnesota Statutes, section 256D.05, subdivision 1, and created general assistance categories of eligibility. At the same time, the legislature established a work readiness program under the provisions of Minnesota Statutes, sections 256D.051, 256D.101, and 256D.111. The department promulgated emergency rules, Minnesota Rules, parts 9500.1100 to 9500.1107 [Emergency] and 9500.1210 to 9500.1221 [Emergency], to implement these provisions. The proposed permanent rules are needed to replace and make permanent the rules authorized by the 1985 legislature.

The department provided numerous opportunities for public comment during the development of the proposed permanent rules. A notice of solicitation of outside opinion was published in the State Register on December 2, 1985. In addition, the General Assistance County Panel and the General Assistance Rules Public Advisory Committee met in December 1985, and January, 1986, to review and offer comments on the proposed rules. The proposed rules are based largely on the emergency rules which have been in effect since September, 1985. Modifications have been made in the proposed rules based on the experience of the counties and the department in implementing the emergency rules.

The proposed rules governing general assistance categories of eligibility include categories of ongoing general assistance eligibility and categories that provide six months of general assistance eligibility; notice provisions that require the local agency to provide individuals who are determined ineligible for general assistance with information about work readiness; requirements for continued eligibility; provisions, including notice and appeal provisions, governing disqualification for failure to comply with the requirements for continued eligibility; and provisions governing the use of special voucher or vendor payments to individuals who do not have a residence address.

The proposed rules governing the work readiness program include definitions of terms not used in the general assistance program; provisions governing the local agency's responsibility to provide a work readiness program and to provide a work readiness program description; provisions governing the work readiness application process, and work readiness eligibility criteria; provisions specifying the information local agencies are required to provide to applicants and registrants; provisions governing the local agency's assessment of a registrant to determine whether the registrant is eligible for four additional months of work readiness services and payments, and provisions governing the notices the local agency is required to provide to registrants; provisions governing a registrant's duty to comply with work readiness requirements; and provisions, including notice and appeal provisions, that govern disqualification for failure to comply with work readiness program requirements.

Minnesota Rules, part 9500.1200, describes the purpose and applicability of the rules governing the general assistance program. Minnesota Rules, part 9500.1206, provides definitions of terms used throughout the general assistance program. The department has proposed modifications to several definitions in part 9500.1206, and proposes to expand the scope of both part 9500.1200 and 9500.1206 to include the proposed rules governing general assistance categories of eligibility, parts 9500.1258 to 9500.1270, and the proposed rules governing the work readiness program, parts 9500.1300 to 9500.1318.

The need for and reasonableness of the specific rule provisions are established in the following statement of need and reasonableness.

PART 9500.1200 PURPOSE AND APPLICABILITY.

Subpart 1. Purpose.

Part 9500.1200 states the purpose and applicability of the rule parts that govern the general assistance program. It is necessary to modify subpart 1 because the range of rules relating to general assistance has expanded. It is reasonable to modify this subpart to include the proposed rule parts governing general assistance categories of eligibility because it insures that interested parties will be aware of all rule parts that may affect their rights and responsibilities under the general assistance program.

Subpart 2. [No change]

PART 9500.1206 DEFINITIONS.

Part 9500.1206 contains definitions of terms that apply to the general assistance program. To maintain consistency throughout the program, the department is proposing to amend this rule part by expanding its scope, adding one definition, and modifying one other definition. The department has not proposed modifications to subparts 2 to 31 and subpart 33, and the text of these subparts has not, therefore, been printed.

Subpart 1. Scope. This subpart is necessary to establish the range of rule parts these definitions apply to. It is necessary to modify this subpart because the range of rules governing the general assistance program has expanded. It is reasonable to apply the same definitions to the rules governing categories of eligibility and the work readiness program because it insures consistent administration of the total general assistance program and it insures that the work readiness program will be compatible with the general assistance program where the two programs overlap.

Subparts 2 to 31. [No change]

Subpart 19a. Local labor market. It is necessary to add a definition of the term "local labor market" to these definitions because it has a specific meaning as used in parts 9500.1200 to 9500.1270 and 9500.1300 to 9500.1318. This definition of local labor market was developed and adopted as part of the emergency rules governing the work readiness program. The department has received no negative comments on the definition and believes it establishes a reasonable limit on the geographic area in which a recipient or registrant can be required to look for work, or within which a recipient or registrant can be required to accept employment.

Subpart 32. Suitable employment. It is necessary to modify the definition of this term to establish standards governing which jobs a recipient or registrant may be required to seek or accept. It is reasonable to add the concept of "local labor market" to the definition of this term because it insures that a recipient or registrant may not be required to accept a job that requires him or her to commute for over two hours a day to and from the job site. This travel limitation has been used in emergency rules governing general assistance categories of eligibility and emergency rules governing the work readiness program, and is also consistent with emergency rules adopted by the Department of Jobs and Training which govern employment and training services to public assistance recipients.

Item C. It is reasonable to require a recipient or registrant to accept a job if the job provides sufficient earnings to enable the recipient or registrant to meet his or her basic needs from earnings. Employment that pays wages equal to or greater than the standard of assistance permits the recipient or registrant to provide for himself or herself and eliminates the need for general assistance or work readiness. Employment that provides at least 60 hours of work at minimum wage monthly does equal the monthly standard of assistance of $201 for a single person. However, under the work readiness and general assistance programs, an applicant or recipient is also allowed to deduct the first $50 of earned income and other employment expenses to determine his or her "countable income." A job would therefore have to provide more than 60 hours of work at minimum wage monthly (or over $251) to equal or exceed the $201 monthly standard of assistance plus the $50 earned income disregard and employment expenses.

It is reasonable to increase the number of hours of work per month from 60 to 80 in this item because this number of hours will provide the recipient or registrant with earnings that equal or exceed the standard of assistance applicable to a single individual and will likely eliminate the individual's need for general assistance or work readiness. A minimum wage job that provides 80 hours of work per month will insure income of $267 per month. This provides income equal to the sum of 1) the $201 standard of assistance; 2) the $50 earned income disregard; and 3) $16 for the expenses of employment. This change is also reasonable because it reflects a recommendation made during an Advisory Committee meeting by Steve Swanson, Legal Services Advocacy Project, to increase the number of hours to 20 hours per week, which is equivalent to 80 hours per month.

Item D. Minnesota Statutes, section 256D.051, subdivision 3, requires a recipient or registrant to "accept any suitable employment, including employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other training and employment options." It is necessary and reasonable to make this change to the definition in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 3, and to create a uniform rule consistent with law as required by Minnesota Statutes, section 256D.04, clause (2).

Subpart 33. [No change]

PART 9500.1258 CATEGORIES OF ELIGIBILITY.

Minnesota Statutes, section 256D.05, subdivision 1 establishes categories of people who are eligible for general assistance provided that their income and resources are less than the standard of assistance established by the commissioner. Part 9500.1258 is needed to implement this statute. Specifying these categories in rule is reasonable because it ensures that local agencies and other people affected by the statute are informed of their rights and responsibilities under this statute. It is also necessary to add specific conditions under which persons must be found categorically eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, in order to insure that the categories are applied uniformly and general assistance is administered as uniformly as possible throughout the state as required under Minnesota Statutes, section 256D.04, clause (2).

Subpart 1. Categories of ongoing eligibility. This subpart specifies the conditions that must be assessed by a local agency under part 9500.1209, subpart 3 in order to determine whether or not each member of a filing unit is eligible for general assistance in accordance with Minnesota Statutes, section 256D.05, subdivision 1, clause (a), paragraphs (1) to (14). The need for and reasonableness of each item is discussed below.

Item A. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1) states that a person shall be categorically eligible for general assistance if the person "is suffering from a permanent or temporary illness, injury or incapacity which is medically certified and which prevents the person from obtaining or retaining employment." It is necessary to divide this category of eligibility into two items in order to clarify and make more specific the meaning of "temporary." Item A, therefore, covers only

"permanent illness, injury, or incapacity," while "temporary illness, injury, or incapacity," is covered in Item B. This division is reasonable because it does not, in and of itself, alter the meaning of the statutory language while it does enable the addition of needed specificity in item B.

It is necessary to replace the word "employment" in item A, with the term "suitable employment" which is defined in part 9500.1206, subpart 32, because it insures that the term will be given a consistent interpretation throughout the general assistance program. This modification is reasonable because it insures that when an individual with a permanent illness, injury, or incapacity can only obtain employment that is excessively dangerous, more than two hours travel time from his or her home, beyond his or her ability to perform, or pays less than the standard of assistance, the individual will not be denied categorical eligibility for general assistance. This modification is also reasonable because item A has been used successfully in the same context in part 9500.1102 [Emergency], during which time the department has received no adverse comments.

Item B. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1) states that a person shall be categorically eligible for general assistance if the person "is suffering from a permanent or temporary illness, injury or incapacity which is medically certified and which prevents the person from obtaining or retaining employment." It is necessary to divide this category of eligibility into two items in order to clarify and make more specific the meaning of "temporary." Item B covers only "temporary illness, injury, or incapacity." This division is reasonable because it does not, in and of itself, alter the meaning of the statutory language while it does enable the addition of needed specificity in item B.

It is necessary to replace the word "employment," in item B, with the term "suitable employment" which is defined in part 9500.1206, subpart 32 because it insures that the term will be given a consistent interpretation throughout the general assistance program. This modification in the statutory language is reasonable because it insures that when an individual with a temporary illness, injury, or incapacity is only able to obtain employment that is excessively dangerous, more than two hours travel time beyond his or her home, beyond his or her ability to perform, or that pays less than the standard of assistance, the individual will not be denied categorical eligibility for general assistance. This item, as modified, is also reasonable because it has been functioning successfully in the same context in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

The term "temporary" in Minnesota Statutes, section 256D.05, subdivision 1, clause (a), paragraph (1) is open to a broad range of interpretations. It is therefore necessary to define the term more precisely in order to achieve administrative uniformity in the general assistance program. To achieve a precise definition, it is necessary to establish both a lower and an upper limit on the period of time encompassed by the term "temporary." The department, in consultation with the General Assistance Rules Public Advisory Committee and local agency representatives on the General Assistance County Panel, has chosen 15 days as a reasonable lower limit on the meaning of the term "temporary" so that very brief incapacities do not generate categorical eligibility for general assistance. The upper limit on eligibility due to

temporary illness, injury, or incapacity is the duration of the illness, injury, or incapacity. These limits are reasonable because they prevent brief incapacities from generating long term eligibility for general assistance, while allowing eligibility for general assistance to cover the entire period of time that the person is prevented from obtaining or retaining suitable employment. These limits have been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1) requires medical certification of the illness, injury, or incapacity that generates eligibility for general assistance. Medical certification is defined in part 9500.1206, subpart 20. Because the upper limit on the period of eligibility under this paragraph is defined in terms of the duration of the illness, injury, or disability, it is necessary to ensure that the applicant or recipient does not prolong the illness, injury, or incapacity, in order to extend his or her period of eligibility. It is therefore reasonable to state that when a medical certification specifies a rehabilitation plan, the applicant or recipient must follow that plan to be eligible for general assistance. This requirement has been functioning successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item C. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (2), states that a person shall be categorically eligible for general assistance if the person's "...presence in the home on a substantially continuous basis is required because of the certified illness, injury, or incapacity or age of another member of the household." Item C is needed to implement this statutory provision, and to provide clarity to the category.

It is necessary to specify who must "certify" the illness, injury or incapacity to insure uniform administration of item C throughout the state. It is reasonable to replace the word "certification" with the term "medical certification" because medical certification is defined in part 9500.1206, subpart 20, and the use of this defined term insures that the certification will be done by a professional who is qualified to diagnose or certify the person's condition.

It is necessary to require that the person who needs care must reside with the applicant or recipient to be consistent with the statute, which states that the applicant or recipient and the person needing care must be members of the same "household." This requirement provides clarification of the statute and has been shown to be reasonable over time in that it has been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Additional clarification of the language in Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (2), is needed because the statute does not specify how the local agency must determine that the individual being cared for actually needs the care that generates eligibility under this category. It is reasonable to require that the medical certification of illness, injury or incapacity must state that the individual requiring care is unable to care for himself or herself because this places judgment of the need for care in the hands of a professional who is qualified

to diagnose or certify the person's condition, and who has no interest in the outcome of the judgment. This requirement is reasonable because it has been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item D. Minnesota Statutes, section 256D.05, subdivision (1), paragraph (a), clause (3), states that a person shall be categorically eligible for general assistance if the person "...has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency...." Item D is needed to implement this statutory provision. It is necessary to add specific references that identify the authority under which the facilities identified in this category must be licensed in order to create clarity, and to insure uniform administration of this provision throughout the state. The references provided in Item D are reasonable because they have been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item E. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (4) states that a person is categorically eligible for general assistance if the person "...resides in a shelter facility described in subdivision 3." Item E is needed to implement this statutory provision. It is necessary to state both the nature of the shelter facility and the complete statutory reference in item E in order to create clarity and to insure a uniform understanding of the provision. The specification "shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3" is reasonable because Minnesota Statutes, section 256D.05, subdivision 3 describes only facilities for battered women. This language has been shown to be reasonable over time in that it has been used successfully in part 9500.1102 [Emergency] during which time no adverse comments have been received by the department.

Item F. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (5) states that a person shall be categorically eligible for general assistance if the person "...is or may be eligible for displaced homemaker services, programs, or assistance under section 4.40, but only if that person is enrolled as a full-time student." Item F is needed to implement this statutory provision. Item F is reasonable because it is fully consistent with the statute, and the language in item F has been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item G. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (6) provides eligibility for general assistance for "a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program." Item G is needed to implement this statutory provision.

For purposes of clarity, it is necessary to include the requirement of participation in a language skills program in part 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY, subpart 1, item A rather than to include the requirement under item G. This division of the statutory material is

reasonable because the initial assessment of eligibility for general assistance under part 9500.1258 cannot properly include continuing compliance requirements that are only imposed after eligibility is determined.

The statute does not specify how the applicant's or recipient's inability to communicate in English shall be determined. Such specification is needed to insure uniform administration of this provision throughout the state, as required under Minnesota Statutes, section 256D.04 paragraph (2). Item G specifies that the determination of inability to communicate in English may be made by an English as a second language specialist, a vocational specialist, or the local agency. This is reasonable because while it does not allow mere assertion by the applicant or recipient to create eligibility, it allows latitude for determination by either a qualified professional or by the local agency, which must deal with the applicant or recipient on a day-to-day basis. Should the local agency find that the applicant or recipient can communicate adequately in English, the option of an independent determination by a qualified professional in the field of English as a second language is available to the applicant or recipient.

Item H. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (7) states that a person shall be categorically eligible for general assistance if the person "...is diagnosed by a licensed physician or licensed consulting psychologist as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment." Item H is necessary in order to implement the provisions of this statute. It is reasonable to include these provisions in the rules because they are consistent with statute and they inform affected parties of program policies and procedures.

Item I. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (8) states that a person shall be categorically eligible for general assistance if the person "...has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, or who has been terminated from either program and has an appeal from that termination pending." Item I is necessary in order to implement the provisions of this statute and to inform affected parties of program policies and procedures.

Minnesota Statutes, section 256D.05, subdivision 5, requires certain general assistance applicants or recipients to apply for other maintenance benefit programs, and requires local agencies to provide special services to applicants or recipients who apply to the Supplemental Security Income program. Under this statute and the rules that implement it (Minnesota Rules, parts 9500.1254 to 9500.1256), the special services must be continued throughout an applicant's appeal of a denial. Language has been added to item I to provide eligibility for applicants or recipients pending the appeal of a denial of an application for the social security disability program or the supplemental security income program. This language is needed to insure that the provisions under part 9500.1258 do not undermine the intent of the provisions under parts 9500.1254 to 9500.1256. Eligibility for applicants or recipients who have an appeal pending for these other maintenance benefit programs is reasonable because it creates the necessary consistency between the provisions of statutes and rules.

Item J. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (9) states that a person shall be categorically eligible for general assistance if the person "...is unable to obtain or retain employment because advanced age significantly affects his or her ability to seek or engage in substantial work." Item J is needed in order to implement the provisions of the statute and to inform affected parties of program policies and procedures.

It is necessary to replace the word "employment" in item J with the term "suitable employment," which is defined in part 9500.1206, subpart 32, because it insures that the term will be given a consistent interpretation throughout the general assistance program. This modification is reasonable because it insures that when an individual who, because of advanced age, can only obtain employment that is excessively dangerous, more than two hours travel time from his or her home, beyond his or her ability to perform, or that pays less than the standard of assistance, the individual will not be denied categorical eligibility for general assistance. This modification is also reasonable because it has been functioning successfully in the same context in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item K. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (10) states that a person shall be categorically eligible for general assistance if the person "...is completing a secondary education program." Item K is necessary to implement this provision of the statute. It is reasonable to specify that the applicant or the recipient must be completing "high school" because "high school" is commonly defined as a "secondary school," making this provision consistent with Minnesota Statutes, sections 120.05, subdivision 2, clause (3), and 256D.05, subdivision 1, paragraph (a), clause (10).

Item L. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11) provides categorical eligibility for general assistance for "a family with one or more minor children." Item L is needed to implement the provisions of the statute and to inform affected parties of program policies and procedures.

For purposes of clarity, statutory requirements for participation in the work readiness program for recipients who are eligible under item L have been included under part 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY, subpart 1, item B rather than included under item L, of part 9500.1258. This division of the statutory material is reasonable because the initial assessment of eligibility for general assistance under part 9500.1258 cannot properly include continuing compliance requirements that are only imposed after eligibility has been determined.

Clarification of which persons are eligible for general assistance under this clause is necessary to create consistency among rule parts, as detailed below.

To define and implement standards of assistance in rule, as required by Minnesota Statutes, section 256D.05, subdivision 1, and to do so consistently with Minnesota Statutes, section 256D.15, RELATIVE'S RESPONSIBILITY, the concepts of "filing unit" at part 9500.1205, subdivision 11, and "assistance unit" at part 9500.1205, subdivision 5, have been developed. Other rule parts

specify how membership in filing units and assistance units is to be determined (part 9500.1209, subdivisions 2 and 3, respectively). The statutory provisions governing the financial responsibility of relatives established by Minnesota Statutes, section 256D.15 are reflected in the definition of filing unit, which includes only those family members who can be connected by relationships of financial responsibility.

In general, a filing unit includes those persons who live together and who would ordinarily be considered the "immediate" family, or the "nuclear" family, with two exceptions: a) those members of an immediate family who are eligible for emergency aid to families with dependent children or aid to families with dependent children are excluded from the filing unit in order to be consistent with Minnesota Statutes, section 256D.05, subdivision 1, which excludes those persons from eligibility from general assistance; and b) an unmarried couple who reside with a common minor child form two separate assistance units. Peter Erickson, Administrative Law Judge, in 1983 specified that financial responsibility does not exist between unmarried persons, and that each member of an unmarried couple who live together with a common minor child must be in a separate filing unit.

An assistance unit is composed of those persons who are members of the same filing unit and who are categorically eligible under part 9500.1258.

It is not reasonable to define categorical eligibility under item L by using the terms "filing unit" or "assistance unit" since to do so would exclude categorical eligibility for one of the unmarried parents living with his or her minor child, and would exclude eligibility for a stepparent who lives with a stepchild eligible for aid to families with dependent children.

It is reasonable, however, to specify that eligibility under this category is available to a parent or stepparent living with a minor child because such persons are members of the child's "immediate" or "nuclear" family, and such persons would normally be part of the child's filing unit. This provision is also reasonable because it provides eligibility to both members of an unmarried couple with a common minor child, to the stepparent of a child who receives AFDC, and to the minor child.

In item L, the category of eligibility is defined by specifying each type of person who is eligible for general assistance by virtue of his or her familial relationship to a minor child. It is reasonable to do so because the persons granted categorical eligibility include all and only those persons intended under the law, and because the language used is consistent with all related rule parts.

Item M. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12) states that a person shall be categorically eligible for general assistance if the person "...has substantial barriers to employment...," and authorizes the adoption of permanent rules to define those barriers. Item M is necessary in order to implement the provisions of the statute, to establish the conditions that will constitute substantial barriers to employment, and to inform all affected parties of program policies and procedures. The need and reasonableness of each of the eight subitems proposed is discussed below.

Subitem 1. This subitem is needed because it is necessary to establish an objective geographical limit beyond which an applicant or recipient will not be required to travel to seek employment. It is reasonable to define such a limit in terms of travel time rather than distance traveled, since a distance which would be a substantial barrier for a person who must walk might not be a substantial barrier for a person for whom public transportation is available or for a person driving a car. It is reasonable to exclude the time necessary to transport children to and from needed child care, because the person will have to transport children to the child care regardless of how far away the job is. The limit of two hours round trip travel time has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 2. This subitem is needed because it insures that applicants or recipients who are involved in court ordered services which prevent the applicant or recipient from working at least four hours per day are categorically eligible for general assistance. This provision is reasonable because a person who cannot work more than four hours per day will not be able to obtain or perform suitable employment and would not benefit from work readiness services until this restriction on time available for work has been removed. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 3. This subitem is needed because it insures that a person who is in the last trimester of pregnancy is categorically eligible for general assistance. It is generally accepted that advanced pregnancy restricts a pregnant woman's ability to perform strenuous physical labor and that the pregnancy itself may inhibit potential employers from hiring her. It is reasonable to confer categorical eligibility for a woman in the last trimester of pregnancy because the physical limitations of pregnancy can normally be expected to affect her ability to obtain or perform employment by that time. Use of the last trimester of pregnancy is also reasonable because it is consistent with eligibility criteria for pregnant women established in the aid to families with dependent children program. This subitem has been shown to be reasonable in that it has been functioning in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 4. This subitem is needed because it insures categorical eligibility for an applicant or recipient who has been evaluated by a vocational specialist as being unable to obtain or retain suitable employment. A person who is so evaluated has a "substantial barrier to employment" under the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12). Because these "barriers" may not be apparent to a lay person, it is necessary to specify who must evaluate these circumstances as a substantial barrier. It is reasonable to specify that only vocational specialists or vocational advisors may evaluate individuals under subitem 4, because, by definition, such individuals are professionals in the employment field who are qualified to conclude, based on their special knowledge of a person's particular abilities and disabilities and of employment market conditions, that a particular person will be unable to obtain or retain employment. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 5. This subitem is needed because it insures that persons suffering from severe symptoms of chemical dependency but who refuse evaluation or treatment will be categorically eligible for general assistance. Such persons are commonly considered by employers to be poor candidates for employment. In addition, their refusal of evaluation or treatment precludes their being found eligible for general assistance under any other provision of law or rule that requires medical certification. It is reasonable to include this provision in the rule parts because it will enable the local agency to meet the basic subsistence needs of persons who are "unable to provide for themselves" as provided by Minnesota Statutes, section 256D.01, subdivision 1. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency].

Subitem 6. This subitem is needed because it insures categorical eligibility for persons who have severely diminished ability to carry out the normal functions of daily living. It is reasonable to provide eligibility for general assistance for an applicant or recipient with impaired functioning in areas such as ordinary social skills and personal relations because it is unlikely that he or she will be able to obtain or retain employment or to benefit from the services of the work readiness program. The purpose of the general assistance program is to provide for persons who are "unable to provide for themselves" as stated in Minnesota Statutes, section 256D.01, subdivision 1. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 7. This subitem is needed because it provides categorical eligibility for persons whose circumstances (such as impending employment, an impending move out of state, or anticipated receipt of income) in some cases will clearly result in the applicant or recipient becoming ineligible for both general assistance and work readiness within 30 days. Under such circumstances, an applicant or recipient may meet all the requirements for eligibility except categorical eligibility under part 9500.1258. In such cases, the only assistance available to the person would be the work readiness program. No purpose would be served by placing the person in the work readiness program for one month and requiring the person to search for employment when the person knows that the need for assistance will not be present after 30 days have elapsed. It is reasonable to provide categorical eligibility in such cases in order to prevent meaningless use of work readiness services.

It is necessary to restrict how frequently this subitem may be used to prevent it from being abused. For example, by repeatedly declaring the intention to move out of state but not carrying out the move, a recipient could maintain general assistance eligibility indefinitely, even though the person may be able to benefit from work readiness services and may be able to find or secure suitable employment. It is reasonable to restrict eligibility under this subitem to applicants or recipients who have not received general assistance under this condition for at least 60 days because this restriction will prevent continuing eligibility under this subitem.

Subitem 8. This subitem is needed because it insures categorical eligibility when a individual cannot participate in work readiness because of the time committed to completing a GED program. A person who is completing high school

is provided categorical eligibility under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12), and under the provisions of subitem K. However, confusion was present in the emergency rules concerning whether a person completing a GED program could be categorically eligible under item K. In order to create clarity, it is reasonable to include under item M, subitem 8, individuals who are completing a GED program, because this provision is consistent with the statute, and it is consistent with the departmental policy of fostering increased independence in public assistance recipients.

It is necessary to specify that an individual will be categorically eligible under this provision only if the individual is "completing a GED program, the time commitment of which precludes participation in the work readiness program" in order to assure that the individual does not create perpetual general assistance eligibility by signing up for GED education, but then never attending or completing the program. It is not reasonable to allow eligibility for general assistance to continue for long periods of time solely because the recipient does not attend or complete the GED instruction, or because the recipient takes a single one-hour per week evening course toward completion of a GED. In such cases the GED instruction is not interfering with involvement with a search for employment or obtaining employment that would be offered in the work readiness program, and the individual should be required to participate in that program. On the other hand, it is reasonable to allow eligibility for general assistance for a recipient whose substantial commitment of time to the completion of a GED conflicts with the requirements of the work readiness program. Adding the restriction that the program must involve a time commitment which precludes participation in work readiness is therefore reasonable because it does not allow eligibility for minimal educational efforts, but does allow eligibility when necessary for completion of a GED program.

Item N. Item N. is both needed and reasonable because it is required by Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (13).

Item O. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (14) provides categorical eligibility for general assistance to an applicant or recipient who is functionally illiterate or learning disabled. This statute also requires that the commissioner adopt permanent rules to govern the local agency's determination of learning disability or functional illiteracy. Item O is needed in order to implement the provisions of statute and to inform affected parties of program policies and procedures.

It is necessary to separate the categories of learning disability and functional illiteracy because the criteria for determining these conditions are very different. Therefore, item O will address only the topic of learning disability. Functional illiteracy is addressed in item P.

The concept of learning disability is subject to a range of interpretations. It is therefore necessary to define the term for the purposes of this item in order to assure uniform interpretation and uniform administration of the program throughout the state.

Part 9500.1102 [Emergency] included in its draft form a definition of "learning disabled" as "medically certified as having any of the disorders listed under code 315 of the International Classification of Diseases." Three substantive comments were received in response to the emergency rule that were pertinent to the definition of "learning disabled." The commentators were Lee-Ann Sanborn, Program Director of Learning Disabilities Association, Inc.; Eric Janus, William Mitchell College of Law; and Lois Larson, Financial Supervisor of the Steele County Social Service Center.

Sanborn recommended specific language defining "learning disabled," and recommended against the use of the definition found in the International Classification of Diseases (ICD-9). The definition she proposed focused on the psychological, as opposed to medical, processes involved in learning disabilities. Janus recommended nearly identical language to define the term or "any professionally accepted definition of the term." Larson also recommended against adoption of the definition in ICD-9. The commentors were in substantial agreement with each other and at least one of the commentors is professionally qualified in the field of learning disabilities.

The language finally adopted in part 9500.1102 [Emergency] defined "learning disabled" consistently with the recommendations of the commentors. This definition is reasonable because it is framed in terms that are appropriate to both children and adults, and it is consistent with current, common use by professionals in the field of learning disabilities. This language has functioned well in part 9500.1102 [Emergency] and no adverse comments have been received by the department concerning its use. The language defining "learning disabled" in part 9500.1258, subpart 1, item O is therefore reasonable because it is identical with the definition used in part 9500.1102 [Emergency].

Item P. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (14) provides categorical eligibility for general assistance to an applicant or recipient who is functionally illiterate or learning disabled. The statute also requires that the commissioner adopt permanent rules to govern the local agency's determination of learning disability or functional illiteracy. Item P is needed in order to implement the provisions of statute and to inform affected parties of program policies and procedures.

It is necessary to separate the categories of learning disability and functional illiteracy because the criteria for determining these conditions are very different. Therefore, item P addresses only the category of functional illiteracy. Learning disability is addressed in item O.

The term "functional illiteracy" is subject to a range of interpretations. It is therefore necessary to provide a precise definition for the purposes of this section in order to assure uniform interpretation and uniform administration of the program throughout the state.

In the process of developing part 9500.1102 [Emergency], both the 4th grade reading level and the 8th grade reading level were proposed as possible standards for the determination of functional illiteracy. The ensuing discussions with public advisory groups, and outside comments received during the promulgation of the emergency rules clearly indicated that the 8th grade reading level was the most reasonable standard of functional illiteracy for the purposes of this item.

Rosmarie J. Park, Associate Professor of Education at the University of Minnesota and a specialist in adult literacy, stated that "most popular magazines and newspaper are written at the 8th grade level of difficulty. The Minneapolis Star and Tribune is written at the 8th or 9th grade level..." Ms. Parks also stated that current definitions accept that at least an 8th grade reading level is required to function effectively in a modern technological - society.

The Minnesota Community Education Association, the Minnesota Literacy Council, and Eric Janus of the William Mitchell College of Law all supported the adoption of the 8th grade standard. The Minnesota Literacy Council stated that according the a research report from Wayne State University, Office of Urban Literacy Research, the 5th grade reading level was found to be inadequate for accomplishing the functions of an independent adult. The definition was changed to functioning at the 8th grade level on a standardized test. This 8th grade level is generally accepted here in Minnesota as the basic level of functioning. The Literacy Council also reported that "...Paul Cooperman in his book, The Decline of Literacy, states that a 1975 study indicated it takes a 7th grade level to hold a job as a cook, an 8th grade reading level to hold a job as a mechanic, and a 9th or 10th grade level to hold a job as a supply clerk. In every day life the instructions on a TV dinner are written at an 8th grade level...."

No professionals in the field opposed the 8th grade reading standard or supported the 4th grade standard. Two county agencies opposed the adoption of the 8th grade standard. One county argued that the 8th grade standard would "broaden the eligibility base" beyond the intent of the legislature, and that "large numbers of Americans do not read at the 8th grade level." The other county opposed the 8th grade level as too high, and then proposed that the state "write notices at the eighth grade level, then if a person cannot understand it--use that as the test of comprehension." The 8th grade standard was determined to be reasonable and was adopted in part 9500.1102 [Emergency]. This standard has functioned well in the emergency rules.

In order to provide for the uniform administration of the program, it is necessary to specify the method by which a determination of functional illiteracy may be made. During the development of part 9500.1102 [Emergency], there were extensive discussions with advisory groups and outside commentors on the reasonableness of various methods of determining that a client reads below the 8th grade level. Rosemarie J. Park suggested that the Adult Basic Learning Examination, published by Harcourt, Brace, be used to determine grade level reading scores for the purposes of this item. Eric Janus suggested the same test, or the Degrees of Reading Power Test. Mr. Janus also provided a draft of language incorporating his suggestions in a three-step process of determination of functional illiteracy to be administered by the local agency. Mr. Janus' draft language was determined to be reasonable, and was incorporated virtually intact in part 9500.1200 [Emergency], the only substantive change being the substitution of "a standardized literacy test approved by the commissioner," for the specific tests suggested. This change is reasonable because there is currently more than one professionally recognized test available for the purpose, and because it is reasonable to expect further developments and changes in the testing field to modify the appropriateness of any currently available tests.

The method for determining functional illiteracy specified in part 9500.1102 [Emergency], has functioned well over time and has been incorporated intact as part 9500.1258, subpart 1, item P, subitems 1, 2, and 3. The need for and reasonableness of each of these subitems is discussed below.

Subitem 1. This subitem is reasonable because it allows the local agency to determine functional illiteracy based on previous testing or other knowledge of the applicant or recipient that makes further testing unnecessary. This provision is reasonable to avoid unnecessary administrative costs and to reduce the time necessary to process an application where an applicant's or recipient's functional illiteracy is clearly apparent, thus improving service to the public.

Subitem 2. Subitem 2 requires testing the reading ability of an applicant or recipient, at no cost to him or her, in cases in which there is no adequate record of previous tests and the local agency does not have sufficient knowledge of the applicant or recipient to determine that he or she is obviously functionally illiterate. It is necessary to require the administration of a reading test to insure that determinations made under this item will be based on objective information. This subitem is reasonable because individuals cannot reasonably be expected to identify themselves as functionally illiterate, and the prescribed testing permits the local agency to make its determination quickly and reasonably inexpensively. It is reasonable to specify how the local agency must make its determination of functional illiteracy in order to assure uniform administration throughout the state.

It is reasonable to require that the test be given with no cost to the applicant or recipient because such testing, while relatively inexpensive and generally available to the local agency, may not be otherwise available to an applicant or recipient without costly professional services. It is reasonable to allow the local agency to administer the test because it saves administrative costs to the local agency and the state. It is also reasonable for the local agency to be allowed to arrange for an outside agency to administer the test because not all local agencies will have the resources to administer the tests themselves.

It is clearly possible for an applicant or recipient to frustrate the purpose of testing by deliberately obtaining a lower score than his or her true reading ability, for example, by failing to answer questions on the test. It is reasonable, therefore, to allow the local agency to challenge the score obtained by an applicant or recipient in such cases. It is also reasonable to require that the agency clearly document in the case file the reasons for its determination that the test score is inaccurately low, to prevent the possibility that unfounded challenges of test scores might be used to create an arbitrary delay in an eligibility determination.

Subitem 3. This subitem is necessary because it allows an applicant or recipient to rebut the local agency's determination that a test score is inaccurately low by obtaining certification of functional illiteracy from a source independent of the local agency. This subitem is reasonable because it protects the applicant or recipient from unfounded claims of inaccurately low test scores. It is reasonable to allow the applicant or recipient to obtain such certification from licensed psychologists and from licensed educational

experts in appropriate fields, and to specify the licensing authorities so that the testing for and preparation of such certification may be limited to qualified experts. It is reasonable to require the county to furnish the applicant or recipient with a list of such experts because that information is not likely to be readily available to an applicant or recipient. Providing such a list to an applicant or recipient will prevent unnecessary delays in obtaining information which may be relevant to the eligibility determination. When a expert in the field certifies that the applicant or recipient is unable to read at or above the 8th grade level, it is reasonable to accept such certification as evidence of functional illiteracy because the certification provides the local agency with evidence having greater reliability and validity than a test score by itself. In order to maintain the independence of certifying professionals from the local agency, it is reasonable that the applicant or recipient not be required to be certified by a professional from the list provided by the local office, but that he or she be allowed to obtain certification from any appropriately qualified source.

Subpart 2. Categories providing for six months of eligibility. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), provides eligibility for general assistance for six months out of any 12-month period for an applicant or recipient who has completed six months in the work readiness program, provided that he or she: 1) "...has borderline mental retardation"; or 2) "exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance ...because the illness interferes with the medical certification process." Subpart 2, items A and B, are necessary because they implement the statutory provisions and inform affected parties of program policies and procedures. Definitions of the terms "borderline mental retardation" and "qualified professional" are provided in the rules governing the work readiness program. It is reasonable to provide a reference to the definitions in part 9500.1302 because it insures a uniform understanding of the terms, and it insures consistent identification and treatment of individuals with borderline mental retardation and perceptible symptoms of mental illness as they move from work readiness to general assistance. These provisions are reasonable because they are consistent with statute, and they insure uniform, statewide administration of the general assistance program as required in Minnesota Statutes, section 256D.04, clause (2).

It is reasonable to require the local agency to notify a recipient at the end of this six-month period of general assistance receipt that he or she may be eligible for additional work readiness because it insures that the individual is aware that while general assistance is being terminated, the individual may still receive assistance payments if he or she wishes to participate in the work readiness program.

PART 9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subpart 1. Determination of ineligibility and the right to appeal. This subpart is necessary in order to implement the provisions of Minnesota Statutes, sections 256.045 and 256D.10, which specify an applicant or recipient has a right to appeal denials of eligibility for general assistance. This provision is necessary even if an applicant or recipient is found eligible for work readiness because work readiness assistance is time limited.

These provisions are reasonable because they insure that the individual will receive notice, as required under the statute, and will be informed of his or her right to appeal so that the right can be exercised at the discretion of the individual.

Subpart 2. Work readiness notice. This subpart is necessary in order to implement the provisions of Minnesota Statutes, sections 256.045 and 256D.10, and to insure that applicants and recipients who are not eligible for general assistance will be fully informed of the availability of the work readiness program. Requiring the local agency to fully inform the applicant or recipient of its determinations regarding general assistance ineligibility, the applicant's or recipient's right to appeal, the availability of work readiness, and the consequences of an appeal is reasonable because it protects the rights of applicants and recipients, permits applicants and recipients to make informed choices, and helps to insure uniform administration of the program statewide.

It is necessary to specify the consequences of an applicant's appeal to insure uniform administration of the appeal process and uniform consequences statewide. It is reasonable to specify that the assistance received under the work readiness program be considered general assistance benefits where a client who has been on work readiness wins his or her appeal of the denial of general assistance because this provision protects the recipient's right to possible future benefits under the time-limited work readiness program should he or she become ineligible for general assistance in the future.

PART 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. Requirements for continued eligibility for specific categories of ongoing eligibility. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clauses (6) and (11), in addition to defining categories of eligibility at the time of application for general assistance, also impose requirements that must be met in order for recipients of general assistance to receive benefits beyond the initial month of eligibility. Part 9500.1262, subpart 1, is necessary in order to implement these statutory requirements for continued eligibility and to inform affected parties of program policies and procedures. It is reasonable to limit the applicability of the requirement that an adult cooperate with the work readiness program to applicants or recipients who do not meet a condition of eligibility under part 9500.1258, subdivision 1, items A to K or M to P, since categorical eligibility under any of those items continues to exist without additional conditions. The reasonableness of specific items and subitems will be discussed below.

Item A. Rule part 9500.1258, subpart 1, item G, establishes categorical eligibility for an applicant or recipient who is unable to communicate in the English language. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6), requires, in addition, that the recipient participate in a language skills program if assigned to such a program by the local agency. Item A is needed in order to implement these provisions of the statute. It is necessary to specify the action to be taken by the local agency when a recipient does not comply with the statutory requirement to participate in a language program as assigned because it informs affected parties of the consequences of their actions or inactions. Termination of

eligibility for general assistance for failure to comply is not a reasonable action, since the person could immediately reapply and again be eligible under part 9500.1258, subpart 1, item G. Thus, a person would only need to be eligible for the first day of the month in order to receive a payment for the entire month, even though the person never complied with the requirements. It is reasonable to specify that the recipient be disqualified from receiving general assistance for a specified period of time as prescribed in part 9500.1266, because that action provides a consequence for failure to comply with statutory requirements, and prevents a person from immediately being found eligible after termination by simply reapplying for assistance.

Item B. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), requires certain adults who are eligible for general assistance to participate in and cooperate with the work readiness program. Part 9500.1258, subpart 1, item L, establishes eligibility for these persons. Item B is necessary in order to specify the conditions under which adults eligible under part 9500.1258, subpart 1, item L, are required to cooperate with the work readiness program, and to specify the actions to be taken by the local agency when a recipient fails to cooperate.

Subitem 1. This subitem is necessary and reasonable in order to implement the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), and to inform affected parties of program policies and procedures.

Subitem 2. This subitem is necessary and reasonable in order to implement the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), and to inform affected parties of program policies and procedures.

Subitem 3. This subitem is necessary to implement the requirements of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11). The statute states that if a person who is required to cooperate with the work readiness program under this clause does not do so, the person's needs shall not be taken into account in determining the grant. This subitem specifies the action which the local agency must take in order to remove the needs of such a person from consideration. It is reasonable that the action to be taken by the local agency in such cases is disqualification, as described in part 9500.1266, because that action is consistent with the action taken in the work readiness program against a registrant who does not comply with the work readiness requirements. If the registrant were simply terminated from general assistance for failure to comply, the registrant could reapply and be eligible on the next day. Thus, the registrant could thwart the requirement to comply with the work readiness program by simply reapplying, even though he or she never complied. That outcome is not reasonable and is inconsistent with the intent of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11). It is more reasonable to specify that the person must be disqualified in order to encourage compliance by imposing a negative consequence for failure to comply. It is reasonable to specify that the needs of the disqualified person are to be disregarded by basing the amount of the grant on the assistance standard for the number of remaining eligible members of the assistance unit, since Minnesota Statutes, section 256D.05, subdivision 1, clause (11) requires that the needs of the applicant and recipient who fails to comply not be considered.

Subpart 2. Requirements for continued eligibility under categories of six-month eligibility. Part 9500.1258, subpart 2, in conformity with Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), establishes six-month categories of eligibility for certain applicants or recipients. This subpart describes the conditions that must be met for eligibility to continue and is necessary in order to implement the requirements of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), which states that "In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency."

Item A. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), requires a recipient who is eligible because of perceptible symptoms of mental illness to "...cooperate with social services, treatment, or other plans developed by the local agency to address the illness." Item A is necessary in order to implement this provision of the statute and to inform affected parties of program policies and procedures. The requirement in item A that a recipient cooperate with social services, treatment, or other reasonable plans developed by the local agency to address the illness is reasonable because it is consistent with statute. It is reasonable to require the local agency plans to meet a "reasonableness" test in order to assure that the recipient is not required to comply with requirements which have no relationship to employment and training services, and because it protects the rights of recipients.

It is necessary to specify the action that must be taken by the local agency in the event of noncompliance with the requirements of this item to insure uniform, statewide administration of these requirements as specified under Minnesota Statutes, section 256D.04, clause (2). It is reasonable to require the local agency to disqualify applicants and recipients who fail to comply because it is consistent with statute and because it prevents immediate reapplication from nullifying the requirement to comply with program requirements.

Item B. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), requires that a recipient eligible under paragraph (b) must continue to cooperate with work and training requirements as determined by the local agency. This item is necessary in order to implement that provision of the statute and to inform affected parties of program policies and procedures. Item B is reasonable because it is consistent with statute.

It is necessary to specify the action that must be taken by the local agency in the event of noncompliance with the requirements of this item to insure uniform, statewide administration of these requirements as specified under Minnesota Statutes, section 256D.04, clause (2). It is reasonable to require that the local agency disqualify applicants or recipients who fail to comply because it is consistent with statute and because it prevents immediate reapplication from nullifying the requirement to comply with program requirements.

PART 9500.1264 NOTICE OF DISQUALIFICATION.

Minnesota Statutes, section 256D.10, requires that a recipient receive notice and be afforded an opportunity to be heard prior to any action by the local

agency to reduce, terminate or suspend general assistance benefits. Part 9500.1264 is necessary to establish the requirements for notices of disqualification in accordance with this statute.

Item A. Minnesota Statutes, section 256.01, subdivision 4, paragraph (4), authorizes the commissioner to "...Prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable." It is reasonable to require that the notice be provided to the recipient on a standardized form, prescribed by the commissioner, in order to provide consistent information to recipients statewide, assuring equal treatment.

Item B. It is necessary to prescribe a time period for this notice to be given to insure that the recipient is given adequate time to respond. It is reasonable to require that the notice be provided to the recipient at least 10 days before the effective date of the disqualification because that period of time has historically been used in income maintenance programs, including general assistance, aid to families with dependent children, etc., and has been determined to satisfy the requirements of due process.

Item C. This item is necessary to ensure that the recipient has sufficient information to make an informed decision on whether to exercise his or her appeal rights. It is reasonable to require the notice to contain the information required under this item because having this information enables the recipient to respond in a timely manner, with the knowledge of consequences for failure to respond, and informs the recipient of the right to appeal if the recipient believes he or she has already complied or has good cause for not complying.

PART 9500.1266 DISQUALIFICATION.

Part 9500.1262 requires recipients who do not comply with certain requirements of the general assistance program to be disqualified from receiving general assistance. Part 9500.1266 specifies the details of disqualification and the procedures for taking disqualification action. This rule part is necessary to implement the requirements of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clauses (6) and (11), and paragraph (b), as reflected in rule part 9500.1262. The need for and reasonableness of the particular provisions are discussed below.

Part 9500.1206, subpart 15, defines "good cause" as "a reason for taking an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances including: illness of the person, illness of another family member that requires the applicant's or recipient's presence, a family emergency, or the inability to obtain transportation." It is necessary to limit disqualification to circumstances where the failure to comply with the requirements of part 9500.1262 is without good cause in order to protect the recipient from being penalized for taking or not taking an action for a reason that is beyond his or her control. This provision is reasonable because the intent of the disqualification is to encourage compliance, not to penalize reasonable actions.

Item A. It is necessary to specify the period of disqualification in order to inform the affected parties of the consequences of the disqualification

process and to establish uniform administration of the program throughout the state. Specification of a two-month period of disqualification is reasonable because it is consistent with the provision of general assistance benefits on a monthly basis. A two-month period is a reasonable period of disqualification in that it constitutes a substantial incentive for the recipient to cooperate with the requirements of the program, but protects the recipient from unreasonably and arbitrarily long periods of disqualification. A two-month period of disqualification is also reasonable because it is consistent with the period of disqualification imposed in the work readiness program under Minnesota Statutes, section 256D.051, subdivision 3, and it provides equal treatment of persons who fail to cooperate with work readiness program requirements.

Item B. It is necessary to establish the beginning date of disqualification in order to inform affected parties of program policies and procedures, and to assure uniform administration of the program throughout the state. Specifying that the period of disqualification must begin on the first calendar day of the month following the month in which the notice is sent is reasonable because general assistance grants are paid on a monthly basis, on the first day of the month, according to the provisions of Minnesota Statutes, section 256D.09, subdivision 1. The exception, when the required notification cannot be made, is reasonable because Minnesota Statutes, sections 256.045 and 256D.10, require 10 days advance notice prior to any termination of benefits, to enable recipients to appeal and be heard prior to an adverse action by the agency.

When a recipient appeals a local agency determination that the recipient should be disqualified due to his or her failure to comply, a final determination is not arrived at until the commissioner issues an order deciding the appeal. Minnesota Statutes, section 256D.10, states that the recipient must be afforded an opportunity to be heard before the local agency takes any adverse action against the recipient's grant. In order to comply with that requirement and ensure that the recipient is not deprived of his or her constitutional right to due process, as defined in Goldberg v. Kelly and its progeny, it is both necessary and reasonable to continue a recipient's general assistance benefits without imposing a disqualification when the recipient has filed a timely appeal.

Item C. It is necessary to include this provision in the rules because it clarifies what must occur when a recipient applies for general assistance during a period of disqualification, and it ensures uniform administration of the disqualification process. Item C is reasonable because it insures that a recipient cannot avoid the sanction for noncompliance by merely reapplying for general assistance. Item C is also reasonable because it requires a recipient who has been properly disqualified to serve a two-month disqualification before he or she may resume receiving benefits.

Item D. The purpose of imposing a period of disqualification is to provide a sanction that will serve as an incentive for a recipient to comply with the conditions of ongoing eligibility specified in part 9500.1262. When the recipient complies with the requirements prior to the imposition of the penalty, it is reasonable not to impose the disqualification because the purpose of the disqualification no longer exists.

PART 9500.1268 APPEAL OF DISQUALIFICATION.

Minnesota Statutes, section 256D.10, states that a recipient must receive notice and be afforded an opportunity to be heard prior to the reduction, suspension, or termination of his or her general assistance grant. The statute further provides that a recipient has the right to a full administrative and judicial review of an order or determination of a local agency, under Minnesota Statutes, section 256.045.

To implement these statutes and to provide consistency with their requirements it is necessary to specify that a recipient who is disqualified under part 9500.1266 may appeal the determination by submitting a written request for a hearing in accordance with Minnesota Statutes, section 256.045. Including this provision in the rule is reasonable because it informs interested and affected parties of this statutory right, enabling recipients to exercise the right.

PART 9500.1270 SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

This rule part allows local agencies the option of making general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if an applicant or recipient has no residence address. It also gives the local agency the option of providing separate vouchers for different needs, and the option of providing daily or weekly payments rather than monthly payments until the recipient has a residence address. These provisions are necessary to implement the provisions of Minnesota Statutes, section 256D.09, subdivision 4, which permits the local agency to make vendor payments to applicants or recipients who do not have a residence address.

This part also provides that if a local agency uses the options described, it must place the recipient in a negotiated rate facility or provide for all of his or her food, shelter, or other daily needs regardless of the standard of assistance. This provision is necessary in order to ensure that provision of payments on a daily or weekly basis does not deprive the recipient of the ability to obtain a residence address. Often, landlords require rent on a monthly basis, usually on the first of the month. If the recipient received daily or weekly assistance payments, the recipient would have to pay for daily or weekly subsistence needs, and would be unable to accumulate enough money to make a monthly rent payment. In such case, the person would be prevented from moving to a residence address because he or she did not receive a monthly payment with which to pay the monthly rent, and would be locked into payment of needs on a daily or weekly basis. It is reasonable to specify that if the local agency uses these provisions the local agency must place the recipient in a negotiated rate facility or must provide for all of the recipient's food, shelter, or other daily needs, regardless of the standard of assistance, in order to assure that the recipient's subsistence needs are properly provided for, and to assure that the method of payment does not cause the recipient to permanently be without a residence address.

PART 9500.1300 PURPOSE AND APPLICABILITY.

Subpart 1. Purpose. This subpart states the purpose of parts 9500.1300 to 9500.1318. Promulgation of parts 9500.1300 to 9500.1318 is mandated by Minnesota Statutes, sections 256D.051; 256D.09, subdivision 4; 256D.101; and

256D.111, subdivision 5. It is necessary for the commissioner to establish the rights and responsibilities of the department, local agencies, and registrants of the work readiness program in order to fulfill the statutory requirement and to adequately manage and control the administration of the program. It is reasonable to state the purpose in the rule parts in order to assist the public in determining the relevance of, and their interest in, the rule parts.

Subpart 2. Applicability. This subpart states the applicability of parts 9500.1300 to 9500.1318. It is necessary to state the applicability of the rule parts in the beginning of the rules in order to inform interested parties of the scope and subject matter of the rules, and to give them notice of rule provisions which may affect their rights and interests. Describing to whom and how the parts in this section apply allows interested parties to ascertain their roles and responsibilities under these rules.

Minnesota Statutes, sections 256D.01 to 256D.21, and Minnesota Rules, parts 9500.1200 to 9500.1270, establish the requirements of the general assistance program in Minnesota. It is reasonable to refer to other Minnesota Rules that govern the general assistance program in order to inform interested parties that it is their responsibility to have knowledge of these rules prior to determining the meaning of parts 9500.1300 to 9500.1318 because the rules in total govern the work readiness program.

PART 9500.1302 DEFINITIONS.

This rule part defines words and phrases that have a meaning specific to parts 9500.1300 to 9500.1318, that may have several possible interpretations, or that need exact definitions to be consistent with statute. Terms used in a manner consistent with common use in the income maintenance or human services fields are not defined unless a definition is needed to clarify the rule.

Minnesota Statutes, section 256D.04, clause (2), requires the commissioner to "Promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...." The definitions provided in the rule parts help to insure that the general assistance rules established by the commissioner will be administered as uniformly as possible throughout the state.

Subpart 1. Scope. This provision is needed to clarify that the definitions apply to the entire sequence of parts 9500.1300 to 9500.1318.

Subpart 2. Borderline mental retardation. This definition is necessary because the term "borderline mental retardation" has a specific meaning as used in parts 9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 5, specifies that registrants who have "borderline mental retardation" are eligible for work readiness for a maximum of six months in any consecutive 12-month period. This definition is also necessary because the term "borderline mental retardation" is not specifically defined in statute. "Borderline mental retardation" commonly refers to the condition of an individual whose intelligence and adaptive behavior falls between "normal" and "mentally retarded" levels of functioning.

Normal intellectual functioning falls between one standard deviation below the mean and one standard deviation above the mean of a professionally recognized standardized test. Mental retardation, as defined in part 9500.1206, subpart 22, means the condition of a person who has demonstrated deficits in adaptive behavior and intellectual functioning which is two or more standard deviations below the mean of a professionally recognized test and the condition severely limits the person in obtaining, performing, or maintaining suitable employment.

This definition is reasonable because it identifies the limitations of adaptive behavior and intellectual functioning that falls between "normal" functioning and "mental retardation." This definition is also reasonable because it identifies individuals whose ability to obtain, perform, or maintain suitable employment is affected by borderline mental retardation. Eligibility for extended services for such individuals under part 9500.1312, subpart 1, may enable the individual to obtain employment and increase his or her self-sufficiency.

Subpart 3. Distressed county. This definition is necessary because the term "distressed county" requires a specific definition to be consistent with statute. Minnesota Statutes, section 256D.051, subdivision 5, clause (3), specifies that a registrant shall be eligible for work readiness services for a maximum of six months in any consecutive 12-month period if the person "is certified by the commissioner of economic security as being unable to secure suitable employment because the person lives in a distressed county". This definition is reasonable because it is consistent with the statute, which defines a distressed county as a county or a contiguous portion of a county that has "...an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made."

Subpart 4. Employment assistance programs. This definition is necessary because the term "employment assistance programs" has a specific meaning as used in parts 9500.1300 to 9500.1318. This definition is reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (2), which specifies that a registrant must be referred "...to available employment assistance programs including the Minnesota employment and economic development program."

Subpart 5. Misconduct. It is necessary to define this term because it has a specific meaning as used in parts 9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 8, specifies that a person who is otherwise eligible to receive work readiness assistance under subdivision 1 must be terminated from work readiness if he or she "is fired for misconduct." During development of the emergency rules for work readiness, Steve Swanson, of the Legal Services Advocacy Project, recommended that the definition of misconduct used in the Unemployment Insurance program should be adopted in work readiness. The department adopted Mr. Swanson's suggestion, and found that it is reasonable because it adopts a definition of misconduct in the context of the workplace which is already in existence in statute. This definition has been effectively used under the emergency rules, and the department has received no negative comments regarding its reasonableness.

Subpart 6. Qualified professional. This definition is needed because the term "qualified professional" has a specific meaning as used throughout parts

9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 5, clause (2), specifies that a registrant shall be eligible for six months of work readiness assistance in any consecutive 12-month period if he or she "exhibits perceptible symptoms of mental illness as certified by a qualified professional" (emphasis added). It is reasonable to specify that a social worker employed by the local agency, a social worker with a master's degree in social work, a licensed consulting psychologist, a licensed psychologist, a licensed physician or psychiatrist, or a public health nurse are "qualified professionals" because such persons are qualified by reason of training or experience to assess whether or not a person is exhibiting perceptible symptoms of mental illness.

Subpart 7. Registrant. This definition is needed because the term "registrant" has a specific meaning as used throughout parts 9500.1300 to 9500.1318. Part 9500.1306, subdivision 3, specifies the eligibility requirements which must be met by an applicant. Minnesota Statutes, section 256D.051, subdivision 1, specifies that, "Upon registration, a registrant is eligible..." (emphasis added). Because work readiness assistance is time limited under Minnesota Statutes, section 256D.051, subdivisions 4 and 5, the eligible applicant must elect when to receive the time-limited assistance. Therefore, an applicant for work readiness assistance must meet the eligibility conditions of part 9500.1306, subpart 3, and must elect to receive such assistance. It is reasonable to specify in the rule parts that a registrant is an individual who has applied for and been found eligible for work readiness services and payments, and who has elected to begin receiving those services and payments in order to create consistency within the rule parts, and to promulgate statewide uniform rules as required by Minnesota Statutes, section 256D.04, clause (2). Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), requires adult family members to participate in work readiness services. It is reasonable to specify that a registrant also means a general assistance recipient who must participate in and comply with the work readiness program in order to assure that the rule parts clearly apply to such recipients.

Subpart. 8. Vocational advisor. This definition is needed because the term "vocational advisor" has a specific meaning as used throughout parts 9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 2, requires the local agency to provide an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment, to provide a job search program, and to provide other activities designed by the local agency to prepare the registrant for permanent employment. Part 9500.1310, subpart 2, requires the local agency to conduct an employability assessment and development plan which considers the registrant's education, training, prior work experience, suitable employment that is or may become available, the registrant's barriers to employment, and must prepare the registrant for suitable employment. This definition of "vocational advisor" is reasonable because it requires the person conducting this assessment to be knowledgeable in the specific areas addressed by the assessment. Minnesota Statutes, section 256D.051, subdivision 5, clause (3), specifies that a registrant is eligible for a maximum of six months of work readiness assistance if the registrant is unable to secure suitable employment because the local agency has determined that no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform. It is reasonable

to specify that the person conducting the determination of the registrant's eligibility for an additional four months of work readiness assistance must have sufficient education, training, and experience to permit these activities to be adequately carried out in order to assure that the registrant receives the services mandated by Minnesota Statutes, section 256D.051, and parts 9500.1300 to 9500.1318, and that those services are meaningfully designed to help the registrant find employment. It is reasonable to specify that such person be employed by or under contract to the local agency because the local agency is the entity charged with the responsibility to provide a work readiness program under Minnesota Statutes, section 256D.051, subdivision 2.

PART 9500.1304 LOCAL AGENCY RESPONSIBILITY TO PROVIDE WORK READINESS PROGRAM AND PROGRAM DESCRIPTION.

This part requires the local agency to provide a work readiness program to eligible persons, to develop a work readiness program description, to distribute the program description to applicants and interested persons, and to file a copy of the description and any modifications or changes to the description with the commissioner.

Subpart 1. Requirement to provide a work readiness program. This subpart requires the local agency to provide a work readiness program to all eligible applicants residing in the county, and to certain adult recipients of general assistance. This subpart also permits the local agency to provide work readiness services and payments to certain other general assistance recipients.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that a person or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under Minnesota Statutes, section 256D.05, subdivision 1, are eligible for a work readiness program. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), specifies that "The local agency shall provide to registrants under subdivision 1 a work readiness program." (emphasis added). This subpart is necessary because it establishes the requirement that each local agency must provide a work readiness program to eligible registrants. This requirement is reasonable because it is consistent with statute, and because it establishes a statewide uniform rule for carrying out and enforcing the provisions of Minnesota Statutes, sections 256D.01 to 256D.21, as required by Minnesota Statutes, section 256D.04, clause (2). This provision is also reasonable because it facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Minnesota Statutes, section 256D.05, subdivision 1, clause (11), specifies that a family with minor children is eligible for general assistance, but that the adult members must participate in and comply with the requirements of the work readiness program. Such adult family members are eligible for work readiness services, but are not eligible for work readiness payments, and shall be included in the general assistance grant. Part 9500.1258, subpart 1, item L, provides eligibility for families with minor children. Part 9500.1262, subpart 1, item B, specifies the requirements for continuing general assistance eligibility for adults who must participate in and comply with the requirements of the work readiness program. It is reasonable to

specify in this subpart that the local agency must provide work readiness services to adult recipients who are provided for under part 9500.1262, subpart 1, item B, because it is consistent with statute, and because it informs affected parties of program policies and procedures which may affect them.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that eligible persons who have borderline mental retardation or who exhibit perceptible symptoms of mental illness, and who have registered for and completed six months in a work readiness program, are eligible for general assistance for a maximum of six months during any consecutive 12-month period. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (b), specifies that the local agency may provide a work readiness program to recipients who are categorically eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b). Parts 9500.1258, subpart 2, and 9500.1262, subpart 2, implement these statutory provisions. It is reasonable to specify in this subpart that the local agency may continue to provide work readiness services to recipients of general assistance who are provided for under part 9500.1262, subpart 2, because it is consistent with statute and because it establishes a uniform statewide rule as required by Minnesota Statutes, section 256D.04, clause (2). This provision is also reasonable because it facilitates the employment and training of participants as required under Minnesota Statutes, section 256D.051, subdivision 14.

Subpart 2. Preparation of work readiness program description. This subpart requires the local agency to develop a written work readiness program description and specifies certain content that must be included in the description.

In order to assure that the applicant or registrant has sufficient information with which to make an informed decision as to whether or not to apply for work readiness assistance, it is necessary to require that the local agency develop a program description to provide information to applicants and registrants about the program and the requirements that must be complied with. Historically, public assistance programs in Minnesota have worked to assure that participants have been properly informed of the services available, the rights and responsibilities of the local agency and the participant, and the consequences of certain actions or inactions. This process allows the participant to make an informed choice regarding whether to accept or reject such services and benefits, and to appeal actions that are felt to be unfair or incorrect. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may affect them. It is also reasonable to include this provision in the rule parts in order to create a uniform statewide rule as required in Minnesota Statutes, section 256D.04, clause (2).

Item A. Part 9500.1252 specifies that written materials provided to general assistance clients must be clear and easily understood. It is necessary to specify in this item that the program description be written in accordance with part 9500.1252 in order to clarify that the requirements of part 9500.1252 apply to this rule part also. It is reasonable to include this provision in the rule parts in order to assure that applicants and registrants can understand the written material being provided to them, and to create a uniform, statewide rule as required in Minnesota Statutes, section 256D.04, clause (2).

Item B. It is necessary to specify that the program description must include a statement regarding the purpose, service components, operating procedures, and service provider for the local agency work readiness program because each local agency program may be different from other local agency programs, and the applicant or registrant must be cognizant of the services and requirements of the program in which he or she is to participate. It is reasonable to include this provision in the rule parts in order to provide information which will enable the applicant to make an informed decision about accepting or rejecting such services, and to create a uniform statewide rule as required in Minnesota Statutes, section 256D.04, clause (2).

Item C. Minnesota Statutes, section 256D.051, subdivision 2, requires the local agency to provide a work readiness program to eligible registrants, and requires registrants to spend at least eight hours per week in job search or other work readiness activities. Minnesota Statutes, section 256D.051, subdivision 3, requires registrants to cooperate with all aspects of the work readiness program and to accept any suitable employment. The work readiness program imposes several requirements on registrants which are different from the requirements imposed by the general assistance program. It is reasonable to inform the registrant of the different nature of the work readiness program so the registrant can differentiate between the programs. It is reasonable to require that the work readiness program description contain a summary of the requirements which must be complied with in order to assure that the applicant or registrant has sufficient information with which to make an informed decision regarding acceptance or rejection of work readiness services and can anticipate the services or actions that will take place in the program.

Item D. Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant must cooperate with the local agency in all aspects of the work readiness program, and that the local agency may terminate assistance to a registrant who fails to cooperate. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may affect them, and to assure that they understand the consequences of failure to comply with program requirements.

Subpart 3. Distribution of work readiness program description. This subpart specifies that the local agency must provide a copy of its program description to each applicant for work readiness, and to any individual upon request.

In order to assure that an applicant or registrant has sufficient information with which to make an informed decision regarding acceptance or rejection of work readiness services and benefits and the requirements which must be complied with, it is necessary to require that the local agency provide a copy of its work readiness program description to each applicant at the time of application for general assistance or work readiness. It is reasonable to require that the local agency provide this information at the time of application for general assistance because the applicant automatically will be considered a candidate for work readiness under part 9500.1306, subdivision 3, if the applicant is determined ineligible for general assistance. It is reasonable to require that the local agency provide this information to an applicant at the time of application for work readiness because that is the time the applicant must make a choice about whether or not to accept or reject work readiness services or payments. Moreover, it is reasonable to require that the local agency provide a copy of this information to any individual

upon request in order to provide information which may influence an individual's decision about whether or not to apply for the work readiness program.

Subpart 4. Filing of program description. This subpart requires the local agency to file a copy of its work readiness program description with the commissioner annually on January 1, and whenever it amends the description.

Minnesota Statutes, section 256D.051, subpart 14, specifies that the commissioner may adopt permanent and emergency rules to implement the provisions of the work readiness statute. It is necessary to require that the local agency file a copy of its program description with the commissioner so the commissioner can monitor the local agency's compliance with the requirements of the work readiness program. It is reasonable to require the local agency to file a copy of the description annually on January 1 because this date assures that local agencies are aware of one uniform date by which a copy of program descriptions must be provided. It is reasonable to require that local agencies file a copy of their program descriptions whenever the description is amended because this assures that the commissioner can monitor modifications to such descriptions for compliance with this part.

PART 9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

This part specifies that the local agency must determine an applicant's eligibility for general assistance prior to determining the applicant's eligibility for work readiness, specifies the date on which the work readiness application is considered complete, and outlines the eligibility criteria for the work readiness program.

Subpart 1. Assessment of general assistance eligibility. This subpart specifies that the local agency must determine an applicant's need for emergency assistance and the applicant's eligibility for general assistance before determining the applicant's eligibility for work readiness, and that the local agency must notify an ineligible applicant of the ineligibility determination.

Minnesota Statutes, section 256D.051, specifies that a person or family whose income and resources are less than the standard of assistance established by the commissioner but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for work readiness. Part 9500.1209 provides for the determination of eligibility for general assistance. It is reasonable to specify that the local agency must determine an applicant's eligibility for general assistance under part 9500.1209 before determining the applicant's eligibility for work readiness because only those persons who are categorically ineligible for general assistance are eligible for work readiness under Minnesota Statutes, section 256D.051, and because inclusion of this provision in the rule parts will inform affected parties of program policies and procedures which may effect them.

Minnesota Statutes, section 256D.07, specifies that on the date that general assistance is first requested, the local agency shall inquire and determine whether the person requesting assistance is in immediate need of food,

shelter, clothing, assistance for necessary transportation, or other emergency assistance pursuant to section 256D.06, subdivision 2. A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue until either the person is determined to be ineligible for general assistance or the first grant of general assistance is paid to the person. It is reasonable to specify that the local agency must determine an applicant's eligibility for emergency assistance under Minnesota Statutes, section 256D.07 in addition to determining the applicant's eligibility for general assistance because this provision is consistent with statute, and because an emergency need must immediately be dealt with to prevent harm to the person. It is also reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may affect them.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family must have income and resources less than the standard of assistance established by the commissioner and be ineligible for general assistance in order to be eligible for work readiness. It is both necessary and reasonable to specify in the rule parts that if the applicant is eligible for general assistance he or she is ineligible for work readiness in order to implement the provisions of statute, and to inform affected parties of program policies and procedures.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), specifies that adult members of a family with minor children must register for and cooperate in the work readiness program. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that persons who are eligible for general assistance due to having borderline mental retardation or exhibiting perceptible symptoms of mental illness must continue to cooperate with work and training requirements as determined by the local agency. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (b), specifies that the local agency may provide a work readiness program to recipients under section 256D.05, subdivision 1, paragraph (b). Part 9500.1262, subparts 1 and 2 implement these statutory provisions. It is reasonable to state that applicants who are provided for in part 9500.1262, subparts 1 and 2, are not ineligible for work readiness services as a result of their eligibility for general assistance, since those persons may, and in some cases must, participate in work readiness services even though they are eligible for general assistance payments.

Minnesota Statutes, section 256D.051, subdivision 13, provides for notice and hearings of adverse actions according to section 256D.10. That provision further specifies that a determination of ineligibility for general assistance shall be considered an appealable adverse action for purposes of notice, appeal, and hearing requirements. An applicant must be afforded the right to appeal the determination of his or her ineligibility for general assistance, even if he or she is found eligible for work readiness, since work readiness benefits are time-limited by law. (See Chu Drua Chay v. Noot, 696 F. 2d 594 (8th Cir. 1982). Part 9500.1260 implements the notice and appeal provisions of statute. It is both necessary and reasonable to specify in this subdivision that the local agency must inform an applicant of his or her ineligibility for general assistance and the right to appeal as provided in part 9500.1260 in order to implement the provisions of statute and to provide applicants with their rights under the due process clause to appeal the adverse determination regarding their general assistance eligibility.

Subpart 2. Work readiness application. This subpart specifies that the work readiness application is considered complete on the date that the local agency determines the applicant ineligible for general assistance, and that a new general assistance application is not required when determining a work readiness registrant's eligibility under part 9500.1316, subpart 2, or 9500.1258, subpart 2.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family must have income and resources less than the standard of assistance established by the commissioner and be ineligible for general assistance in order to be eligible for work readiness. Therefore, the local agency must determine the applicant's eligibility for general assistance before determining the applicant's eligibility for work readiness. Part 9500.1310, subpart 1, states that work readiness services and payments must both be received during a month in order for the month to count towards the two or six month limitation on work readiness eligibility. It is necessary to specify in this subpart that the general assistance application is considered a completed work readiness application only when the applicant is determined ineligible for general assistance in order to implement Minnesota Statutes, section 256D.051, subdivision 1, and in order to specify the earliest date that work readiness services and payments may begin. It is reasonable to state that the application is considered a complete application on the date that the local agency determines the applicant ineligible for general assistance in order to create consistency and uniformity with part 9500.1310, subpart 1. If the application were considered complete retroactively to the date of application for general assistance, the local agency would be able to provide payments retroactively, but would be unable to provide services retroactively. Thus, the time for which retroactive work readiness payments were made but no services were provided could not be counted towards the two or six month limit on work readiness eligibility as required by Minnesota Statutes, section 256D.051, subdivisions 4 and 5. Therefore, the local agency would not be able to properly implement the eligibility limitations of statute. It is more reasonable to consider the general assistance application a completed application for work readiness on the date that the local agency determines the applicant ineligible for general assistance since that is the first date that work readiness services and payments can both be provided as required in Minnesota Statutes, section 256D.051.

Minnesota Statutes, section 256D.101, subdivision 2, requires the local agency to determine a registrant's eligibility for general assistance prior to disqualification for failing to comply with work readiness requirements. Part 9500.1316, subpart 2, implements that statutory requirement. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that persons who have borderline mental retardation or who exhibit perceptible symptoms of mental illness and who have registered for and completed six months of work readiness are eligible for six months of general assistance. Part 9500.1258, subpart 2, implements this statutory requirement. It is necessary to specify that a new general assistance application is not required for registrants for whom the local agency is determining general assistance eligibility under the provisions of parts 9500.1316, subpart 2, and 9500.1258, subpart 2, in order to prevent delaying the local agency decision and to prevent the collection of duplicative data. It is reasonable to include this provision in the rule parts in order to create a uniform statewide rule as required by Minnesota Statutes, section 256D.04, clause (2). It is also

reasonable to include this provision in the rule parts in order to facilitate the employment and training of participants as required under Minnesota Statutes, section 256D.051, subdivision 14.

Subpart 3. Eligibility criteria. This subpart requires the local agency to determine an applicant's work readiness eligibility after the applicant has been determined ineligible for general assistance, and states the criteria which must be met in order for an applicant or registrant to be determined eligible for work readiness services and payments.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Subpart 1 requires the local agency to determine a work readiness applicant's eligibility for general assistance before determining eligibility for work readiness. It is therefore reasonable to specify that when the local agency determines the applicant ineligible for general assistance, the local agency must determine the applicant's eligibility for work readiness in order to create consistency and uniformity among the rule parts, and in order to provide a mechanism whereby the applicant is assessed for eligibility for work readiness.

Items A and B. These items are necessary because they inform affected parties of statutory criteria which must be met in order to receive work readiness services and payments. Minnesota Statutes, section 256D.051, subdivision 1, states that a person or family whose income and resources are less than the standard of assistance established by the commissioner but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Minnesota Statutes, section 256D.05. subdivision 1, specifies that "Each individual or family whose income and resources are less than the standard of assistance established by the commissioner shall be eligible for and entitled to general assistance if the person or family..." meets one or more of 14 categories of eligibility. Part 9500.1209, subpart 3, item A, implements these statutory provisions by requiring the local agency to determine if the individual or family meets one or more of the categories of eligibility as part of the general assistance eligibility determination. It is reasonable to include the provisions of these items in the rule parts because they are consistent with Minnesota Statutes, section 256D.051, subdivision 1, and because they create consistency and uniformity among the rule parts.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), specifies that each person or family must have income and resources less than the standard of assistance established by the commissioner to be eligible for general assistance. Minnesota Statutes, section 256D.06, subdivision 1, specifies the income limits, and Minnesota Statutes, section 256D.08 specifies the resource limits to be used when determining an individual's or family's eligibility for general assistance. The commissioner has established the income and resource limits in part 9500.1209, subpart 4. Minnesota Statutes, section 256D.051, subdivision 1, specifies that the income and resource standards used to determine eligibility in the general assistance program must also be used in the work readiness program. In order to clarify for the local agency and for applicants and registrants how a married couple's income and

resources must be treated in the work readiness program, it is necessary to state that if the applicant or registrant is married and lives with his or her spouse, the income and resources of the applicant or registrant and his or her spouse shall be considered in accordance with part 9500.1209, subpart 4, when determining the applicant's or registrant's eligibility and monthly payment amounts. It is reasonable to consider such income and resources in accordance with part 9500.1209, subpart 4, because this policy requires the local agency to treat a work readiness applicant's or registrant's income and resources in the same manner in which such income and resources would be treated in the general assistance program, and the policy is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

Item C. This item is necessary because it informs affected parties of statutory criteria which must be met in order to receive work readiness services and payments. Minnesota Statutes, section 256D.051, subdivisions 4 and 5, state that a registrant will be eligible for either two months during any 24-month period, or for six months out of any consecutive 12-month period. A registrant who has exhausted his or her period of eligibility is not eligible for additional work readiness services and payments until the next 12 or 24-month period begins. It is reasonable to include the provisions of this item in the rule parts because they are consistent with and implement the provisions of Minnesota Statutes, section 256D.051, subdivisions 4 and 5.

Item D. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6), specifies that a person who is unable to secure suitable employment due to the inability to communicate in the English language is eligible for general assistance if he or she participates in a language skills program if so assigned by the local agency. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), specifies that a family with minor children is eligible for general assistance and that the adult members of such family must register for and cooperate in the work readiness program. If the adult does not cooperate with the work readiness program, the local agency shall not take the person's needs into account when making the grant determination. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that a person who has completed six months in the work readiness program and who has borderline mental retardation or who exhibits perceptible symptoms of mental illness is eligible for general assistance, provided that such person continues to cooperate with work and training requirements as determined by the local agency. The person who exhibits perceptible symptoms of mental illness must also cooperate with social services, treatment, or other plans developed by the local agency to address the illness as a condition of continuing eligibility. The commissioner has implemented the provisions of these statutes in part 9500.1266 by providing for disqualification from receiving general assistance for failure to meet program requirements.

Minnesota Statutes, section 256D.051, subdivision 3, specifies that a work readiness registrant shall cooperate with the local agency in all aspects of the work readiness program, and that the local agency may terminate assistance to a registrant who fails to cooperate with these requirements. The period of ineligibility for failure to cooperate is two months. The commissioner has implemented these statutory provisions in part 9500.1316 by providing for disqualification of a noncompliant registrant.

Minnesota Statutes, section 256D.06, subdivision 5, specifies that an applicant for general assistance must apply for maintenance benefits from other maintenance benefit sources for which he or she is potentially eligible as a condition of general assistance eligibility. The commissioner has implemented the provisions of this statute by adopting Minnesota Rules, part 9500.1254. That rule provides for disqualification if the individual fails to comply.

Each of the above mentioned rules (parts 9500.1266, 9500.1316, and 9500.1254) provide for the disqualification from receiving general assistance or work readiness for a registrant who failed to comply with program requirements. The intent of such disqualification is to encourage compliance with program requirements by providing a negative consequence for the failure to comply. During disqualification, the applicant, recipient, or registrant is ineligible to receive general assistance or work readiness payments. If the disqualified person were permitted to circumvent the consequences of his or her action or inaction by receiving work readiness services and payments during the disqualification period, the disqualification would be of no effect. That result is not reasonable and conflicts with the various statutory provisions requiring ineligibility or disqualification. It is more reasonable to specify that persons disqualified from receiving general assistance or work readiness under the provisions of parts 9500.1264, 9500.1316, or 9500.1254, are, during the disqualification period, ineligible to receive work readiness services and payments because such policy is consistent with statute and the policy provides a consequence for failing to cooperate or comply with program requirements. It is also reasonable to include this provision in the rule parts in order to create consistency among rule parts and to create a uniform, statewide rule.

PART 9500.1308 REQUIREMENT TO INFORM APPLICANTS.

This part requires the local agency to inform work readiness applicants of the determination of their eligibility or ineligibility, and if eligible, of the time limits on eligibility, the right to choose when to receive work readiness, and the disqualification that will be imposed for failing to comply with certain requirements.

Subpart 1. Duty to inform applicants of ineligibility for the work readiness program. This subpart requires the local agency to inform ineligible applicants of the ineligibility determination and of the right to appeal the determination.

Minnesota Statutes, section 256D.051, subdivision 13, specifies that the local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. Minnesota Statutes, section 256.045, specifies that any person applying for public assistance pursuant to Minnesota Statutes, Chapter 256D, whose application for assistance is denied may contest that action or decision by submitting a written request for a hearing. Part 9500.1318 provides for notification of adverse actions and the right to appeal those actions. It is both necessary and reasonable to inform an applicant that he or she has been determined ineligible for work readiness and of the appeal rights as provided in part 9500.1318 so the applicant is aware of the decision and can choose whether or not to exercise his or her right to appeal the decision.

Subpart 2. Duty to inform eligible applicants of work readiness requirements. This subpart requires the local agency to inform an eligible applicant of the eligibility determination, of the work readiness program, the limitations on work readiness eligibility, the right to choose when to receive work readiness services and payments, and the disqualification that will be imposed for failure to comply with certain program requirements.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. It is reasonable to inform the registrant of the determination so the registrant can plan for the future with the knowledge that he or she may receive services and payments. It is also reasonable to provide the registrant with another copy of the work readiness program description so the registrant's knowledge of the program operation and requirements can be refreshed.

Item A. As provided in part 9500.1306, the local agency must determine a work readiness applicant ineligible for general assistance before the registrant can be determined eligible for work readiness services and payments. Minnesota Statutes, section 256D.051, subdivision 13, specifies that the local agency must notify the person that the determination of ineligibility for general assistance will result in a limit on the number of months of assistance for which the person will be eligible. It is necessary to include this provision in the rule parts in order to comply with the statute. Unlike general assistance benefits which are not time-limited by law, work readiness benefits are only available to an eligible registrant for either two out of 24 months or for six out of 12 months. Because work readiness benefits are only available for a limited period of time, it is reasonable to require the local agency to notify registrants of the fact so they can decide when to receive the benefits and plan for the future.

Item B. It is necessary in this item to specify that an applicant has the right to choose the months during which he or she will receive work readiness services and payments so the applicant is aware that he or she can exercise the right. Minnesota Statutes, section 256D.051, subdivisions 4 and 5, provide for work readiness eligibility for either two months out of any consecutive 24-month period, or for six months in any consecutive 12-month period. Because the period of eligibility is limited, an applicant will only be eligible for some part of each year. An applicant's need for assistance may differ depending on the time of year, the availability of employment, the need for shelter, or other factors. Because the applicant must plan for a method of supporting him or herself during the entire year, the applicant must plan the months during which work readiness services and payments are most needed and the months during which other means of support may be used. In addition, an applicant is under no obligation to accept assistance simply because he or she is eligible for it. Therefore, it is reasonable to specify in this item that the registrant has a right to choose the months during which he or she will receive work readiness assistance, including the right to receive such assistance immediately.

Item C. Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant must cooperate with the local agency in all aspects of the work

readiness program and shall accept any suitable employment. Minnesota Statutes, section 256D.051, subdivision 8, specifies that a person who is otherwise eligible to receive work readiness assistance under subdivision 1 must be terminated from work readiness assistance if he or she quits work without good cause, is fired for misconduct, or refuses to accept an offer of suitable employment. It is necessary to specify in this item that the local agency must inform an applicant of such requirements so the applicant is aware of program expectations and requirements and can plan to accept or reject work readiness services. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it provides advance notice of the applicant's obligations.

PART 9500.1310 WORK READINESS SERVICES AND PAYMENTS.

This part specifies the work readiness services and payments which an eligible applicant may receive, and specifies that the services and payments must be received in the same month in order for the month to count towards the two or six month limit on eligibility.

Subpart 1. Requirement of concurrent services and payments. This item clarifies the relationship between services, payments, and compliance with program requirements that must exist in order for a month to be counted towards the two or six month limitation on eligibility.

Minnesota Statutes, section 256D.051, subdivisions 4 and 5, specify that a registrant may receive work readiness assistance for two or six months. Subdivision 1 states that a registrant, upon application, is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivisions 3, 4, and 5. Subdivision 2, paragraph (a), specifies that the local agency shall provide to registrants under subdivision 1 a work readiness program and states certain services which must be provided. The statute, therefore, entitles an eligible registrant to receive both services and payments to help him or her find suitable employment. Work readiness services are essential to help the registrant find employment before his or her limited period of eligibility expires. In some situations, a registrant may receive a payment for the month but no services. It is necessary to specify that the registrant must receive both services and payments during a month for the month to count towards the two or six month limitation on eligibility in order to implement the provisions of Minnesota Statutes, section 256D.051. This provision is reasonable because it insures that a registrant will receive the services he or she is entitled to receive before his or her period of eligibility expires, thereby maximizing the registrant's chances of finding suitable employment.

An applicant is permitted by statute to receive work readiness assistance for only part of a year. In order to permit the applicant to choose to accept or reject assistance, and to permit the applicant to choose the period of time when work readiness assistance is most needed, it is necessary to state that the local agency must provide work readiness services and payments upon an eligible applicant's election to begin receiving such assistance. It is reasonable to include this provision in the rule parts to create clarity and to specify when assistance must begin.

Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (1), specifies that the local agency must provide an employability assessment and development plan to eligible registrants. Subpart 2, items A and B of this part implement the statutory requirements, and require that the assessment and plan be completed within the first 30 days that work readiness services and payments are provided to a registrant. In some instances, however, the employability assessment and development plan will not be completed in the first 30 days of work readiness assistance. For example, a local agency may have too many clients at a given time to provide an assessment and plan to all, or a registrant may fail to show up for the assessment and plan development. This provision is necessary to clarify whether the first 30 days of assistance will count towards the registrant's two or six month limitation on eligibility when the employability assessment and development plan are not completed. It is reasonable to specify that the month generally must not be counted toward the registrant's two or six month limitation on eligibility because it is consistent with the statutory requirement to provide both services and payments. The assessment and employability development plan are essential tools to assist the registrant in his or her efforts to find employment, and must be provided at an early stage of the program to allow the registrant sufficient time to use the employability assessment and development plan in his or her job search. It is also reasonable to specify that the month will count toward the eligibility limitation if the registrant failed, without good cause, to cooperate or comply when the local agency was developing the employability assessment and development plan because this policy prevents a registrant from willfully extending the length of time he or she may receive benefits by simply refusing to cooperate with development of the assessment and plan. The rule parts require the assessment to be completed "in consultation with the registrant." Participation in the employability assessment and development process, therefore, is a requirement of the program. The local agency cannot complete the assessment or plan until the registrant cooperates. If the local agency were required to disregard a month when a registrant failed to comply with the assessment and plan, the registrant could continue to receive benefits indefinitely. That outcome is not consistent with the limitations on eligibility specified in Minnesota Statutes, section 256D.051, subdivisions 4 and 5.

Minnesota Statutes, section 256D.051, subdivisions 4 and 5, specify that a registrant may receive two or six months of work readiness assistance. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), specifies the work readiness services which must be provided. Generally, services and payments must be provided during the same month for that month to count against the two or six month eligibility limitation. Minnesota Statutes, section 256D.051, subdivision 3, specifies that in order to receive work readiness assistance, a registrant shall cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment. A registrant may, however, fail to comply with the work readiness requirements. When the registrant fails to comply, confusion is created regarding whether or not to count the months against the two or six month eligibility limitation because services and payments were not concurrently received. In order to create clarity, it is necessary to specify the answer to this question. It is reasonable to specify that a month during which a registrant fails to comply with work readiness requirements but for which a work readiness payment was made shall be counted towards the two or six month

eligibility limitation because such policy prevents the registrant from willfully extending his or her eligibility beyond the two or six month limitation on eligibility as stated in Minnesota Statutes, section 256D.051, subdivisions 4 and 5. Without this provision, a registrant could extend his or her eligibility indefinitely by simply refusing to cooperate with work readiness requirements and claiming that services and payments were not both provided during the month. This outcome is not consistent with the eligibility limitations of Minnesota Statutes, section 256D.051, subdivisions 4 and 5. It is more reasonable to count such month against the time limitations on eligibility because the registrant could have received work readiness services by simply complying with the local agency. This provision is also reasonable because it provides incentive for the registrant to attend required sessions and workshops. The registrant's active participation is necessary to maximize the registrant's chances of finding suitable employment.

Subpart 2. Work readiness services. This subdivision specifies the work readiness services which a local agency must provide to a work readiness registrant, and authorizes the local agency to contract for the provision of such services.

Item A. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), states that "The local agency shall provide to registrants under subdivision 1 a work readiness program. The work readiness program must include:

(1) an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment";

This item is necessary because it clarifies who must complete the employability assessment, and because it explains what factors must be taken into consideration when developing the assessment. It is reasonable to specify that the assessment must be completed in consultation with a vocational advisor because such requirement assures that an individual who has necessary education, training and experience will assess the registrant's capacity to secure employment. It is reasonable to require that the assessment be completed in consultation with the registrant in order to permit the vocational advisor to gain information that is not available from any source other than the registrant and to permit the vocational advisor to assess the registrant's ability to present him or herself well when searching for suitable employment. It is reasonable to specify that the assessment must include an examination of the registrant's education, training, prior work experience, and suitable employment that is or may become available because these factors directly affect a registrant's ability to secure or retain employment, and will dictate the level of employment which the registrant can perform. This information will also assist the vocational advisor in identifying the registrant's barriers to employment. Moreover, it is reasonable to specify that the assessment must identify barriers to the registrant seeking and securing suitable employment in order to plan the type and duration of services needed, to identify the length of time it will take the registrant to obtain suitable employment, and to assure that the vocational advisor can develop a realistic plan for helping the registrant overcome the barriers and find realistic job possibilities.

Item B. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a),

states that "The local agency shall provide to registrants under subdivision 1 a work readiness program. The work readiness program must include:

(1) an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment";

This item is necessary because it identifies who must complete the written employability development plan, and because it specifies the content required in the plan. It is reasonable to specify that a vocational advisor must develop the written employability development plan because the vocational advisor has the education, training, and experience needed to determine the services necessary to assist the registrant to seek and obtain suitable employment. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (4), specifies that the purpose of the employability development plan is to design services and activities "to prepare the registrant for permanent employment." It is reasonable to specify that the plan must be based on the employability assessment provided under item A and the vocational advisor's knowledge of the level of competition for employment that is or may become available, and must be designed to address the registrant's barriers to employment and prepare the registrant for suitable employment because such provisions are consistent with the statutory intent of helping the registrant to prepare for employment.

It is necessary to specify that a copy of the registrant's plan must be given to the registrant so that affected parties are aware of program procedures which must be complied with. It is reasonable to specify that a copy of the plan must be given to the registrant in order to assure that the registrant is informed of the plan of services which the local agency has designed to help the registrant find suitable employment and so the registrant is informed of the requirements which he or she must comply with. This provision is also reasonable because it enables the registrant to question the plan of services identified in the intended service plan.

Subitem (1). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (1), specifies that the local agency must provide an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant program policies and procedures.

Subitem (2). Minnesota Statutes, section 256D.051, subdivision 3, specifies that the registrant shall cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant program policies and procedures.

Subitem (3). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (2), specifies that the employability plan must include referral to available employment assistance programs including the Minnesota employment

and economic development program. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant policies and procedures.

Subitem (4). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), specifies that the local agency shall not require an individual to participate in the work readiness program for more than 32 hours a week, and that the local agency shall require an individual to participate at least eight hours a week in job search or other work readiness program activities. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant program policies and procedures.

Subitem (5). Minnesota Statutes, section 256D.051, and this proposed rule give local agencies considerable flexibility when determining the job search activities which must be complied with by a registrant. It is necessary to assure that the registrant is not expected to comply with arbitrary or meaningless requirements by stating that the registrant's job search requirements must be limited to the local labor market, must be reasonable, and must be based upon the assessment performed under item A. It is reasonable to include this provision in the rule parts in order to create a statewide, uniform rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14, and which at the same time affords local agency flexibility in designing job search requirements which are reasonable for that county or area.

Subitem (6). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), requires the local agency to provide "other activities designed by the local agency to prepare the registrant for permanent employment." It is reasonable to include this provision in the rule parts because it is consistent with statute and because it informs affected parties of relevant program policies and procedures. This provision is also reasonable because if affords the local agency flexibility in designing its work readiness program so that it can respond to local concerns and needs.

Subitem (7). This provision is necessary because it provides a mechanism for assessing whether the services being provided are having the intended effect, and whether the plan of services needs to be amended. It is reasonable to include this provision in the rule parts in order to assure that services are provided which facilitate the employment and training of participants as specified in Minnesota Statutes, section 256D.051, subdivision 14.

Item C. A registrant who is required to participate in work readiness services and who receives a work readiness payment or general assistance payment will have a limited amount of funds available with which to provide for all daily living needs. Because the standards of assistance which are used to determine the monthly payment amount provide only for basic necessities, the monthly payment cannot be assumed sufficient to provide for other, nonsubsistence needs. For example, a registrant who has employment-related travel expenses cannot be expected to pay such travel costs and his or her daily living needs from the same monthly payment. A registrant who must pay his or her own transportation costs instead of daily living needs will not be able to effectively participate in the work readiness program. It is

therefore reasonable to specify that the local agency cannot require the registrant to travel for work readiness reasons unless travel expenses are provided for through other funds, transportation is otherwise available to the registrant without cost, or unless transportation is unnecessary. It is reasonable to include this provision in the rule parts in order to create a uniform, statewide rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14.

Item D. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), specifies that adults in a family with minor children are eligible for general assistance, and that if the children are over the age of 6, all adults must register for and participate in the work readiness program. The statute assumes that children over the age of six attend school, and that child care will not be needed during school hours. Therefore, parents whose children are in school are assumed to be free to participate in the work readiness program. However, there are certain situations when the child will not be in school during the hours when the parent would be required to participate in the work readiness program. For example, children often have days off for holidays or school vacations but the parents do not have the same time periods free from work or training. During these times, child care is necessary. This can be a major problem when the family consists of only one parent since the parent would then have to arrange child care for the times the child is not in school. This problem would be made more difficult if the parent was also expected to pay for child care out of the general assistance or work readiness payment since the monthly payment provides only for basic subsistence needs. In order to create a rule which facilitates the employment and training of work readiness participants as required by Minnesota Statutes, section 256D.051, subdivision 14, it is necessary to specify how a one-parent family's need for child care will be resolved. It is reasonable to require the local agency to provide child care funds (when the registrant has children under the age of 12) in addition to the monthly program payment, unless child care is otherwise available to the recipient without cost, because this policy will assure that the recipient is not required to use his or her monthly program payment for needs other than basic subsistence items. Children over the age of 12 are commonly considered able to care for themselves, and therefore are not likely to need outside care. This provision is also reasonable because it provides for administration of the general assistance program in a uniform, statewide manner as required by Minnesota Statutes, section 256D.04, clause (2).

Item E. Minnesota Statutes, section 256D.113, governs employment experience programs for work readiness participants. Subdivision 3 of that statute states that work performed through this program must not displace persons currently employed or fill an established vacant position. It is reasonable to specify that the local agency must require that its employment experience program meet the standards established in the statute and that work to be done is not work ordinarily performed by a regular public employee because it is consistent with Minnesota Statutes, section 256D.113, and because it informs interested parties of program provisions which may affect them.

Item F. Minnesota Statutes, section 256D.051, subdivision 14, authorizes the commissioner to adopt permanent rules to implement the work readiness program. Minnesota Statutes, section 256D.051, subdivision 9, authorizes the local

agency to contract for the provision of work readiness services. It is necessary to include this provision in the rule parts in order to inform interested parties of policies and procedures which may effect them. It is reasonable to require in this item that the entity contracted with must be able to document that it has the resources and expertise necessary to perform the services in order to create a rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14, and to assure that contracted services meet the service requirements of both statute and rule. It is reasonable to require that the contract describe the services to be performed under contract so all parties to the contract are aware of what is expected of each. It is necessary to specify that the local agency must monitor the entity with whom it has contracted to assure that services to be performed under contract are being provided. It is reasonable that the local agency monitor the entity under contract because, under Minnesota Statutes, section 256D.051, subdivision 1, and under part 9500.1308, it is the local agency's responsibility to provide a work readiness program. It is reasonable to require the local agency to provide a copy of the contract and a description of the resources and expertise of the entity under contract to the commissioner so the commissioner can monitor the implementation of these rules under Minnesota Statutes, section 256D.051, subdivision 14.

It is necessary to specify that the local agency must monitor the entity under contract in order to assure that the entity is providing the services in accordance with statute and rules. It is reasonable to include this provision in the rule parts because it is assures that the registrant receives the services and benefits which he or she is entitled to.

Subpart 3. Work readiness payments. This subpart specifies who must receive work readiness payments, the method of determining eligibility for and the amount of the payments, establishes the periods which the payments are intended to cover, and specifies that emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that "A person or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivisions 3, 4, and 5. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration." Minnesota Statutes, section 256D.051, subdivision 14, authorizes the commissioner to adopt permanent and emergency rules to implement the work readiness program.

The commissioner has proposed part 9500.1306, subpart 3, to implement the criteria for work readiness eligibility which are specified in Minnesota Statutes, section 256D.051, subdivision 1. It is necessary to specify that registrants who meet the eligibility requirements of part 9500.1306, subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility in order to implement the payment provisions of

Minnesota Statutes, section 256D.051, subdivision 1, and to create consistency among the rule parts. It is reasonable to include this provision in the rule parts in order to inform interested persons of program procedures and policies which may affect them.

Because Minnesota Statutes, section 256D.051, subdivision 1, specifies that the work readiness payment amount must be equal to general assistance, it is necessary to specify how to make payments to both single registrants, and registrants with a family. Part 9500.1209 specifies that eligible family members form a "filing unit" and an "assistance unit" for purposes of determining the standard of assistance applicable to the family, the amount of resources, eligibility, and payment amounts. Families with minor children will be eligible for general assistance under part 9500.1258, subpart 1, item L, and will not receive work readiness payments. Therefore, only single persons or married couples will receive work readiness payments. The payment amount for single persons has already been provided for. It is therefore necessary to specify how to determine the payment amount for married registrants.

It is reasonable to consider a married registrant who lives with his or her spouse to be a filing unit comprised of two individuals because this couple would be considered a filing unit for general assistance purposes. This implies that the spouses will be obligated to provide support to each other, when possible. It is also reasonable to specify that when the registrant's spouse is also receiving work readiness, that the couple will comprise an assistance unit composed of two individuals because this policy will require that the standard of assistance applicable to the couple will be the same amount that would be received under general assistance. It is reasonable to include these provisions in the rule parts in order to inform interested parties of program policies and procedures which may effect them, and to create a statewide, uniform rule.

It is necessary to specify that the work readiness payment amount must be equal to the amount of assistance that would be paid to the registrant's assistance unit if the registrant was eligible for general assistance under part 9500.1209 in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 1, and to create consistency among rule parts. It is reasonable to include this provision in this item in order to inform interested persons of program policies and procedures which may affect them.

When the registrant's spouse receives general assistance, the couple will receive payments from two programs. The registrant will receive a work readiness payment, and the spouse will receive a general assistance payment. Minnesota Statutes, section 256D.051, subdivision 1, states that the work readiness payment must be equal to the amount of general assistance the registrant would receive under section 256D.05, subdivision 1. It is reasonable to specify that when the registrant's spouse resides with the registrant and the spouse receives general assistance that the amount of the registrant's work readiness payment must equal the increase that would result if he or she were added to the spouse's general assistance grant because that is the amount which would be paid to the registrant under general assistance. This provision is also reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that the local agency shall pay work readiness in monthly payments. Confusion exists, however, when a registrant is determined eligible mid-month concerning the amount of assistance which must be paid that month. For example, a registrant may be found eligible for work readiness on the 15th of the month, and the monthly standard of assistance for the registrant is $201 monthly. The local agency must determine if the registrant should receive $201 for the 15 days left in the month, or whether the payment must be prorated based upon the number of days for which assistance is paid. Minnesota Statutes, section 256D.051, subdivision 1, specifies that a registrant is eligible to receive work readiness assistance upon registration. It is therefore reasonable to require the first payment to be made immediately upon electing to receive work readiness, even if the election is made mid-month. Minnesota Statutes, section 256D.051, subdivision 1, specifies that the amount of work readiness paid must be equal to the amount of assistance which the registrant would have received under the general assistance program. The general assistance program prorates the amount of assistance from the date of application to the end of the month. Therefore, it is reasonable to specify that the first work readiness payment must be prorated for the period beginning with the effective date of the completed application, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services or payments, whichever is later, and ending with the last day of that month because this policy is consistent with the policy used in the general assistance program, and because this provision is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

It is necessary and reasonable to specify that subsequent work readiness payments must be made monthly on the first day of the month because this policy is consistent with the method of payment in general assistance, and is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency shall terminate assistance to a registrant after two months in the work readiness program if the local agency determines the registrant is not eligible for a maximum of six months of work readiness assistance under subdivision 5. In order to create clarity, it is necessary to specify how long a registrant must receive work readiness payments. It is reasonable to specify that the registrant must receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306 because this provision implements the limitations on work readiness eligibility imposed by Minnesota Statutes, section 256D.051, subdivisions 1, 4, and 5. This provision is also reasonable because it permits the registrant to elect the months during which he or she will receive services and payments, thereby allowing the use of assistance during the months in which the registrant feels the greatest need.

Minnesota Statutes, section 256D.051, subdivisions 1, 4, and 5, limit the period of time that a registrant may receive work readiness services and payments. A registrant will be eligible for two or six full months of assistance. If the first payment covers only part of the first month, the final payment must cover only part of that final month. This will assure that a registrant receives either two or six full months of assistance. It is

therefore reasonable to specify that the last payment must be prorated to cover the number of days in the registrant's first month which were not covered by the first payment. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which affect them, and to create a rule which assures the provision of the benefits to which a registrant is entitled as provided in Minnesota Statutes, section 256D.051.

Because general assistance and work readiness are two separate programs, confusion exists concerning whether or not emergency general assistance is available to a work readiness registrant. It is necessary to create clarity by specifying that such assistance is available to a registrant. Minnesota Statutes, section 256D.06, subdivision 2, specifies that emergency general assistance is available to an eligible individual or family for an emergency need where the recipient requests temporary assistance not exceeding 30 days. A registrant of work readiness must meet the same income and resource limits for work readiness as those used in general assistance. Therefore, a registrant meets the initial income and resource limits for emergency assistance. Because a registrant may have emergency needs equal to a general assistance recipient, it is reasonable to specify that the local agency may provide emergency assistance to the registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

PART 9500.1312 ASSESSMENT DURING SECOND MONTH; NOTICE OF TERMINATION.

This part requires the local agency to assess registrants during the second month of work readiness to determine the registrants' eligibility for four additional months of services and payments; requires the local agency to notify registrants of the determination; requires a new second month assessment if the registrant moves to another county; and requires the local agency to notify registrants who are in the last month of his or her two or six months of work readiness of his or her termination from the work readiness program.

Subpart 1. Required assessment. This subpart requires the local agency to assess the registrant's progress in securing suitable employment and to complete an assessment of the registrant's eligibility for four additional months of work readiness services and payments during the registrant's second month of work readiness participation.

Part 9500.1310, subpart 2, item B, requires the local agency to develop an employability development plan designed to prepare the registrant for employment. It is necessary to specify in this subpart that the local agency must assess the registrant's progress in securing suitable employment in order to determine if changes are needed in the registrant's employability plan, and to serve as the basis of determining if "no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform," as required by Minnesota Statutes, section 256D.051, subdivision 5, clause (3). It is reasonable to include this provision in the rule parts in order to develop a rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14, and in order to implement the provisions of statute.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that during the second month of work readiness assistance, the local agency must assess the registrant's eligibility under subdivision 5 and inform the registrant of the outcome of the assessment. It is necessary to specify that the local agency must assess the registrant's eligibility for four additional months of work readiness during the registrant's second month of work readiness services and payments under part 9500.1310 in order to implement the provisions of the statute. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them. It is both necessary and reasonable to exclude persons eligible under part 9500.1262 from the required second month assessment under this subpart because such persons are eligible for general assistance, and the assessment of eligibility for four additional months of work readiness services and payments will have no effect on their general assistance eligibility.

It is necessary to specify that the local agency must offer the registrant an opportunity to meet with the local agency and to provide information relevant to the second month assessment in order to give the registrant an opportunity to provide information that the local agency may not have. Under the emergency rule which implemented this provision, the local agency was required to complete the assessment "in consultation with the registrant." The local agencies reported that this provision created considerable difficulty in completing the second month assessment because they found that a very high percentage of registrants scheduled to meet and "consult" regarding the assessment did not show up for the assessment. If the registrant's presence would be required but the registrant failed to show up for the assessment, the local agency would be unable to complete the assessment. This creates considerable confusion regarding whether to continue work readiness payments and services after two months have elapsed but the registrant's eligibility for four additional months of assistance has not been determined. Providing the registrant an opportunity to meet with the local agency regarding the assessment without <u>requiring</u> his or her presence permits the registrant to provide relevant information to the local agency and permits the second month assessment to be completed without the confusion about payment of benefits beyond the second month. It is reasonable to include this provision in the rule parts because it helps insure that the local agency is informed of all factors which may influence the decision regarding the registrant's eligibility for four additional months of work readiness services and payments, permits the registrant to provide relevant information, and eliminates confusion about payment of benefits that should only be paid <u>after</u> the registrant is determined eligible for four additional months of work readiness assistance.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency must assess the registrant's eligibility for four additional months of work readiness assistance under subdivision 5 during the registrant's second month of work readiness assistance. It is both necessary and reasonable to specify that the local agency must complete the second month assessment based on information in the registrant's case file if the registrant does not meet with the local agency or provide relevant information in order to assure that the statutory requirement is complied with, and to insure that the assessment is not avoided by the registrant failing to meet with the local agency or failing to provide relevant information during the registrant's second month.

Subpart 2. Notice of Assessment. This subpart requires the local agency to inform the registrant of the second month assessment of the registrant's eligibility for additional work readiness assistance.

It is necessary to specify that the notice must meet the standards established under part 9500.1252 in order to clarify that the provisions of part 9500.1252 are applicable. It is reasonable to specify that the provisions of part 9500.1252 apply because it insures that registrants will be informed of their upcoming assessment in a clearly written notice which they are capable of understanding. It also creates consistency among the rule parts, since part 9500.1252 applies to all written material provided to applicants and recipients.

Item A. It is necessary to require that the local agency's notice of the upcoming assessment include the conditions which must be met in order for the registrant to be found eligible for four additional months of work readiness services and payments because this practice insures that the registrant is knowledgeable of the factors which will provide four additional months of assistance. It is reasonable to include this provision in the rule parts in order to permit the registrant to determine which information may be relevant to the assessment, and so the registrant can provide such information to the local agency.

Item B. Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency shall terminate a registrant after two months in the work readiness program if the local agency determines that the registrant is not eligible for four additional months of work readiness assistance as provided by subdivision 5. Registrants cannot qualify for more than two months of work readiness assistance unless they have been assessed and found eligible for four additional months as specified in Minnesota Statutes, section 256D.051, subdivisions 4 and 5. Therefore, it is reasonable to specify that the registrant will not receive work readiness payments beyond the second month until the assessment has been completed and the registrant has been found eligible for four additional months in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivisions 4 and 5. It is also reasonable to include this provision in the rule parts in order to provide advance notice of the importance of the assessment and to allow the registrant to plan for the length of time that he or she will likely receive assistance.

Item C. It is necessary to specify that the registrant must be notified that an opportunity exists to meet with the local agency in order to provide information relevant to the assessment because such notification enables the registrant to choose whether or not to use this opportunity. It is reasonable to specify that the local agency must offer the registrant an opportunity to meet and provide relevant information because this provision insures that a mechanism exists whereby the local agency can obtain data known only to the registrant.

Item D. It is necessary to specify that the registrant may submit information to the local agency that is relevant to the determination because this practice insures that the registrant has a voice in the determination and that the registrant's evidence will be considered. It is reasonable to include this provision in the rule parts in order to assure that the registrant's rights and interests are protected, and to permit the registrant to provide material information which the local agency may not have.

The assessment of the registrant's eligibility must be conducted during the registrant's second month of work readiness assistance. The provisions of this part require that the registrant be informed of the upcoming assessment, that the assessment be scheduled during the month, and that the registrant be notified of the results of the determination. Part 9500.1318 requires that the notification of ineligibility for four additional months be mailed or given to the registrant at least 10 days before reducing, suspending, or terminating assistance. Implementation of these provisions will use up the majority of the second month. Therefore, it is necessary to require the registrant to provide information to the local agency relevant to the second month determination within a set time period. It is reasonable to specify that the information be provided within 10 days of the date the notice of the upcoming assessment is mailed or given to the registrant in order to assure that sufficient time remains in the month to conduct the assessment and to notify the registrant of the determination. This 10-day period was implemented through emergency rule (part 9500.1216 [EMERGENCY], subpart 1) without problems being reported.

Subpart 3. Assessment of additional eligibility. This subpart specifies the conditions which must be met in order for the registrant to be eligible for four additional months of work readiness assistance.

Minnesota Statutes, section 256D.051, subdivision 5, specifies that a registrant is eligible for work readiness assistance for a maximum of six months in any consecutive 12-month period if the registrant:

(1) has borderline mental retardation;
(2) exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under section 256D.05, subdivision 1, because the mental illness interferes with the medical certification process;
(3) is certified by the commissioner of economic security as being unable to secure suitable employment because the person lives in a distressed county; and
(4) is unable to secure suitable employment because the local agency has determined that no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform.

Items A to D. It is necessary to specify the provisions of items A to D in order to implement the provisions of the statute. It is reasonable to include these provisions in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

Part 9500.1206, subpart 20, specifies that medical certification means a statement about a person's illness, injury, or incapacity that is signed by a licensed physician, licensed consulting psychologist, or licensed psychologist whose professional training and expertise qualifies him or her to diagnose or certify the person's condition. It is necessary to require medical certification of the registrant's borderline mental retardation when the local agency believes or the registrant or a representative of the registrant asserts that the registrant has borderline mental retardation because such determination requires specialized, professional training and expertise. Persons qualified to complete a medical certification have the necessary training and expertise to make the determination.

It is necessary to require that the local agency seek medical certification of the registrant's condition when the registrant's behavior, mood, conduct, or appearance suggests or demonstrates that the individual has a mental illness, or when the registrant or a representative of the registrant asserts that the registrant has a mental illness in order to determine if the registrant may be eligible for general assistance. If the registrant is eligible for general assistance the registrant is ineligible for work readiness as provided by Minnesota Statutes, section 256D.051, subdivision 1. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

In some cases, the registrant's mental illness may prevent the medical certification of the condition. For example, a registrant may refuse to go to a professional, or may deny the existence of the condition. In such cases, the condition will most likely effect the registrant's ability to secure employment. It is necessary to specify that if the registrant's mental illness interferes with the medical certification the local agency shall seek an assessment of the registrant's condition from a qualified professional in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 5, clause (2). It is reasonable to include this provision in the rule parts because it is consistent with the statute and because it informs interested parties of program policies and procedures which may effect them. Inclusion of this provision in the rule parts also will provide extended eligibility for work readiness assistance to individuals affected by mental illness, and will permit more time to work with the person to see if employment can be obtained. Furthermore, this provision is reasonable because it facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Subpart 4. Notice of Determination. This subpart requires the local agency to notify the registrant of the results of the second month assessment and the length of time that the registrant may receive work readiness services and payments.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency shall terminate a registrant after two months in the work readiness program if the local agency determines that the registrant is not eligible for assistance under subdivision 5, requires the local agency to assess the registrant during the second month as to his or her eligibility under subdivision 5, and requires that the local agency inform the registrant of the outcome of the assessment. The statute also specifies that a registrant who is not found eligible under subdivision 5 is eligible for a maximum of two months of work readiness assistance in any consecutive 24-month period. Subdivision 5 specifies the conditions which must be met in order for the registrant to be eligible for work readiness assistance for a maximum of six months in any consecutive 12-month period. The provisions of this subpart are both necessary and reasonable in order to implement the provisions of the statute. Moreover, this provision is reasonable because it provides the registrant with notice of the outcome of the assessment, so the registrant can decide whether or not to appeal the decision if found ineligible or make plans for the use of the extended benefits in the future if found eligible for additional assistance.

Subpart 5. Registrant moves to another county after second month assessment is completed. This subpart specifies that the new county of residence must

complete another second month assessment and determine the registrant's eligibility for additional work readiness services and payments when the registrant moves from one county to another and the local agency in the first county has completed a second month assessment.

Minnesota Statutes, section 256D.051, subdivision 5, specifies the conditions which must be met for a registrant to be eligible for an additional four months of work readiness assistance. That statute is implemented through subpart 1. The outcome of the second month assessment required by subpart 1 will be different depending on the county in which the assessment is conducted because the employment conditions and unemployment rate may vary from county to county. Eligibility for extended benefits will therefore depend on: (1 whether the county of residence is distressed, and; (2 the local labor market of the county of residence. Confusion exists about the amount of work readiness assistance a registrant may receive when the registrant is assessed as being ineligible for four additional months of work readiness assistance in a non-distressed county but then moves to a distressed county and applies for work readiness. Is the registrant then eligible for additional assistance because he or she now lives in a distressed county? Confusion is also present about how much assistance a registrant may receive when the registrant has been determined eligible for four additional months of work readiness assistance in a distressed county but the registrant then moves to a non-distressed county. Does the registrant remain eligible for the additional assistance even though living in a non-distressed county? In order to create clarity and eliminate confusion, it is necessary to specify that when a registrant who has been assessed for four additional months of work readiness assistance as required in subpart 1 moves to another county that the new county of residence must complete another second month assessment. It is reasonable to include this provision in the rule parts because it is consistent with the conditions necessary for the provision of four additional months of work readiness as specified in Minnesota Statutes, section 256D.051, subdivisions 4 and 5. The criteria in this statute specify that a registrant who resides in a distressed county or who is determined by a vocational advisor to be unable to secure suitable employment is eligible for additional work readiness assistance. The determination of eligibility based upon both of these criteria is dependent on the county of residence. When the county of residence changes, the registrant's eligibility may change. Therefore, it is reasonable to require a new determination when the registrant moves to another county.

Subpart 6. Notice of termination. This subpart requires the local agency to notify a registrant who is in the last month of his two or six months of work readiness assistance of the termination of services and payments and of the appeal rights as provided in part 9500.1318.

Minnesota Statutes, section 256D.051, subdivision 13, requires the local agency to provide notice and opportunity for hearings for adverse actions according to sections 256D.10 and 256D.101. The commissioner has implemented this statute by proposing part 9500.1318. It is necessary to specify that the local agency must notify a registrant who is in the last month of his or her two or six months of work readiness assistance of the termination of services and payments and of the appeal rights in accordance with the procedures specified in part 9500.1318 in order to create consistency and uniformity among the rule parts, and to permit the registrant to exercise his or her

right to appeal the adverse action. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

PART 9500.1314 REGISTRANT DUTIES

This part specifies that a registrant must comply with all requirements of the local agency work readiness program, and that a registrant who fails to comply with such requirements is disqualified from the receipt of work readiness services and payments.

Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant must "cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options. The local agency may terminate assistance to a registrant who fails to cooperate in the work readiness program. A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible." Parts 9500.1308, subpart 2, and 9500.1310, subpart 2, provide notification to the registrant of the work readiness requirements which the registrant must comply with. Minnesota Statutes, section 256D.101, specifies that the local agency must provide notice of the determination that the registrant has failed to cooperate, and terms the subdivision "Disqualification." It is necessary to specify in this part that a registrant must comply with all requirements of the local agency work readiness program as explained under parts 9500.1308, subpart 2, and 9500.1310, subpart 2, in order to clarify the requirements which must be complied with, and to implement the provisions of Minnesota Statutes, section 256D.051, subdivisions 3 and 8. It is reasonable to include this provision in the rule parts because it is consistent with the statute, and because it creates consistency among the rule parts.

Part 9500.1316 implements the disqualification procedures specified in Minnesota Statutes, sections 256D.051, subdivision 3, and 256D.101. It is reasonable to specify that a registrant, other than a registrant participating in work readiness under part 9500.1262, who fails without good cause to comply with the local agency work readiness requirements is disqualified from the receipt of work readiness services and payments under part 9500.1316 because this procedure is consistent with Minnesota Statutes, sections 256D.051, subdivision 3, and 256D.101. A registrant who is participating in work readiness under part 9500.1262 is a general assistance recipient who, if he or she fails to comply with work readiness requirements, must be disqualified from general assistance in accordance with part 9500.1266.

PART 9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

This rule part establishes the procedures a local agency must follow when it determines that a registrant has failed to comply with the requirements of the work readiness program, specifies the period of disqualification that must be

imposed on the registrant who fails to comply, and states the procedure for terminating assistance. The provisions in this rule part are authorized by Minnesota Statutes, sections 256D.051, subdivision 3, and 256D.101.

Subpart 1. Determination and notice of failure to comply. This subpart specifies what information the local agency must provide to a registrant when the local agency has determined that the registrant has failed to comply with the requirements of the work readiness program. The requirements in this subpart are needed to comply with the statutory requirements in Minnesota Statutes, section 256D.101, subdivision 1, which states that "If the local agency determines that a registrant has failed to comply with the requirements of section 256D.051, the local agency shall notify the registrant of the determination. The notification shall be in writing; shall state the facts that support the local agency's determination; shall specify the particular actions that must be taken by the registrant to achieve compliance; shall state that the recipient must take the specified actions by a date certain, which must be at least 15 days following the date the notification is mailed or delivered to the registrant; shall explain the ramifications of the registrant's failure to take the required actions by the date specified; and shall advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification." It is necessary to include the requirements in these rules to insure that notices of failure to comply will be consistent with statute and uniform throughout the state, as required under Minnesota Statutes, section 256D.04, paragraph (2), which requires the commissioner to "Promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...."

It is necessary to require the local agency to provide a notice that meets the standards in part 9500.1252, because part 9500.1252 establishes the standards for clarity and language that all general assistance written materials and notices must meet. It is reasonable to require notices of failure to comply to meet the standards under part 9500.1252 because it insures that the registrant will be able to understand the information contained in the notice. It is also reasonable to include this provision in this rule subpart because it insures that interested and affected parties are aware that the standards established in part 9500.1252 must be complied with when the local agency notifies a registrant that he or she has failed to comply with work readiness requirements.

Item A. Item A specifies that the notice must state the specific work readiness requirement the registrant has failed to meet, and the facts that support the local agency's determination. It is necessary to require the notice to contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notice must "...state the facts that support the local agency's determination...." It is reasonable to require this information in the notice, because the registrant must be informed of the specific requirement he or she has failed to meet and the facts the local agency has based its determination of failure to comply on if the registrant is to understand what actions he or she was expected to take. This information also enables the registrant to explain why he or she may have had good cause for failure to comply with a specific requirement or to explain why he or she believes that he or she was in compliance.

Item B. Item B specifies that the notice must specify the particular action the registrant must take to meet the requirements. It is necessary to require that the notice contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notification must "...specify the particular actions that must be taken by the registrant to achieve compliance...." It is reasonable to require that the notice contain this information because it enables the registrant to understand what he or she is expected to do, and increases the likelihood that the registrant will comply with the requirements before disqualification is imposed.

Item C. Item C specifies that the notice must specify a certain date by which the action must be taken, and further specifies that the registrant must be given a minimum of 15 calendar days to take the required action following the date the notice is mailed or given to the registrant. These requirements are necessary to comply with Minnesota Statutes, section 256D.101, subdivision 1, which specifies that the notice "...shall state that the recipient must take the specified actions by a date certain, which must be at least 15 days following the date the notification is mailed or delivered to the registrant...." It is reasonable to require that the notice specify the date by which the required actions must be taken because it informs the registrant of how much time he or she has in which to comply and increases the likelihood that the registrant will comply.

Item D. Item D specifies that the notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date. It is necessary to require that the notice contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notice must "...explain the ramifications of the registrant's failure to take the required actions by the specified date...." It is reasonable to require that the notice contain this information because it insures that the registrant understands the consequences of his or her failure to comply, and increases the likelihood that the registrant will comply.

Item E. Item E specifies that the notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency. It is necessary to require that the notice contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notification "...shall advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification." It is reasonable to inform the registrant that he or she has a right to discuss the notice with the local agency because it insures that if the registrant does not understand the notice provisions the registrant will know that he or she can seek clarification from the local agency.

Subpart 2. Disqualification. This subpart prescribes the actions a local agency must take after notifying a registrant of its determination that the registrant has failed to comply, as required under subpart 1. The provisions in this subpart are authorized under Minnesota Statutes, section 256D.101. It is necessary to include these provisions in these rules to insure that periods of disqualification are administered uniformly throughout the state, as required under Minnesota Statutes, section 256D.04, paragraph (2), which requires the commissioner to "Promulgate uniform rules consistent with law for

carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...."

Subpart 2 specifies that if the registrant who is notified of failure to comply under subpart 1 complies with the specified work readiness program requirements by the date specified in the notice the local agency shall not impose a period of disqualification on the registrant. This provision is necessary to be consistent with the statute which states that disqualification will be imposed only if the registrant fails to take the required actions by the date specified in the notice. This provision is reasonable because it is consistent with the purpose of the notice provisions: to encourage registrants to comply. If a registrant were to be disqualified even after complying with the specified requirements there would be no incentive for compliance. Furthermore, if a registrant who is notified under subpart 1 complies with the requirements stated in the notice prior to the date specified in the notice, the registrant is technically in compliance with the work readiness requirements and disqualification is no longer necessary. Specifying that in such cases a disqualification must not be imposed is reasonable because it insures that compliant registrants are not disqualified from the receipt of work readiness services and payments.

Subpart 2 also specifies that before the local agency may disqualify a registrant for failure to comply with work readiness requirements by the date specified in the notice, the local agency must assess the registrant's eligibility under part 9500.1209, and determine that the registrant is not eligible for general assistance. Proposed part 9500.1209 is the rule part which specifies how local agency determinations of general assistance eligibility must be made. Part 9500.1209 is authorized by and consistent with the requirements of Minnesota Statutes, sections 256D.01 and 256D.05. The requirement that the local agency assess general assistance eligibility is necessary to comply with Minnesota Statutes, section 256D.101, subdivision 2, which states that "No notice of grant reduction, suspension, or termination on the grounds that a registrant has failed to comply ... shall be given by the local agency until ... the local agency has, subsequent to giving the notification, assessed the registrant's eligibility for general assistance under section 256D.05 and determined that the registrant is not eligible under that section." (Emphasis added.) Minnesota Statutes, section 256D.051, subdivision 1, specifies that individuals eligible for general assistance are not eligible for work readiness assistance. If, during the disqualification process, the local agency determines that a registrant is eligible for general assistance, the registrant must be found ineligible for work readiness. It is necessary to specify that the registrant must be terminated from work readiness in such cases and be placed on general assistance in order to create consistency with statute. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may effect them.

Finally, subpart 2 provides that a registrant who has failed to comply with work readiness requirements shall be disqualified from receiving work readiness services and payments if the local agency determines that the registrant is not eligible for general assistance. It is necessary to specify that if the registrant has failed to comply with work readiness requirements, has subsequently been properly notified of the requirements and the

consequences for failure to comply within the time period specified, still does not comply, and has been found ineligible for general assistance, that the registrant be disqualified from receiving work readiness services and payments in order to implement the requirements of Minnesota Statutes, sections 256D.051 and 256D.101. Including these provisions in the rule insures that the affected parties are informed of the requirements, and insures that disqualifications will be administered uniformly throughout the state, as required by Minnesota Statutes, section 256D.04, paragraph (2). These provisions are reasonable because they are consistent with the statutory requirements specified in Minnesota Statutes, section 256D.101, subdivisions 1 and 2.

Subpart 3. Notice of disqualification. This subpart specifies that the local agency must notify a registrant who is being disqualified and that the notice must inform the registrant of his or her right to appeal the disqualification. Under Minnesota Statutes, section 256.045; section 256D.051, subdivision 13; section 256D.101, subdivision 2; and section 256D.10, a registrant whose grant is being reduced, suspended or terminated must receive notice of the local agency's intended action and must be given an opportunity for a hearing prior to the reduction, suspension, or termination. The provisions in subpart 3 are needed to comply with these statutory requirements. It is reasonable to include these provisions in the rules because it helps insure that affected parties are aware of the requirements and it insures uniform administration of the disqualification process, as required under Minnesota Statutes, section 256D.04, paragraph (2).

Subpart 4. Period of disqualification. Subpart 4 establishes certain requirements for the period of disqualification that must be imposed on a registrant for failure to comply with work readiness program requirements. It is necessary to specify these requirements in the rules to insure that periods of disqualification are administered uniformly throughout the state, as required under Minnesota Statutes, section 256D.04, paragraph (2). The need for and reasonableness of the provisions in items A to F are established as follows.

Item A. This item specifies that the period of disqualification shall be two months. This provision is necessary to comply with Minnesota Statutes, section 256D.051, subdivision 3, which specifies that "A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible." It is reasonable to include this provision in the rules because it insures that affected parties are aware of the length of a period of disqualification.

Item B. It is necessary to include this item in the rule parts in order to clarify when the disqualification period must begin. Historically, the notice informing a registrant of an upcoming suspension, reduction, or termination is issued indicating that the action will take place the first day of the next month. It is reasonable to specify that the disqualification must begin on the first day of the month following the date on which the determination was made because this policy follows past practice with public assistance. The disqualification process specified in this part and in part 9500.1318 specifies that the registrant must receive the following: 1) a notice, at the

time of the eligibility determination, which specifies the program requirements which must be complied with; and 2) a notice of the requirements which the local agency determines that the registrant has not complied with and at least 15 days within which to comply with the requirements listed in the notice. After the 15 days have elapsed, a determination of GA eligibility must be made. If ineligible for general assistance, a 10-day notice of upcoming reduction, suspension or termination of work readiness services and payments, including notice of the right to appeal must be sent to the registrant and, if no appeal is filed, disqualification will be imposed and benefits stopped. The disqualification cannot begin until the notice of suspension, reduction or termination required by part 9500.1318 has been issued and the required minimum 10-day period has elapsed. The minimum 10-day period permits the registrant to appeal the decision before action is actually taken.

A registrant who must be disqualified as provided in subpart 2 will already have received a work readiness payment for the month in which the disqualification decision is made. If the disqualification period started during that month, the registrant would have received a payment for the part of the month in which he or she was disqualified (and during which he or she was ineligible to receive assistance). The payment for those days would have to be returned to the local agency, a payment most likely already spent. In addition, since the disqualification must be for two months, the local agency would have to issue a partial payment for the portion of the second month of disqualification when the registrant's disqualification period ends. This policy would create an unnecessary burden on the local agency and the registrant. It is more reasonable to begin the disqualification period on the first day of the month following the date on which the determination is made because that time period will permit two full months of disqualification without the need to recover portions of a payment already made, and will eliminate the need to make a partial payment for the final days of the second month.

Minnesota Statutes, section 256D.051, subdivision 13, states that the local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. Minnesota Statutes, section 256D.10, specifies that no grant of general assistance except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the local agency. These statutes require the local agency to provide advance notice to work readiness registrants of any adverse action before implementing the action, and specify that the procedures used in general assistance apply to work readiness. The general assistance program requires that the notice of adverse actions be provided by the local agency to the registrant at least 10 days prior to the adverse action. This process must, therefore, be used in the work readiness program.

In some instances, the notice of disqualification may be issued so late in a month that 10-day prior notice cannot be given before the next payment is issued. It is necessary to specify when the disqualification period must begin in such cases in order to create clarity and to inform affected parties of relevant program policies and procedures. It is reasonable to specify that the disqualification period in such cases must begin on the first day of the

second work readiness payment period following the date the determination was made because this policy affords the registrant the full amount of time to respond to an advance notice of adverse action. This policy is also reasonable because it eliminates the hardship that would occur for the local agency and the registrant if disqualification were to begin mid-month.

Minnesota Statutes, section 256.045, subdivision 3, specifies that any person applying for, receiving or having received any of the forms of public assistance described in subpart 2 whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision. When a registrant appeals a local agency determination that the registrant is ineligible because of disqualification for failing to comply with work readiness requirements, a final determination of the registrant's eligibility or ineligibility is not arrived at until the commissioner issues an order deciding the appeal. Minnesota Statutes, section 256D.10 states that the registrant must be afforded an opportunity to be heard before the local agency takes any adverse action against the registrant's grant. In order to comply with this requirement and ensure that the registrant is not deprived of his or her constitutional right to due process as defined in Goldberg v. Kelly and its progeny, it is both necessary and reasonable to continue a registrant's work readiness services and payments when the registrant has filed a timely appeal.

If the registrant loses the appeal, the decision to disqualify the registrant is upheld and the registrant's benefits must be reduced, suspended, or terminated. It is reasonable to specify that the disqualification period must begin on the first day of the next work readiness payment period because this policy insures that only future benefits are affected, and that benefits already received need not be repaid to the local agency. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may effect them, and because it creates consistency within the rule parts.

Item C. Minnesota Statutes, section 256D.051, subdivision 3, states that a registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible. It is necessary to specify that the local agency shall deny eligibility for work readiness services and payments for a disqualified registrant who applies for work readiness during the disqualification period in order to implement the provisions of the statute. It is reasonable to include this provision in the rule parts in order to create clarity and consistency among the rule parts.

Item D. Minnesota Statutes, section 256D.03, specifies the eligibility criteria for the general assistance medical care program. Such program does not require compliance with work readiness requirements. The general assistance program, under part 9500.1262, requires certain general assistance recipients to comply with the requirements of the work readiness program. The disqualification provisions which apply to a general assistance recipient who

fails to comply with the work readiness requirements are provided in part 9500.1266. The disqualification provided for under this part applies only to work readiness registrants who fail to comply, and does not apply to general assistance recipients. Thus, eligibility for general assistance or general assistance medical care is not affected by disqualification under subpart 2. It is both necessary and reasonable to specify that disqualification under subpart 2 must not affect a registrant's eligibility for general assistance or general assistance medical care in order to assure that the registrant's rights are protected and to assure that affected parties are informed of relevant program policies and procedures.

Item E. Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible. The statute is ambiguous concerning whether or not the disqualification period must be subtracted from the two or six months of work readiness assistance for which the registrant is eligible. It is necessary to specify whether or not the disqualification period must be subtracted from the registrant's eligibility period in order to create clarity. The disqualification period is imposed as a negative consequence for failing to comply with program requirements, not as a method of shortening the registrant's period of eligibility. The loss of assistance payments for two months during disqualification is sufficient penalty for failure to comply with work readiness requirements. Subtracting the two months from the two or six months of work readiness eligibility would be an excessive penalty. The purpose of the work readiness program is to assist registrants to secure suitable employment. The registrant may still need the full amount of work readiness payments and services available after disqualification to help him or her secure suitable employment. It is therefore reasonable to specify that the disqualification period must not be counted against the reigistrant's eligibility period in order to create a rule which facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Once a disqualification period has ended, the registrant may be eligible for additional or remaining months of work readiness assistance. This provision is necessary in order to inform the local agency and a registrant of the process to be followed when a disqualification period ends. As provided in part 9500.1306, subpart 3, the registrant must have income and resources less than the standard of assistance established for general assistance, must be ineligible for general assistance, must not have exhausted his or her period of eligibility, and must not be in a disqualification period. During the two months of disqualification, the registrant's income, resources, or eligibility for general assistance may have changed. It is reasonable to require the applicant to reapply for work readiness in order to examine the registrant's current situation. It is reasonable to require the local agency to determine if the registrant remains eligible for work readiness services in order to assure that work readiness services and payments are provided to an individual who still meets the eligibility criteria of Minnesota Statutes, section 256D.051, and parts 9500.1300 to 9500.1318. Under the Aid to Families with Dependent Children (AFDC), a recipient who is sanctioned or disqualified must reapply for AFDC before benefits can be continued. This provision is reasonable because it creates consistency among income maintenance programs.

Item F. Minnesota Statutes, section 256D.111, subdivision 5, clause (b), specifies that the commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for the disqualification from the receipt of general assistance or work readiness for a recipient who has been finally determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a recipient described in clause a or section 256D.09, subdivision 4.

This statute specifies that the commissioner shall provide rules governing the use of voucher or vendor payments for the family of a registrant who is disqualified from the receipt of work readiness assistance. It is reasonable to include this item in the rule parts in order to implement the provisions of statute.

Since the standard of assistance applicable to the assistance unit of a registrant who is married is based on the needs of two persons, it is necessary to specify how to determine the standard of assistance applicable to the assistance unit when the registrant is removed due to disqualification. Under the provisions of Minnesota Statutes, section 256D.051, subdivision 1, the standard of assistance applicable to the registrant's assistance unit is based upon general assistance provisions, which state that the standard is determined on the basis of the number of assistance unit members. If one member is removed, the standard of assistance for the remaining members is based upon the number of remaining members. This procedure assures equality between the general assistance and work readiness program monthly payments. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

PART 9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

This rule part defines the specific adverse actions which require the local agency to provide the applicant or registrant with advance notice prior to taking the action, what information notices of adverse action are required to contain, and the appeal rights of an applicant or registrant. The provisions in subparts 1 to 3 of part 9500.1318 are authorized by Minnesota Statutes, section 256.045, section 256D.051, subdivisions 4 and 13, section 256D.10, and section 256D.101, subdivision 2. The need for and reasonableness of these provisions is established as follows.

Subpart 1. Actions requiring notice. This subpart is needed to identify the actions that require a local agency to provide notice to an applicant or registrant before taking the action. It is reasonable to identify these actions in the rules to insure that all affected parties are aware of the notice requirements, and to insure that notices are provided consistent with statute.

Item A. Item A requires notice of a determination of ineligibility for work readiness services or payments. This notice is needed to comply with Minnesota Statutes, section 256.045, subdivision 2, which states that "...any person applying for ... public assistance granted by a local agency pursuant to Minnesota Statutes, ... Chapters ... 256D, ... whose application for assistance is denied ... may contest that action or decision before the local welfare referee by submitting a written request for a hearing to the local agency within 30 days after receiving written notice of the action or decision ...." (emphasis added) A denial of work readiness eligibility is clearly a decision adverse to the applicant. It is therefore reasonable to require an applicant to be notified of that determination.

Item B. Item B requires notice of a determination of ineligibility for four additional months of work readiness services and payments. This notice is needed to comply with Minnesota Statutes, section 256D.051, subdivision 4, which states that "During the second month of work readiness assistance, the local agency must assess the registrant's eligibility under subdivision 5 [for four additional months of work readiness assistance] and inform the registrant of the outcome of the assessment." It is reasonable to require local agencies to provide registrant's with advance notice of this determination in order to allow the registrant to appeal that decision before his or her benefits are terminated.

Item C. Item C requires notice of a determination of disqualification for failure to comply with work readiness program requirements. This notice is needed to comply with Minnesota Statutes, section 256D.101, subdivision 1, which states that "If the local agency determines that a registrant has failed to comply with the requirements of section 256D.051, the local agency shall notify the registrant of the determination." (emphasis added) Since a determination of disqualification may result in suspension of a registrant's benefits, it is reasonable to provide the registrant with advance notice of that decision so that he or she may appeal the determination before benefits are suspended.

Item D. Item D requires notice of a determination that the registrant has exhausted eligibility to receive work readiness services or payments. This notice is needed to comply with Minnesota Statutes, section 256D.051, subdivision 4, which limits work readiness eligibility to two months or six months, and subdivision 13, which states that "The local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101." (emphasis added) Minnesota Statutes, section 256D.10, states that "No grant of general assistance except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded the opportunity to be heard prior to any action by the local agency."

Subpart 2. Notice requirements. This subpart establishes what information the notice of adverse action must contain. It is necessary to provide standards for notices of adverse action to insure that all notices contain sufficient information and are provided in a timely manner that guarantees the registrant's constitutional rights to due process. It is reasonable to establish the standards in these rules because Minnesota Statutes, section 256D.04, paragraph (2), requires the commissioner to "Promulgate uniform rules

consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...."

Under subpart 2, notices are required to meet the standards established under part 9500.1252. Part 9500.1252 specifies that any written material given or mailed to a general assistance recipient must be written in clear and easily understood English and other languages that the commissioner designates. This provision insures that the registrant will receive notices which he or she is capable of understanding. Because work readiness clients may face problems understanding written material, it is necessary to specify that the notice be written to meet the standards established in part 9500.1252. It is reasonable to include this provision in the rule parts in order to assist registrants to understand the written notices.

Item A. Item A requires notices of adverse action to be on a form prescribed by the commissioner. Minnesota Statutes, section 256.01, subdivision 4, paragraph (4) authorizes the commissioner to "Prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable." Each of the 87 local agencies in Minnesota must provide a work readiness program. If each local agency were to develop its own notice, the content and quality of the notices would vary considerably from county to county. In order to assure that all components required in the notice and required to protect a registrant's appeal rights are uniformly presented, it is both necessary and reasonable to require that the notice be in writing on a form prescribed by the commissioner.

Item B. Minnesota Statutes, section 256D.051, subdivision 13, specifies that the local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. Minnesota Statutes, section 256D.10, specifies that no grant of general assistance (or work readiness) except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the local agency. It is therefore necessary to require the local agency to provide notice in advance of any adverse action.

Item B requires that the notice be mailed or given to the applicant or recipient at least ten days prior to the proposed adverse action. It is necessary to prescribe a time period for this notice to be given to insure that the applicant or recipient is given adequate time to respond or appeal. The 10-day advance notice requirement is reasonable because it is consistent with the requirements of due process and it is the time period historically required for notices of adverse action under the general assistance program and other public assistance programs. Ten days is a reasonable time period because it has proven adequate for this purpose in the past, it is consistent with the time period for a variety of assistance payment programs (such as general assistance and AFDC) and is therefore less complicated to adhere to than if a different time period were selected.

Item C. A registrant whose benefits are being denied, reduced, suspended or terminated must understand what is taking place in order to determine if he or she wishes to appeal. It is therefore necessary to specify that the notice

contain sufficient information to ensure that the registrant understands the action being taken and his or her rights in the process. It is reasonable to specify that the notice must specify the action being taken so the registrant understands that his or her benefits will not be paid after a certain date and can plan accordingly. It is reasonable to specify the reasons for the action being taken so the registrant can challenge the basis for a decision that he or she feels was made in error. It is reasonable to specify that the notice must inform the registrant of his or her right to appeal the action so the registrant can exercise his or her rights under Minnesota Statutes, section 256.045. It is reasonable to specify that the notice must state the conditions under which the work readiness services and payments can continue pending an appeal so the registrant can appeal soon enough to continue benefits during the appeal process.

Subpart 3. Appeal of adverse action. Minnesota Statutes, sections 256D.10 and 256D.101, state that a registrant must receive notice and be afforded an opportunity to be heard prior to a reduction, suspension, or termination of his or her work readiness grant. The statute further states that a registrant has the right to a full administrative and judicial review of an order or determination of a local agency under Minnesota Statutes, section 256.045.

To provide consistency with these statutes, it is necessary to provide that an applicant or registrant who receives notice of an adverse action under subpart 1 may appeal the determination by submitting a written request for a hearing in accordance with Minnesota Statutes, section 256.045.

When a registrant files an appeal of a local agency determination, a final determination of eligibility or ineligibility is not made until the commissioner issues an order deciding the appeal. Minnesota Statutes, section 256D.10 states that an individual must be afforded an opportunity to be heard before the local agency takes any adverse action. In order to comply with this requirement and insure that the registrant is not deprived of his other constitutional right to due process, as defined in Goldberg v. Kelly and its progeny, it is both necessary and reasonable to continue a registrant's work readiness assistance when the registrant has filed a timely appeal.

If the registrant's benefits continue during the appeal and the registrant loses the appeal, the registrant will have received benefits to which he or she was not entitled under Minnesota Statutes, section 256D.051. In order to create clarity, it is necessary to specify how the local agency must regard the payments to which the registrant was finally determined to be ineligible for. It is reasonable to state that the registrant must pay back such benefits to the local agency because he or she was not legally entitled to those benefits. See Steere v. State, Department of Public Welfare, 243 N.W.2d 112,116 (1976).

OUTSIDE EXPERT WITNESSES

The Department of Human Services will not be using outside expert witnesses to testify in support of parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318.

CONCLUSION

The foregoing statements and information demonstrate the need for and the reasonableness of proposed modifications to parts 9500.1200 and 9500.1206, and of proposed parts 9500.1258 to 9500.1270 and 9500.1300 to 9500.1318. To a great extent, the need for and reasonableness of the proposed rules are prescribed expressly in state statute and the inherent responsibility of the Minnesota Department of Human Services to exercise prudent management of public funds.

Date: 4-10-86

LEONARD W. LEVINE, Commissioner
Minnesota Department of Human Services

In the Matter of the Adoption
of the Rules of the State
Department of Human Services
Governing General Assistance
Eligibility and Work Readiness
(Minnesota Rules, parts 9500.1200,
9500.1206, 9500.1258 to 9500.1270,
and 9500.1300 to 9500.1318)

DECLARATION OF
COUNSEL

I, Blake Shepard, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules, chapter 2000 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 711K-0852.

Blake Shepard
Special Assistant
Attorney General

Dated: July 7, 1986

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the State of Minnesota Department of Human Services Rules Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, Parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318

Affidavit of Mailing The Notice of Submission of Noncontroversial Rule to the Attorney General

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Nancy Storelee, being first duly sworn, deposes and says:

That on the 7th day of July, 1986, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Nancy Storelee

Subscribed and sworn to before me

this 7 day of July, 1986.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES SEPTEMBER 26, 1990

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the State of Minnesota Department of Human Services Rules Governing General Assistance Eligibility and Work Readiness, Minnesota Rules, Parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318

Notice of Submission of a Noncontroversial Rule to the Attorney General

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26.

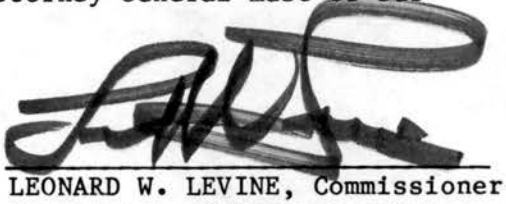
PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on this date 7-7-86 for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, all written comments and requests received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on April 28, 1986, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order adopting the rule is available upon request from Mike Sirovy, Department of Human Services, Assistance Payments Program, 2nd Floor, Space Center, 444 Lafayette Road, St. Paul, Minnesota 55101, 612/297-2011.

You may submit the written comments to the Attorney General on the legality of the rule. Your comments must address only the issue of legality of the rule or specific parts or subparts of the rule. Your comments must be directed to:

Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155
Telephone: 612/296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to this agency.



LEONARD W. LEVINE, Commissioner
Department of Human Services

Dated: 7-7-86

DEPARTMENT: Human Services

PHONE: 297-1489

DATE: July 7, 1986

TO: Judith Wehrwein

FROM: Rae Bly
Rules Unit

SUBJECT: Attorney General Review of Rules Relating to General Assistance Eligibility and Work Readiness

Minnesota Rules, parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318, have been promulgated in accordance with the noncontroversial rulemaking procedures of Minnesota Statutes, sections 14.22 to 14.28.

The following documents are enclosed for your review as required by Minnesota Statutes, section 14.26, and Minnesota Rules, part 2000.0400:

1. Notice of Intent to Solicit Outside Opinion:
2. written comments received in response to the Notice of Intent to Solicit Outside Opinion;
3. Order for Notice of Intent to Adopt a Rule Without Public Hearing, signed by the commissioner;
4. Mailing List Certificate;
5. two copies of the Findings of Fact, Conclusions, and Order Adopting the Rules, signed by the commissioner;
6. Statement of Need and Reasonableness;
7. written comments received in response to the Notice of Intent to Adopt a Rule Without Public Hearing, and one request for a public hearing;
8. Declaration of Counsel;
9. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing, and an Affidavit of Additional Mailing;
10. Rule as Proposed;
11. Original and three copies of the Rule as adopted, and
12. Notice of Submission to the Attorney General, and Affidavit of Mailing Notice of Submission.