

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: February 1, 1991

TO: JIM SCHMIDT
Commissioner
Human Services

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to General Assistance

The above-referenced rule has been approved as to its legality by the Attorney General on January 31, 1991.

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

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:sc

cc: Craig Anderson
William Brown, Chief Judge
MaryAnn Hruby

MJC

RULE REVIEW CHECKLIST

File No. 1784
DATE RECEIVED 1-17-91
REVIEW DATE 1-28-91
DUE DATE 1-31-91
(DIS)APPROVED 1-31-91 mjc
WITHDRAWN _____

Docket No. 05 0009 0852
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 1/25/91
REVISOR (DIS)APPROVED 1/30/91
FILED W/SEC. OF STATE 1-31-91
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
April 30, 1990 Date published in State Register
_____ Comments

_____ ~~Petition for Adoption of a Rule~~

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule see attached sheet of authority
_____ Statutory Authority
NA Small Business Statement
✓ Expenditure of public money statement sent a fiscal note
August 29, 1990 Signature

_____ Statement of Need and Reasonableness (if applicable)
_____ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
September 12, 1990 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
September 17, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:
NA Effective date of law requiring rule (14.12) (both rules) amendments don't apply — no new mat.
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ ~~Resolution Adopting~~
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
January 4, 1991 Date

✓ Written Requests, Submissions or Comments

_____ Declaration of Attorney
Craig Anderson Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Rules
of the Department of Human Services
Relating to General Assistance,
Parts 9500.1200 to 9500.1318

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

The proposed amendments to the general assistance rule, parts 9500.1200 to 9500.1318, are necessary to comply with changes in Minnesota Statutes, sections 256D.01 to 256D.21. Rulemaking for general assistance and work readiness is authorized under Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5. The preceding statutes authorize the commissioner to promulgate rules so general assistance is administered uniformly throughout the state, to set standards of assistance and methods of calculating payments, to adopt rules governing emergency assistance, and to adopt rules governing work readiness.

OVERVIEW OF GENERAL ASSISTANCE PROGRAM

Minnesota Statutes, section 256D.01, states, in part:

> "It is declared to be the policy of this state that persons unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health. Providing this assistance is a matter of public concern and a necessity in promoting the public health and welfare."

A principle objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. Federal programs under the Social Security Act have generally made provisions for the needs of:

1. the aged, blind, and disabled, (USC Title 42);
2. families with dependent children (Social Security Act, Title IV-A);
3. children in foster care (Social Security Act, Title IV-E); and
4. children under child welfare (Social Security Act, Title IV-B).

All these programs have eligibility requirements based on need and other eligibility criteria.

Inevitably, there are individuals with demonstrated need who do not qualify for assistance under a federal program. These individuals include single individuals who are not disabled within federal program

definitions; married couples without disability or advanced age; and some families who, for one reason or another, have not met a basis of eligibility for the federal aid to families with dependent children program. The state general assistance program was created to help those persons who have "fallen through the cracks" and are not eligible for assistance under a federal program. State general assistance takes the form of cash assistance and medical assistance necessary to provide a reasonable standard of health and subsistence.

Since general assistance is for persons who are not disabled within federal disability definitions, an additional objective of the program is to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent employment.

The eligibility determination process for general assistance consists of first determining if the individual is eligible for a federal program. If eligible for a federal program, the individual is ineligible for general assistance. If an individual is potentially eligible for a federal program, general assistance can be issued for an interim period provided the individual makes application for the federal program and signs an interim assistance authorization agreement.

If the individual is ineligible for a federal program, then a determination is made as to whether the individual is in need by comparing the applicant's available resources and income against established standards that are similar to federal AFDC standards (Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (e). If the applicant's income and resources are insufficient for the individual to provide for himself, herself or his or her family, a grant of general assistance is issued to make up the deficit between the applicant's resources and income and the standard of assistance. The general assistance grant is not intended to supplement or exceed a grant from a federal program. It simply provides state assistance when there is no eligibility for assistance under a federal program and the individual is in need.

At this point in the eligibility determination process, a determination is made whether the individual is employable or potentially employable. If so, the individual must take certain steps to attain self-sufficiency. This is done through mandatory participation in the work readiness program and will normally consist of systematic job search or employability enhancing training programs designed to remove barriers to employment. If the individual is neither employable nor potentially employable, he or she will receive general assistance subject only to the requirement of need and the requirement that he or she make application for any other benefits for which he or she is eligible.

The last major revision to the General Assistance rule was approximately five years ago. Due to changes within the department during the last five years, more uniform administration of the program is possible. The most important change is the introduction and use of a single combined application form for all cash assistance programs, Medical Assistance, and Food Stamps. Consistent with the single application concept, a client is no longer required to be interviewed more than once to receive

public assistance. This, in turn, requires county financial workers to be competent in the many public assistance programs.

When the department conducted statewide cross-program training for financial workers, it became obvious that there were extensive differences between the cash assistance programs that were neither necessary nor reasonable. It is a major objective of this rulemaking effort to attain consistency with other public assistance program where there are no legal or other compelling reasons to differ. This effort is consistent with Minnesota Statutes, section 256D.04, clause (2) which states the commissioner shall 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 current general assistance rules make separate provisions for general assistance and work readiness assistance. In 1989 the legislature eliminated the time limitation for work readiness assistance that applied to employable persons. As a result, there is no longer any need to have separate rule provisions for the assistance grants of employable persons and unemployable persons. Since the assistance payment distinction is no longer necessary, neither is the current rule format which establishes separate rule provisions for general assistance and work readiness assistance. The proposed rules amend, repeal, and add new rule parts to reflect the integrated nature of general assistance and work readiness assistance.

Since the last major rule revision, the general assistance program has been modified by the legislature in a number of ways. In 1985 the legislature provided work readiness assistance to employable persons for two months if they resided in a non-distressed county, and for six months if they resided in a county with high unemployment. The legislature also raised the standard of general assistance for families to equal the assistance standard under the AFDC program.

In 1987, general assistance eligibility was extended to six months for all employable individuals and eligibility was restricted for minor applicants.

In 1988, it was learned that, due to differences in calculating and budgeting income between AFDC and general assistance, some general assistance families were receiving larger assistance grants from the state program than they would have received on the federal AFDC program. To address this issue, the legislature mandated the use of the federal policies and procedures in the evaluation and budgeting of income for families.

In 1989, the legislature removed the six month restriction governing work readiness assistance eligibility for employable persons and redefined the populations who were required to participate in work readiness activities. At the same time, restrictions were placed on eligibility to address transient persons who might come to Minnesota for the purpose of obtaining general assistance.

In 1990, further refinements were made in the general assistance standards to guarantee that persons receiving state assistance due to

ineligibility for federal assistance would not receive a more liberal benefit than if they were eligible for a federal program.

In addition to the legislative changes, as a result of the combined application form, an individual can now simply apply for assistance instead of specifying AFDC, GA, MSA, MA, GAMC, or Food Stamps and, regardless of his or her circumstances, is treated in a more consistent manner through a shorter, simpler, and more client friendly application and eligibility determination process. To effectively implement the combined application form, it is necessary that the various programs be consistent in all areas where there are no compelling reasons to differ so that all applicants will be treated in a consistent and fair manner. It is that necessity, together with implementation of statutory requirements, that is being addressed through this rulemaking effort.

The proposed rule amendments establish procedures governing administration of emergency general assistance; implement statutory changes governing general assistance and work readiness including provisions governing state residency, persons without a verified address, and persons exempt from work readiness participation; clarify resource exclusions, income exclusions, income deductions and disregards; establish reporting responsibilities for applicants and recipients; establish additional budgeting procedures for calculating and determining general assistance grants; and clarify payment provisions. The proposed rule amendments also delete obsolete rule parts and reformat portions of the rule to facilitate readability.

SMALL BUSINESS CONSIDERATION IN RULEMAKING

Minnesota Statutes, section 14.115, subdivision 7, clause (2) exempts "agency rules that do not affect small businesses directly, including, but not limited to, rules relating to county or municipal administration of state and federal programs". The amendments to the general assistance rule govern county administration of general assistance and is, therefore, exempt from the small business consideration requirements under section 14.115.

RULE DEVELOPMENT PROCEDURES

In the development of the proposed rule, the Department followed the procedures mandated by the Administrative Procedures Act and internal department policies that ensure maximum public input. Public input was sought through Notice to Solicit Outside Opinion published April 30, 1990, in the State Register (14 S.R. 2537) and establishment of a rule advisory committee. The rule advisory committee consisted of 19 persons representing county agencies, Legal Aid, Southern Minnesota Regional Legal Services, Migrant Legal Services, and representatives from the Department of Jobs and Training.

A list of the advisory committee members is attached.

JUSTIFICATION FOR INDIVIDUAL RULE PROVISIONS

9500.1202 PURPOSE OF GENERAL ASSISTANCE PROGRAM.

This part has been amended so the purpose of the general assistance program cited in rule is consistent with the statutory policy expressed in Minnesota Statutes, section 256D.01, subdivision 1. The policy statement was amended by the legislature in 1989 to include the phrase "and to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work." The proposed amendment in item B is reasonable because it adopts statutory language to accurately reflect the intent of the legislature. Item D is being deleted since the statutory language which supported it was deleted in 1987. While the provision is still essentially true, it is unnecessary since the provision has no practical application in the rule.

9500.1205 [See repealer.]

Part 9500.1205 is being repealed so there will only be one definition section to the general assistance rule. Currently part 9500.1205 contains financial definitions and part 9500.1206 contains program definitions. There is no reason to differentiate between "Financial" and "Program" definitions. When terms defined under part 9500.1205 are necessary to understand terms used in the rule, they will be incorporated under part 9500.1206. The change is simply a format change. The change is reasonable because it facilitates readability by providing a single rule part for definitions. The change is necessary to accomplish the format change to a single definition section in the rule.

9500.1206 PROGRAM DEFINITIONS.

This part is necessary to define terms used in the rule. In a number of cases, the definitions include terms previously defined in part 9500.1205 or are defined in AFDC program rules. It is necessary to use terms defined in the AFDC program rules because the general assistance statutes require that general assistance for family members be based on AFDC policies and procedures. General assistance statutes that reference AFDC requirements include:

1) Minnesota Statutes, section 256D.01, subdivision 1a, paragraphs (c), (d), and (e) reference general assistance standards based on aid to families with dependent children standards of assistance. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) states, in part, "An assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program."

2) Minnesota Statutes, section 256D.05, subdivision 5 states, "The equity value of real and personal property transferred without reasonable compensation within 12 months preceding the date of application for general assistance must be included in determining the

resources of an assistance unit in the same manner as in the aid to families with dependent children program under chapter 256."

3) Minnesota Statutes, section 256D.06, subdivision 1c, states, in part, "Notwithstanding any other provisions of sections 256D.01 to 256D.22, general assistance for an assistance unit consisting of members of a family must be granted in an amount that is equal to the amount of assistance which would be paid to an aid to families with dependent children assistance unit which has the same size, composition, income, and other circumstances relevant to the computation of an AFDC grant."

4) Minnesota Statutes, section 256D.08, subdivision 1, states, in part, "In determining eligibility of a family, married couple, or individual there shall be excluded the following resources:

(1) Real or personal property or liquid assets which do not exceed those permitted under the federally aided assistance program known as aid to families with dependent children; ..."

Because of the statutory requirement that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program, it is necessary that terms used in AFDC and General Assistance have similar meanings. To ensure compatibility with AFDC program policies and procedures, where appropriate, the general assistance rule uses terms defined in AFDC program rules. The use of similar terms and definitions ensure terms that affect standards of assistance are consistent between general assistance and AFDC and thus, comply with statutory requirements which require grants to be determined using policies and procedures of AFDC. The use of common terms and definitions will also aid county workers who must process and verify eligibility for assistance.

Subpart 1. **Scope.** The change to this subpart is necessary to delete the reference to the former work readiness rule parts. As amended, work readiness requirements are incorporated within the general assistance rule. Rule parts 9500.1200 to 9500.1270 address the entire sequence of rule parts under general assistance and work readiness. Since parts 9500.1300 to 9500.1320 are being repealed, it is reasonable to delete the reference to those rule parts.

Subp. 1a. **Actual availability.** This subpart is necessary to define a term used in the rule. "Actual availability" is income or resources in hand or readily obtainable. Eligibility for and the amount of the general assistance grant is based on an individual's income and resources. Therefore, if an individual has income or property which is in hand or can be readily obtained for his or her use, that income or property must be considered when determining eligibility for general assistance. The term is consistent with the definition used in the AFDC program rule, part 9500.2060, subpart 3. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 2. **Adult child.** The change in this subpart is necessary to clarify a term used in the rule. The term "adult child" is used to distinguish an adult who resides with a parent from other adults. It is necessary to define an adult child since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (c) provides, "For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance is the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parents and all of that parent's family members, except that the standard may not exceed the standard for a general assistance recipient living alone." Since there is a different assistance standard for a single adult versus an adult child residing with a parent, it is necessary to define the term "adult child". An adult child is distinguished from other adults by the fact that he or she resides with a parent.

Subp. 3. **Advanced age.** The change in this subpart is necessary to ensure that the definition of "advanced age" applies equally to an applicant or a recipient of general assistance. It is reasonable to include "applicant" in the definition because applicant is consistent with Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (7) which states, "A person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work". [Emphasis added.] It would be unreasonable and in violation of statute to restrict eligibility under this category to only those persons who are already receiving assistance.

Item B is being repealed since the evaluation by a vocational specialist is addressed under part 9500.1251, item Q.

Subp. 4a. **Affidavit.** This subpart modifies the definition previously found in 9500.1205, subpart 2. The former definition stated an affidavit was a signed declaration. The amended definition states an affidavit is a signed declaration made under oath before a notary public or other authorized officer. The amended definition is consistent with the definition of "affidavit" in the "American Heritage Dictionary," Second College Edition. The definition, as modified, is also consistent with the AFDC program definition, part 9500.2060, subpart 4. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 4b. **Appeal.** This subpart is necessary to define a term used in the rule. Minnesota Statutes, section 256D.10 grants a right to a hearing prior to reduction, termination or suspension of general assistance. The mechanism to exercise the right to a hearing is to file an appeal in writing. The absence of a definition of "appeal" has created confusion as to what an appeal is or is not. Defining the term "appeal" will eliminate confusion in the future over what the term means. This subpart is reasonable because it is consistent with Minnesota Statutes, sections 256.045, subdivision 3, and 256D.10.

Subp. 5. **Applicant.** The change in this subpart is necessary to clarify a term used in the rule. An applicant is an individual who has submitted an application for general assistance to the county agency and whose application has not been approved, denied, or voluntarily withdrawn. The change is an editorial change which replaces "application pending" with "has not been approved, denied, or voluntarily withdrawn." An application is pending if it has been submitted and it has not been approved, denied, or voluntarily withdrawn. The definition is reasonable because it describes an individual who has submitted an application for assistance for which a determination of eligibility has not yet been made. The definition of applicant is consistent with the definition used in the AFDC program, part 9500.2060, subpart 11. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 5a. **Application.** This subpart is necessary to define a term used in the rule. Minnesota Statutes, section 256D.07 provides that an applicant for general assistance shall be deemed eligible if the application is in writing and upon the form prescribed by the commissioner. The definition of application is necessary to inform an applicant that he or she must indicate a desire to receive assistance by submitting a signed and dated application form prescribed by the commissioner. The definition distinguishes the action of submitting an application from the form itself. The term "application" was previously defined in part 9500.1205, subpart 4. This subpart is simply a format change.

Subp. 6. **Assistance standard.** The change in this subpart is necessary to clarify a term used in the rule. The former reference to "shelter, fuel, food, clothing, utilities, necessary household supplies, and personal need items" has been replaced with the term "basic subsistence needs". This change is necessary because Minnesota Statutes, section 256D.01, subdivision 1a, provides that "The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs." The change in this subpart is reasonable because it is consistent with Minnesota Statutes, section 256D.01, subdivision 1a.

Subp. 6a. **Assistance unit.** This subpart is necessary to clarify a term used in the rule. An assistance unit consists of a person or group of persons whose needs are included in a general assistance payment. The definition is necessary to identify the person or persons to whom an assistance payment is issued. The term was previously defined in part 9500.1205, subpart 5 and is simply a format change. The definition is reasonable since it is consistent with the previous definition in part 9500.1205, subpart 5.

Subp. 6b. **Authorized representative.** This subpart is necessary to clarify a term used in the rule. The definition is necessary to identify individuals who are permitted to act on behalf of the applicant or recipient in matters regarding the general assistance program. The use of an "authorized representative" has been permitted since inception

of the general assistance program to help safeguard the rights of the applicant or recipient. The use of authorized representatives is also common in other income maintenance programs. While the concept of allowing another person to stand in the place of an applicant or recipient has been permitted, the general assistance program has not previously defined "authorized representative". It is reasonable to only include a person who has been specifically designated in writing to ensure private information concerning the person on assistance is not released in violation of Minnesota Statutes, chapter 13 [Government Data Practices Act]. The definition is reasonable because it is consistent with the definition under the AFDC program, part 9500.2060, subpart 16. The definition is reasonable because Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program. In order for the policies and procedures to be appropriately applied, it is reasonable and necessary for general assistance terms to be consistent with AFDC terminology.

Subp. 7a. **Basic needs.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.01, subdivision 1, states, in part, "It is declared to be the policy of this state that persons unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health." The proposed definition is a reasonable implementation of Minnesota Statutes, section 256D.01, subdivision 1 since it provides specificity to the vague term "decency". The definition also allows for a distinction between basic needs which are necessary to maintain a subsistence reasonably compatible with decency and health and special needs which may be desirable or beneficial but are not necessary for "subsistence" within the meaning of the statute. The proposed definition is reasonable because it identifies specific items of subsistence necessary to maintain a subsistence level reasonably compatible with decency and health.

Subp. 7b. **Budget month.** This subpart is necessary to clarify a term used in the rule. It is necessary to define "budget month" since the amount of the assistance payment is based upon income received and circumstances that occur during the calendar month designated as the budget month. The term "budget month" has significance in retrospective budgeting. Retrospective budgeting is required by Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) which states, "An assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program." The definition is consistent with the definition under the AFDC program, part 9500.2060, subpart 19. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 8a. **Corrective payment.** This subpart is necessary to clarify a term used in the rule. Corrective payments, as defined in the rule,

have been referred to as "supplements", "supplementary payments", and "additional payments". The term "corrective payment" is necessary to provide a common term for payments made to correct an underpayment. The definition is consistent with the definition under the AFDC program, part 9500.2060, subpart 32. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 9a. **Countable income.** This subpart is necessary to clarify a term used in the rule. Countable income is gross income minus allowable exclusions, deductions, and disregards. The term "countable income" was previously defined under part 9500.1205, subpart 6. The change is principally a format change. The reference to part 9500.1227 which was included in the former definition has been deleted since part 9500.1227 is being deleted. In addition, the definition of "countable income" has been modified to make it clear that allowable deductions include exclusions and disregards.

Subp. 9b. **County agency.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.02, subdivision 12 has been amended by substituting the term "county agency" for the former term "local agency". The legislature substituted the term "county agency" for "local agency" to avoid potential confusion with the term "local service unit". Wherever the former term "local agency" is used in the general assistance rule, it will be replaced with the term "county agency". This subpart is reasonable because it is consistent with Minnesota Statutes, section 256D.02, subdivision 12.

Subp. 12. **Director of the county agency.** This subpart is necessary to clarify a term used in the rule. Due to the change in Minnesota Statutes, section 256D.02, subdivision 12, the reference to the "Director of the local agency" should be changed to the "Director of the county agency". This subpart is reasonable because it is consistent with Minnesota Statutes, section 256D.02, subdivision 12.

Subp. 12a. **Documentation.** This subpart is necessary to clarify a term used in the rule. The terms "documentation" and "verification" have inappropriately been used interchangeably which create confusion when considering the respective duties of county agencies and applicants and recipients. It is the county agency's duty to verify applicant and recipient statements. It is the applicant's and recipient's duty to provide documentation which the county agency can verify. The definition is reasonable because it is consistent with the meaning commonly given to documentation, and used in the AFDC program.

Subp. 12b. **Earned income.** The change in this subpart is a format change. Earned income was previously defined in part 9500.1205, subpart 7. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part. The only change in the former definition is the deletion of "earned income tax credit" as earned income. The "earned income tax credit" is no longer treated as earned income under the AFDC program rules due to a change in federal statutes. Because of the statutory requirement that an assistance unit consisting

of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program, it is necessary to delete "earned income tax credit" from the definition of earned income.

Subp. 12c. **Earned income tax credit.** The change in this subpart is a format change. Earned income tax credit was previously defined in part 9500.1205, subpart 8. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part.

Subp. 12d. **Emancipated minor.** This subpart is necessary to define a term used in the rule. Minnesota Statutes, section 256D.05, subdivision 1, clause (10) identifies a category of eligibility for general assistance which includes "a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the county agency". The definition of "emancipated minor" is reasonable since it recognizes the statutory prohibition against using general assistance payments for foster care, child welfare services, or other social services, while allowing eligibility in those cases where a court has declared a child emancipated, which may prevent eligibility for foster care, child welfare services, or other social services. The other portions of clause (10) indicate a clear intention to have social services involvement in allowing general assistance eligibility to a minor child and, therefore, intends to restrict the use of general assistance when other social services are available. The definition under this subpart is consistent with the AFDC definition under part 9500.2060, subpart 46. This subpart is a reasonable implementation of Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) which requires assistance for family members be based on AFDC policies and procedures.

Subp. 12e. **Emergency.** This subpart is necessary to clarify a term used in the rule. The term "emergency" is undefined in statute. However, since certain payments under part 9500.1261 are conditioned on the existence of an emergency, it is necessary to define the term. The definition is consistent with the definition of "emergency" under AFDC program rules, part 9500.2060, subpart 47. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 12f. **Encumbrance.** This subpart is necessary to clarify a term used in the rule. In order to determine the equity value of real or personal property, it necessary to deduct any "encumbrance" or legal debt from the fair market value of the property. Minnesota Statutes, section 256D.08, subdivision 1, states, in part, "In determining eligibility of a family, married couple, or individual there shall be excluded the following resources:

(1) Real or personal property or liquid assets which do not exceed those permitted under the federally aided assistance program known as aid to families with dependent children. ..."

The definition under this subpart is consistent with the definition in the AFDC program rules, part 9500.2060, subpart 49. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 12g. **Equity value.** The change in this subpart is a format change. Equity value was previously defined in part 9500.1205, subpart 9. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part.

Subp. 12h. **Excluded time facility.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256G.03, subdivision 1 states, "For purposes of this chapter [Minnesota Unitary Residence and Financial Responsibility Act], a resident of any Minnesota county is considered a state resident. For purposes of eligibility for general assistance or work readiness, residency must be substantiated according to section 256D.02, subdivision 12a." In addition, Minnesota Statutes, section 256G.03, subdivision 2, states, "For purposes of this chapter, no waiting period is required before securing county or state residence. A person cannot, however, gain residence while physically present in an excluded time facility unless otherwise specified in this chapter or in a federal regulation controlling a federally funded human service program." The term "excluded time facility" is used in the residence section of the rule. To be eligible for general assistance, an individual must be a resident of the state. Since Minnesota Statutes, section 256G.03, subdivision 2 does not permit a person to gain residency while in an excluded time facility, it is necessary to define "excluded time facility". The definition is reasonable because it is consistent with the definition of "excluded time" defined under Minnesota Statutes, section 256G.02, subdivision 6.

Subp. 12i. **Fair hearing.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.045 establishes a process that allows an applicant or recipient to appeal a county agency's action or failure to act. Minnesota Statutes, sections 256D.10 and 256D.101, subdivision 3, reiterate the right to a hearing before reduction, termination, or suspension of general assistance or work readiness. This subpart is reasonable because it makes specific a procedural guarantee required by state statute.

Subp. 12j. **Family.** This subpart is necessary to clarify a term used in the rule. The definition of "family" is reasonable because it uses, by reference, the definition under Minnesota Statutes, section 256D.02, subdivision 5.

Subp. 12k. **Family Assistance Unit.** This subpart is needed to define a term used in the rule to describe assistance units which contain a minor child. It is reasonable to use a shorter term to avoid cumbersome language that can create confusion.

Subp. 121. **Federal Insurance Contribution Act or FICA.** The change in this subpart is a format change. Federal Insurance Contribution Act or FICA was previously defined in part 9500.1205, subpart 10. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part.

Subp. 13a. **Filing unit.** This subpart is necessary to clarify a term used in the rule. This definition is necessary to identify, for purposes of general assistance, persons who have financial responsibility for others. Minnesota Statutes, section 256D.01, subdivision 1c requires the parents of a single adult applicant or recipient who resides with them to be financially responsible for the applicant or recipient. Minnesota Statutes, section 256D.02, subdivision 8 and section 256D.15 specify financial responsibility among members of a family. The concept of financial responsibility generally revolves around blood or legal relationships and common residence. However, there may also be persons who are not applying for assistance, or who are not eligible for assistance, but who nonetheless fulfill the residence and relationship criteria. As a result, it is necessary to define, within the requirements of statute, persons: who are residing with an applicant or recipient; who are financially responsible for the applicant or recipient; and who may or may not be requesting assistance or be eligible for assistance. For the purposes of this rule, those persons are defined as a "filing unit". The definition is reasonable since it incorporates the statutory requirements of financial responsibility, including that of a parent for an adult child with whom he resides and family members for each other subject to the limitations and restrictions contained in other rule provisions.

Subp. 14. **Full-time student.** The change in this subpart is necessary to define full-time student. This definition is necessary to identify persons who are exempt from work readiness participation. The proposed definition is different from the definition under Minnesota Statutes, section 256D.02, subdivision 15, which defines "full-time student" as a student who is attending a postsecondary institution. The statutory definition addresses full-time student as it relates to postsecondary students and "income". Minnesota Statutes, section 256D.02, subdivision 8 defines income to include "Goods and services provided in lieu of cash payment shall be excluded from the definition of income, except that payments made for room, board, tuition or fees by a parent, on behalf of a child enrolled as a full-time student in a post-secondary institution, must be included as income". Full-time student for purposes of work readiness relates to all types of academic institutions. A stated purpose of the work readiness program is to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work. One of the necessary ingredients to achieve self-sufficiency and obtain permanent work may be educational course work below the postsecondary institution level. It would be inconsistent with statutory intent to restrict full-time student status to postsecondary institutions. The definition proposed is consistent with the definition under AFDC program rules, part 9500.2060, subpart 58. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology. It would be

unreasonable to have one definition of "full time student" for single individuals and married couples without children and another for family assistance units.

Subp. 14a. **General assistance.** This subpart is necessary to clarify a term used in the rule. General assistance is a state funded assistance program authorized under Minnesota Statutes, sections 256D.01 to 256D.21 and administered under Minnesota Rules, parts 9500.1200 to 9500.1270. When the term "general assistance" is used, it also means "work readiness assistance". The definition is necessary to clarify that all references in rule relating to policies and procedures that apply to general assistance also apply to work readiness assistance. The use of common terms is reasonable since there is no longer a statutory time limit on the receipt of work readiness assistance. Unless a general assistance applicant or recipient is exempt from work readiness, he or she must participate in the work readiness program. The general assistance policies and procedures apply equally to general assistance and work readiness assistance recipients. Minnesota Statutes, section 256D.051, subdivision 15, states "the laws and rules that apply to general assistance also apply to the work readiness program, unless superseded by a specific inconsistent provision in this section (256D.051) or section 256D.101. Since there are references in statute and rule to the two types of assistance which are essentially the same, this definition is necessary to eliminate potential confusion over the terms "general assistance" and "work readiness assistance".

Subp. 15. **Good cause.** The change in this subpart is necessary to clarify a term used in the rule. The definition of good cause has been modified to include conflicting obligations determined by the county agency to be reasonable or justified. It is reasonable to provide good cause for conflicting obligations since an applicant or recipient may be required to participate in more than one activity and those activities could be scheduled at the same time. Since it is physically impossible to comply when two or more activities are scheduled for the same time, it is reasonable to provide "good cause" for failure to comply in those circumstances.

Subp. 15a. **Gross income.** The change in this subpart is a format change. Gross income was previously defined in part 9500.1205, subpart 12. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part.

Subp. 15b. **Gross receipts.** This subpart is necessary to clarify a term used in the rule. Gross receipts is used in the context of earned income from self-employment under part 9500.1221, subpart 7. It is the money received by a self-employed person before the expenses of self-employment are deducted. The definition of "gross receipts" is identical to the AFDC definition under part 9500.2060, subpart 64. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 15c. **Homestead.** This subpart is necessary to clarify a term used in the rule. The term homestead is necessary because Minnesota

Statutes, section, 256D.08, subdivision 1 provides that in determining eligibility of a family, married couple, or individual there shall be excluded real or personal property which do not exceed those permitted under AFDC. Under Minnesota Statutes, section 256.73, subdivision 2, a homestead is excluded from the property limits for AFDC eligibility. The AFDC definition of "homestead" has been slightly modified since recipients of general assistance are not required to have dependent children to be eligible for assistance. With that exception, the definition is consistent with the definition of "homestead" under Minnesota Statutes, section 256.73, subdivision 2. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 15d. **Household report form or HRF.** This subpart is necessary to clarify a term used in the rule. Eligibility for general assistance is based on income and resources. Since an assistance unit's circumstances can change, it is necessary to report those changes to ensure eligibility for continued assistance and, if necessary, to adjust assistance payments. The instrument for reporting changes in income and circumstances is the household report form. This subpart is reasonable because it informs recipients of the report form used to report changes in income and other circumstances.

Subp. 16. **Initial supplemental security income payment or initial SSI payment.** The change in this subpart is necessary to delete the word "retroactive" in the current definition. The change is necessary to allow county agencies to recover general assistance issued for a period of time for which SSI has also been issued. Occasionally, this payment will include the month of receipt of the initial SSI payment, to that extent, the SSI payment is not retroactive but current. Any general assistance issued for the same period that SSI payments are received should be recoverable. The deletion of the word "retroactive" will permit recovery of general assistance and eliminate confusion when SSI payments are received in a current month.

Subp. 16a. **In-kind income.** The change in this subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.02, subdivision 8 provides, in part, "... Goods and services provided in lieu of cash payment shall be excluded from the definition of income, except that payments made for room, board, tuition or fees by a parent, on behalf of a child enrolled as a full-time student in a post-secondary institution, and payments made on behalf of an applicant or recipient which the applicant or recipient could legally require to be paid in cash to himself or herself, must be included as income." "In-kind income" was previously defined in part 9500.1205, subpart 13. The former definition was clarified so in-kind income means income, benefits, or payments that are provided in a form other than money or liquid assets, "and which cannot be made available to the individual in those forms". It is necessary to define "in-kind income" in this manner so benefits or payments which could be received as income are not intentionally received in a non cash form to intentionally under report income.

Subp. 17. **Interim assistance.** The change in this subpart is necessary to clarify a term used in the rule. The modified definition departs from the former definition by defining the interim assistance period as the period which "begins with the month of application for general assistance or the first month of eligibility for the other maintenance benefit, whichever is later." The former definition used the phrase "or the date the interim assistance authorization agreement is signed, whichever is latest". The change is necessary to implement Social Security Administration policy which allows the county agencies to recover general assistance payments made during a period of time when a client is awarded Social Security benefits irrespective of the date an interim assistance agreement is signed if the agreement was signed prior to the issuance of Social Security benefits. The change is reasonable because it allows recovery of general assistance when a general assistance recipient has delayed signing an interim assistance agreement or failed to report a Social Security application.

Subp. 18a. **Job Training Partnership Act or JTPA.** This subpart is necessary to clarify a term used in the rule. The definition is necessary since JTPA income is temporarily excluded from eligibility and benefit determination for assistance units which contain a member of a family. The definition identifies the federal jobs program and is consistent with the definition under the AFDC program rules, part 9500.2060, subpart 74. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 18b. **Legal custodian.** The subpart is necessary to clarify a term used in the rule. The term is necessary to identify adult an who is responsible for a minor child but who is not the child's parent. The definition is reasonable because it recognizes the legal custody granted by a court and the relative caretaker definition under the AFDC program rules.

Subp. 18c. **Liquid assets or liquid resources.** This subpart is necessary to clarify terms used in the rule. The terms "liquid assets" and "liquid resources" are used interchangeably in rule parts dealing with real and personal property and emergency general assistance. "Liquid assets" and "liquid resources" are personal property in the form of cash or other financial instruments which are readily convertible to cash. The terms are necessary to distinguish between those assets or resources which are available to meet a client's needs and those which are not available.

Subp. 18d. **Liquidate.** This subpart is necessary to clarify a term used in the rule. The term is used in the rule part dealing with emergency general assistance. It refers to the process of converting an asset or resource which in not liquid under subpart 18b to a form which is and includes borrowing as well as sale. The definition is consistent with the definition of "liquidate" found in the "American Heritage Dictionary," Second College Edition which defines liquidate as "to convert (assets) into cash."

Subp. 19. **[See repealer.]** This subpart is being deleted since the term "local agency" has been replaced by the term "county agency." Deletion of the term is reasonable due to the change in Minnesota Statutes, section 256D.02, subdivision 12.

Subp. 19b. **Lump sum.** This subpart is necessary to clarify a term used in the rule. The term is necessary to identify nonrecurring income received by a recipient. The definition is consistent with the definition of "lump sum" under the AFDC program rules, part 9500.2060, subpart 85. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 19c. **Mandatory work readiness participant.** This subpart is necessary to clarify a term used in the rule. Unless exempt from work readiness requirements, a general assistance recipient must participate in work readiness. This subpart is reasonable because it identifies the rule part that identifies categories of exemption from work readiness.

Subp. 20. **Medical certification.** The change to this subpart is necessary to comply with Laws of Minnesota 1990, chapter 611, section 2.

Subp. 22a. **Minnesota supplemental aid or MSA.** This subpart is necessary to clarify a term used in the rule. Minnesota supplemental aid provides assistance for Minnesota residents who are recipients of SSI or who, except for excess income, would be receiving SSI and who are found to have maintenance needs. Minnesota supplemental aid is govern by Minnesota Statutes, sections 256D.33 to 256D.54. The definition is reasonable because it cites the statutory references governing the MSA program.

Subp. 23. **Minor child.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.051, subdivision 3a states, in part, "Each person in a work readiness assistance unit who is 18 years old or older must register for and participate in the work readiness program. A child in the assistance unit who is at least 16 years old but less than 19 years old and who is not a full-time secondary school student is required to register and participate...." This subpart is necessary to clarify the status of a 18 year old child in a family assistance unit who is attending a secondary school full time and expected to graduate by age 19, and it is reasonable to adopt the AFDC provision.

Subp. 23a. **Month.** The change in this subpart is a format change. "Month" was previously defined in part 9500.1205, subpart 14. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part.

Subp. 24. **Negotiated rate.** The change in this subpart is necessary to clarify a term used in the rule. The definition cites the definition of "negotiated rate" in Minnesota Statutes, section 256I.03, subdivision 2. The definition is necessary to implement the provisions of Minnesota Statutes, chapter 256I which provides payments to certain living arrangements, in a manner that is not in conflict with Minnesota

Statutes, section 256D.01 (payments to persons who are otherwise provided for by law). Since Minnesota Statutes, section 256D.01, subdivision 1b makes specific reference to recipients living in a residence with a negotiated rate, it is necessary to define the term. The definition is reasonable since it references the definition of negotiated rate in Minnesota Statutes, section 256I.03, subdivision 2.

Subp. 24b. **Nonrecurring income.** This subpart is necessary to clarify a term used in the rule. Nonrecurring income is income which is not of a continuous nature or is received in a prospective payment month but is no longer received in the corresponding retrospective payment month. Because nonrecurring income receives special treatment in the first two months of program eligibility, it is necessary to define the term. The definition of "nonrecurring income" is identical to the AFDC program definition under part 9500.2060, subpart 92. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that a general assistance unit consisting of one or more members of a family must have its grant determined using policies and procedures of the AFDC program, it is reasonable to use the AFDC definition of nonrecurring income.

Subp. 25. **Other maintenance benefits.** The change in this subpart is necessary to clarify a term used in the rule. Items E and F which include benefits from the Social Security Administration have been combined as a single item under Item E to reduce potential confusion or ambiguity. Under item E, other maintenance benefits will apply to any social security benefits an applicant or recipient may be entitled. The change in former item G, now relettered as F, substitutes other "sources" for the term "program". Minnesota Statutes, section 256D.06, subdivision 5 refers to benefits from any other source. The term "program" was overly restrictive. A client may be eligible for benefits from a source that is not a program, such as a trust fund. Under the present definition, the client would not be required to apply for those benefits. The proposed change addresses that contingency and is consistent with Minnesota Statutes, section 256D.06, subdivision 5.

Subp. 25a. **Overpayment.** This subpart is necessary to clarify a term used in the rule. An overpayment is that portion of a general assistance payment which is greater than the amount for which an assistance unit is eligible. The rule provides for the recovery of overpayments from families on general assistance in the same manner as recovery of overpayments from families on AFDC. The definition of overpayment is consistent with the AFDC definition under part 9500.2060, subpart 95. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 25b. **Participation in a literacy program.** The definition of "participation in a literacy program" has not been changed. It has been renumbered from 25a to 25b so that terms used in the rule are defined in alphabetical order.

Subp. 25c. **Parent.** The change in this subpart is a format change. "Parent" was previously defined in part 9500.1205, subpart 15. It is

being moved to part 9500.1206 so all general assistance terms are defined within a single rule part.

Subp. 25d. **Payment month.** The change in this subpart is a format change. "Payment month" was previously defined in part 9500.1205, subpart 16. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part. The only change in the previous definition is insertion of the word "calendar" in front of month for purposes of clarification.

Subp. 25e. **Permanent employment.** This subpart is necessary to clarify a term used in the rule. The term "permanent employment" is used in Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (8) but is not defined. To preclude an unreasonable interpretation of "permanent" the term permanent employment means suitable employment that is not, by description, of limited duration.

Subp. 25f. **Personal property.** This subpart is necessary to clarify a term used in the rule. Eligibility for general assistance is based on income and resources. Therefore, it is necessary to define personal property which is an available resource. Since Minnesota Statutes, section 256D.08, subdivision 1 requires that in determining general assistance eligibility that real or personal property or liquid assets which do not exceed those permitted under the federally aided assistance program known as aid to family with dependent children shall be excluded, it is necessary to define the term "personal property" in a manner consistent with AFDC. The definition is consistent with the AFDC program definition under part 9500.2060, subpart 100.

Subp. 26. **Potentially eligible.** The amendment to this subpart is necessary to clarify a term used in the rule. The change is editorial. The current language implies that a client is potentially eligible for general assistance based on his or her appearance rather than his or her circumstances.

Subp. 26a. **Principle wage earner.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.051, subdivision 3a requires certain persons to participate in work readiness. Individuals included under subdivision 3a are principle wage earners. This subdivision provides, in part, "The registrant must be the adult who is the principal wage earner, having earned the greater of the incomes, except for income received in-kind, during the 24 months immediately preceding the month of application for assistance." This subpart is reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivision 3a.

Subp. 26b. **Probable fraud.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.07 provides, in part, "If upon verification and due investigation it appears that the applicant provided false information and the false information materially affected the applicant's eligibility for general assistance or general assistance medical care provided pursuant to section 256D.03, subdivision 3, or the amount of the applicant's general assistance grant, the county agency may refer the matter to the county attorney. The county attorney may commence a criminal prosecution or a civil action for the recovery of any general assistance wrongfully received,

or both." In order to ensure the integrity of the program, it is necessary to investigate cases of probable fraud. The definition under this subpart is consistent with the AFDC definition under part 9500.2060, subpart 102. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 26c. **Prospective budgeting.** This subpart is necessary to clarify a term used in the rule. In order to determine the amount of the initial grant, it is necessary to determine the applicant's income in the payment month. This is done prospectively by projecting the amount of income the applicant is expected to receive during the initial grant month. The definition is consistent with the AFDC definition under part 9500.2060, subpart 105. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 26d. **Qualified professional.** This subpart is necessary to clarify a term used in the rule. "Qualified professional" is defined under part 9500.1302, subpart 7. However, since the work readiness is being incorporated within general assistance and parts 9500.1300 to 9500.1318 are being repealed, it is necessary to move this definition to part 9500.1206. The change is simply a format change.

Subp. 28a. **Real property.** This subpart is necessary to define a term used in the rule. Eligibility for general assistance is based on income and resources. Therefore, it is necessary to define real property which may be a resource. The definition of "real property" is consistent with the AFDC program definition under part 9500.2060, subpart 111. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 28b. **Reasonable compensation.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.05, subdivision 5 states, "The equity value of real and personal property transferred without reasonable compensation within 12 months preceding the date of application for general assistance must be included in determining the resources of an assistance unit in the same manner as in the aid to families with dependent children program under chapter 256." The proposed definition is reasonable because it is identical to the AFDC program definition under part 9500.2060, subpart 112.

Subp. 28c. **Recipient.** The change in this subpart is a format change. "Recipient" was previously defined in part 9500.1205, subpart 18. It is being moved to part 9500.1206 so all general assistance terms are defined within a single rule part. The only change in the previous definition is a recipient includes an individual "suspended for one

month from receiving general assistance". This change is necessary to indicate that an individual suspended for one month from receiving general assistance is considered a "recipient".

Subp. 28d. **Redetermination of eligibility.** This subpart is necessary to clarify a term used in the rule. Since the eligibility status of recipients can change with changes in income and household status, it is necessary to periodically redetermination eligibility. Redetermination of eligibility is a program requirement necessary to ensure program integrity. The proposed definition is consistent with the AFDC program definition under part 9500.2060, subpart 117. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 28e. **Reside with.** This subpart is necessary to clarify a term used in the rule. The definition is necessary to clear up existing ambiguity in the general assistance program. The term "reside with" is use extensively in Minnesota Statutes, chapter 256D, but has not been defined. As a result, there have been situations where a county agency is uncertain whether to apply the standards specified in Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (b) [single adult standard] or the standard in paragraph (c) [single adult living with a parent] when an applicant and his or her parents share a building in common, but not a "household". The definition proposed is consistent with the definition of "resides with" in the AFDC program and Food Stamps program.

Subp. 29. **Responsible relative.** The change in this subpart is necessary to clarify a term used in the rule. Insertion of the phrase "the parent of an applicant or recipient's minor child if residing together as a family" is necessary to implement the statutory definition of a family which includes the unmarried parents of a common minor child. In addition, Minnesota Statutes, section 256D.15 makes members of a family responsible for each other. The definition, as proposed, is reasonable because it implements the statutory requirements of Minnesota Statutes, sections 256D.02, subdivision 5, and 256D.15.

Subp. 29a. **Retrospective budgeting.** This subpart is necessary to clarify a term used in the rule. The definition is consistent with the AFDC program definition under part 9500.2060, subpart 120. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable for general assistance to use terms consistent with AFDC terminology.

Subp. 29b. **Social services.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (10) addresses general assistance for a child under the age of 18 who is not living with a parent, stepparent, or legal guardian. This clause permits general assistance if the child is at least 16 years of age and the general assistance grant is approved by the director of the county agency or a designated representative as a

component of a social services case plan for the child. Since the services included in a county's community social services plan are set out under Minnesota Statutes, section 256E.03, subdivision 2, it is reasonable to cite that statutory reference in the definition. The proposed definition is also consistent with the AFDC program definition under part 9500.2060, subpart 126.

Subp. 31. **State participation.** [See repealer.] The state participation definition is unnecessary since it is commonly understood, and since the state will eventually take over 100 percent of the cost of the general assistance program.

Subp. 32. **Suitable employment.** The change in this subpart is necessary to clarify a term used in the rule. The rule language under item C which was overstriken was based on economic conditions that existed in 1986. The new language under item C provides a more reasonable standard for income associated with suitable employment. The definition of suitable employment is used for both family and non-family assistance units. Because the employment disregards are different for family and non-family assistance units and because different assistance units have different assistance standards, it is not reasonable to use a single gross income amount in the definition. Suitable employment is being defined in terms of net income or income after exclusions and disregards and is tied to the standard of assistance for the assistance unit. This change requires a determination of specific circumstances rather than establishment of a single standard for all assistance units. The reference to federal and state minimum wage is reasonable since it allows for automatic changes as state and federal minimum wages change. Reference to federal and state minimum wages ensures that the standard for suitable employment will not become obsolete as wage standards change.

Subp. 32a. **Suitable recipient.** The change in this subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256D.052, subdivision 2, clause (2) directs the county agency to assign suitable recipients to openings in occupational and vocational literacy programs. Therefore, it is necessary to define the term "suitable recipient". The proposed definition is reasonable because it separates those functionally illiterate recipients who would not benefit from literacy training due to barriers such as learning disabilities, chemical dependency, retardation, or other factors and who are exempt from work readiness participation from those functionally illiterate recipients who would benefit from training. This definition allows a recipient who is not exempt from work readiness to participate in other appropriate programs prior to literacy training such as English as a second language when the recipient is unable to communicate in English and is a mandatory work readiness participant.

Subp. 32b. **Underpayment.** This subpart is necessary to clarify a term used in the rule. An "underpayment" means an assistance payment which is less than the amount for which an assistance unit is eligible. Since discovery of an underpayment necessitates certain timely actions by the county agency, it is necessary to define the term. The definition is reasonable because it is consistent with the AFDC program definition under part 9500.2060, subpart 141.

Subp. 32c. **Unearned income.** The change in this subpart is a format change. "Unearned income" was previously defined in part 9500.1205, subpart 19. To ensure program consistency, the definition is the same as the AFDC program definition under part 9500.2060, subpart 142. The modified definition is consistent with the previous definition under part 9500.1205, subpart 19.

Subp. 32d. **Vendor.** This subpart is necessary to clarify a term used in the rule. The definition is consistent with the AFDC program definition under part 9500.2060, subpart 146.

Subp. 32e. **Vendor payment.** This subpart is necessary to clarify a term used in the rule. Vendor payment is a term used to describe payments to providers of goods and services. This form of payment is specifically provided for in Minnesota Statutes, section 256D.09. The definition is consistent with the AFDC program definition under part 9500.2060, subpart 146.

Subp. 32f. **Verification.** The change in this subpart is a format change. The term "verification" was previously defined in part 9500.1205, subpart 20 and is simply being moved to effect a format change to place all definitions within a single rule part.

9500.1209 [See repealer]. The deletion of this part is essentially a format change. Eligibility determination is addressed under individual rule parts dealing with assistance units, property limitation, and income tests. The county agency's duty to verify eligibility is set out in part 9500.1215. The deletion of this rule part and incorporation of the requirements in subsequent rule parts is reasonable because it makes the rule more comprehensible for persons unfamiliar with individual rule provisions.

9500.1210 [See repealer.] The deletion of this part is essentially a format change. The exclusion of excess property is addressed under part 9500.1221 which sets forth property limitations and property exclusions in detail. The deletion of this rule part and incorporation of the requirements under a single rule part dealing with property limitations provides for continuity in the rule provisions. The deletion of this rule part is reasonable to accomplish the format change.

9500.1211 APPLICANT AND RECIPIENT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES TO APPLICANTS AND RECIPIENTS.

The current rules governing administration of the general assistance and work readiness programs do not have specific sections identifying the rights of general assistance applicants and recipients. The rule sections that make reference to the rights of applicants and recipients generally confine themselves to the right of appeal (9500.1254, subpart 6; 9500.1260, subpart 1; 9500.1268; 9500.1312, subpart 6; and 9500.1318). On the other hand, there are numerous rule references dealing with the county agency's responsibility to provide notice to applicants and recipients. Implicit in an agency responsibility to comply with a specific requirement is a corresponding client right.

This logic is recognized in the AFDC program rules under part 9500.2740 which sets forth applicant and recipient rights and county agency responsibilities to applicants and recipients. It is also implicit in the current rule that an applicant or recipient has certain rights upon receipt of notice as specified in Minnesota Statutes, section 256.045. Minnesota Statutes, section 256D.10 also makes reference to the rights of a recipient prior to the reduction, termination, or suspension of a general assistance grant, and provides a cross reference to hearing rights under section 256.045. In order to ensure the uniform administration of the general assistance program, it is necessary to make explicit the implicit assumptions of applicant and recipient rights.

Subpart 1. **Right to information.** Minnesota Statutes, section 256D.03, subdivision 1, states, "Every county agency shall provide general assistance to persons residing within its jurisdiction who meet the need requirements of sections 256D.01 to 256D.21. General assistance shall be administered by the county agencies according to law and rules promulgated by the commissioner pursuant to sections 14.01 to 14.69." Implicit in the requirement to provide assistance is the right of an applicant or potential applicant to obtain information about the benefits, requirements, and restrictions of the program. This subpart is reasonable because an applicant or recipient can not exercise his or her rights and responsibilities without information governing the program requirements. A similar right to information is provided in the AFDC program under part 9500.2740.

Subpart 2. **Right to apply.** Department of Human Services procedures mandate that applications are the exclusive means of determining eligibility for assistance. County agencies cannot predict eligibility for a person based on incomplete information or information other than that specified on an application form. In addition, the right to a hearing specified in subpart 4 is restricted to applicants, recipients, and former recipients. It is therefore necessary to specify the person's right to become an applicant. The proposed rule goes beyond the mere citation of the individual's right to apply by requiring the county agency to inform the individual of this right, and to provide him or her with the information and means to apply for assistance. It would be unreasonable to grant a right to apply for assistance without providing a means to exercise that right. Minnesota Statutes, section 256D.07 requires a county agency to allow an application for general assistance no later than the fourth day following a person's request for assistance. The proposed rule provides a reasonable means of implementing that requirement by requiring the county agency to provide the application form at the time of inquiry.

Subpart 3. **Authorized representative.** There is no provision in current rule or statute requiring or prohibiting the use of an authorized representative by an applicant or recipient of general assistance. Other public assistance programs make provision for the use of an authorized representative. Since individuals applying for or receiving general assistance may be residents in negotiated rate facilities or regional treatment centers, may be unable to communicate in English or to read and write, or may suffer from other disabilities that require another individual to stand in his or her place to exercise the rights available to that individual under the general assistance program, it is

reasonable to provide a provision for an authorized representative under the general assistance program. It is reasonable to require the county agency to assist an applicant or recipient and to provide the applicant or recipient with the names and addresses of organizations who can provide legal assistance to an individual to ensure that the individual is not denied the rights that are available to other applicants and recipients. The proposed rule provision is identical to the AFDC rule provision under part 9500.2740, subpart 4. It is reasonable to adopt similar program requirement to provide consistency between programs and to provide a means of ensuring the full exercise of client rights.

Subpart 4. **Appeal rights.** Minnesota Statutes, section 256.045 requires that applicants and recipients be afforded the opportunity of a fair hearing. Reference is also made to this section under general assistance in Minnesota Statutes, sections 256D.05, subdivision 3a; 256D.10; and 256D.101. Current rules also specify appeal rights in parts 9500.1254, subpart 6; 9500.1260, subpart 1; 9500.1268; 9500.1312, subpart 6; and 9500.1318. It is reasonable to cite an applicant's or recipient's right to appeal within a consolidated rights section so applicants and recipients will have a clear understanding of their right to appeal. It is necessary to specify the time frames in which an applicant or recipient may appeal to comply with statutory timeframes. Appealable issues are specified under Minnesota Statutes, section 256.045, subdivision 3. The proposed subpart is identical to the AFDC program requirements under part 9500.2740, subpart 8. This subpart is reasonable because it is consistent with Minnesota Statutes, sections 256.045; 256D.10; and 256D.101.

Subpart 5. **Rights pending hearing.** Minnesota Statutes, section 256D.10 prohibits a county agency from reducing, terminating, or suspending the general assistance grant of a recipient unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the county agency. Therefore, it is necessary to specify in rule the conditions under which a recipient who exercises his or her right to a hearing shall continue to receive benefits. Minnesota Statutes, section 256.045, subdivision 10 states, "The state or local agency has a claim for food stamps and cash payments made to a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps and cash payments as a result of the appeal." Since a recipient's assistance during an appeal is subject to recovery if the appeal is not successful, it is reasonable to allow the recipient the choice of whether to continue benefits pending an appeal. This subpart essentially restates the AFDC rule on rights pending a hearing under part 9500.2740, subpart 9. However, since Minnesota Statutes, section 256D.101, subdivision 3 addresses specific requirements concerning benefits of mandatory work readiness participants after notification, it is necessary to include a reference to those provisions (part 9500.1259, subpart 2) within this subpart. The proposed rule also makes provision for the reimbursement of client expenses incurred pursuant to a hearing. This provision is reasonable since it is consistent with similar provisions in other public assistance programs, notably AFDC and Medical Assistance.

Subpart 6. **Right to review records.** This provision is necessary to comply with Minnesota Statutes, section 13.04, governing the rights of individuals on whom data is stored. The language in this subpart is

identical to AFDC program requirements under part 9500.2740, subpart 11. The provision is reasonable since it is identical to a provision which serves the same purpose under AFDC.

9500.1212 [See repealer.] This part which required county agencies to inform applicants or recipients of the conditions under which excess property may be excluded is being repealed since it is addressed under part 9500.1221, subpart 3.

9500.1213 APPLICATION REQUIREMENTS.

This part is necessary to inform county agencies of their responsibilities and to prescribe uniform procedures for processing applications, for establishing the basis of the county responsibility, and to ensure that individual will be afforded the rights set forth under part 9500.1211. This part is consistent with AFDC procedures. It is reasonable to promote consistency between programs where there are no statutory provisions which prohibit that consistency to achieve greater administrative efficiencies.

Subpart 1. **Application for general assistance, county of residence.** Minnesota Statutes, section 256D.03, subdivision 1 states, "Every county agency shall provide general assistance to persons residing within its jurisdiction who meet the need requirements of sections 256D.01 to 256D.21." Since the county of residence is responsible for providing general assistance, it is reasonable to require an applicant to apply for assistance in his or her county of residence. This subpart is reasonable because it is a reasonable implementation of Minnesota Statutes, section 256D.03, subdivision 1.

Subpart 2. **County agency requirements.** This subpart is necessary to specify county agency requirements for processing applications for general assistance.

Item A. Item A is necessary to require county agencies to inform persons who inquire about financial assistance about the general assistance program. Persons who need financial assistance may not be knowledgeable enough about public assistance to ask for general assistance by program name. This provision addresses that situation, as do the department's procedures for combined applications and interviews.

Item B. Minnesota Statutes, section 256D.07 requires a county agency to allow a person who requests general assistance "to make an application for assistance as soon as administratively possible, but in no event later than the fourth working day following the date on which assistance is first requested." This item requires county agencies to provide persons making a written or oral inquiry for assistance an application form. This item is necessary to ensure that an applicant receives the right to apply for assistance as set forth under part 9500.1211, subpart 2. Since the proposed provision is consistent with other public assistance programs, its implementation is not burdensome on the county agency, and it provides a timely means for persons in need of assistance to submit an application, the provision is reasonable.

Item C. This item is necessary to inform the person about the possible adverse effects of any delay in submitting an application form. The county must use the date the application form is submitted as the starting point for computing assistance. This item is reasonable because potential applicants do not have sufficient knowledge of program rules to know when the starting point for computing assistance begins. Providing that information to a potential applicant is consistent with the county agency's charge to inform the applicant about program requirements and restrictions as set forth under part 9500.1211, subpart 1.

Item D. This item is necessary to ascertain the earliest date of eligibility for general assistance. The provision is reasonable since it adopts the same procedures used in the AFDC and Food Stamps program with the exception that a "date stamp" which is required under the AFDC program is not required. The actual means of dating an application is not significant. Also, since this item requires that the county agency sign the application form, there should be no question as to who verified the date of receipt.

Item E. This item is necessary to require the county agency to provide assistance to an applicant or recipient when the applicant or recipient needs assistance in completing an application. The right to receive this assistance is set forth under part 9500.1211, subpart 3. To the extent that the right to receive assistance in completing an application is consistent with other duly promulgated rules of other public assistance programs, it is reasonable to establish a similar requirement under general assistance.

Item F. This item is necessary to implement Minnesota Statutes, section 256D.07 which states, in part, "On the date that general assistance is first requested, the county agency shall inquire and determine if the person requesting assistance is in immediate need of food, shelter, clothing, assistance for necessary transportation, or other emergency assistance." The provision is a reasonable implementation of Minnesota Statutes, section 256D.07.

Subpart 3. **Date of Application.** This subpart is necessary to make clear which date is to be used as the earliest starting date for the computation of assistance. It is reasonable to use the earliest date that both the applicant and the county agency have signed the application.

Subpart 4. **Withdrawal of application.** This subpart is necessary to specify procedures governing the processing of withdrawn applications when an applicant later requests that the application be reinstated. This subpart adopts the procedure in the AFDC program rules under part 9500.2100, subpart 3 governing the withdrawal of an application. This subpart is reasonable because it provides a means of addressing withdrawn applications which has been proven workable under the AFDC program.

Subpart 5. **Agency verification of information on application.** This subpart is necessary to inform applicants and county agencies that it is the responsibility of the county agency to verify a person's statements on an application form. This subpart is a reasonable implementation of

Minnesota Statutes, section 256D.07 which states, in part, "A determination of an applicant's eligibility for general assistance shall be made by the county agency as soon as the required verifications are received by the county agency and in no event later than 30 days following the date that the application is made...." It is reasonable to require the county agency to verify the statements or circumstances of potential eligibility to ensure program integrity and financial accountability in the use of general assistance funds.

Subpart 6. **Determination of filing unit.** The format of this rule generally follows the order of information required on the combined application form. The first page of the application form asks the applicant to list himself or herself and all other persons with whom the applicant resides and the applicant's relationship to those persons. The county agency must then, based on statute and program rules, determine those person's circumstances, income, and property to determine the applicant's eligibility for assistance. A filing unit is a term of convenience for describing persons defined under part 9500.1206, subpart 13a. It is reasonable to require a determination of a "filing unit" so the county agency will not require information about persons in the household whose circumstances are not relevant to the determination of general assistance eligibility.

Subpart 7. **Processing application.** This subpart is necessary to establish uniform periods of time in which a county agency must process an application. Minnesota Statutes, section 256D.07 states, in part, "A determination of an applicant's eligibility for general assistance shall be made by the county agency as soon as the required verifications are received by the county agency and in no event later than 30 days following the date that the application is made." A strict interpretation of the statute would require a county agency to deny the application of an individual who was unable to obtain the required verifications of eligibility by the thirtieth day following application. If the individual brought the required information to the county agency on the thirty-first day, he or she would be required to apply all over again. The advisory committee for this rule which consisted on representatives from the department, county agencies, client advocacy groups and other interested parties, unanimously agreed that the strict interpretation of the statute would work a hardship on both the applicants and county agencies. The committee supported a more liberal interpretation of the statutory requirement that would allow an additional 30 day period in the event the applicant was unable to obtain the required information during the initial 30 day period. This would eliminate additional time and effort on the part of the county agency and the applicant and would prevent the loss of benefits that the applicant would otherwise be entitled to. This subpart is consistent with the requirements under AFDC and Food Stamps, and a similar provision under Medical Assistance, which narrowly defines the circumstances under which the initial processing period may be extended for the client's benefit, but not to allow a delay on the part of the agency. This subpart is reasonable because the modification is principally for the benefit of the applicant.

9500.1214 [See repealer.] This part is being repealed since the requirements are addressed in more detail under parts 9500.1215,

9500.1219, 9500.1221, 9500.1223, 9500.1225, 9500.1226, 9500.1233 and 9500.1235.

9500.1215 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY

Minnesota Statutes, section 256D.07 states that "Any verifications required of the applicant shall be reasonable, and the commissioner shall by rule establish reasonable verifications. This part is necessary to comply with Minnesota Statutes. The verification requirements are based, in part, on recommendations of the rule advisory committee and on similar AFDC program requirements. However, the AFDC program has elements of basic eligibility such as United States residence status and eligibility requirements based on a dependent child that are not required or appropriate eligibility standards for the state general assistance program. This part only requires verification of those eligibility factors necessary to determine general assistance program eligibility and benefit level, and establishes reasonable means of verification in compliance with statutory requirements.

Subpart 1. **Information that must be verified.** This subpart is necessary to ensure uniform procedures among the counties for verifying program eligibility. This subpart restricts information that must be verified to information that is necessary to determine program eligibility and the amount of the assistance payment. This subpart also prohibits repeated verification of factors that have been previously verified if that information still applies to current circumstances. This subpart is a reasonable implementation of Minnesota Statutes, section 256D.07.

Subpart 2. **Sufficiency of documentation.** This subpart is necessary to specify documentation which must be submitted by an applicant or recipient. It is necessary to specify that the primary burden of providing documentation rests with the applicant so the county agency is not subject to unreasonable duties to investigate an applicant's statements. In circumstances where an applicant cannot obtain documents after a good faith effort has been made, the county agency must assist the applicant in his or her efforts to obtain necessary documentation. In the event that documents are still unavailable after the combined efforts of the agency and the applicant, the applicant's affidavit may be accepted as sufficient documentation. An alternative to the above procedure, to accept an affidavit in all cases as the primary form of documentation was discussed by the advisory committee and determined to be unreasonable. An affidavit as primary documentation would not permit proper program and fiscal accountability. This subpart is a reasonable implementation of Minnesota Statutes, section 256D.07.

Subpart 3. **Contacting third-parties.** This subpart is necessary to ensure that county agencies comply with the provisions of Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. This subpart is identical to the AFDC program requirement under part 9500.2420, subpart 3.

Subpart 4. **Factors to be verified.** This subpart is necessary to set forth factors which must be verified to determine program eligibility and benefit level. This subpart is divided into three items which

specify factors must always be verified, those which must be verified when questionable, and those which may be verified on a county-wide basis, after approval by the commissioner, to reflect unique circumstances in a local area which would not require statewide verification.

Item A. This item requires the verification of only those factors which, if not established, would result in ineligibility. This item is analogous to AFDC rule part 9500.2420, subpart 4, item A, but not identical since certain AFDC eligibility factors are not eligibility factors under the state general assistance program.

Subitem (1) is necessary to verify the identity of each person applying for assistance to ensure that duplicate assistance is not issued to an individual. Verification of the identity of the person seeking assistance is necessary for the commissioner to ensure program accountability and integrity.

Subitem (2) is necessary to verify age in certain circumstances where an applicant's or recipient's age might render them eligible for a federal program such as RSDI, SSI, foster care; or may exempt the individual from a work readiness requirement. Verification of age would not be required for an individual between the ages of 21 and 55 when there is no reason to question the statement. On the other hand, if a youthful applicant assert that he or she is 18, it is reasonable to verify that statement since the applicant, by virtue of his or her age, may be eligible for a federal program and therefore, not eligible for general assistance.

Subitem (3) is necessary because Minnesota Statutes, sections 256D.05 subdivision 1 and 256D.051, subdivision 1 establish state residence as an eligibility requirement. The provisions for verifying state residence is set forth in detail under part 9500.1219, subpart 3.

Subitem (4) is necessary to determine whether an applicant is exempt from work readiness participation. Minnesota Statutes, section 256D.05, subdivision 1 sets forth the eligibility requirements of general assistance. As discussed in the introduction to the statement of need and reasonableness, when the 1989 legislature extended eligibility for work readiness assistance from 6 months to 12 months, the distinction between general assistance and work readiness assistance became unnecessary. The result is that those individuals who fit the statutory categories of general assistance eligibility are exempt from mandatory participation with work readiness. Since a recipient must either be determined exempt from participation or participate in work readiness activities to maintain eligibility for benefits, and since Minnesota Statutes, section 256D.05, subdivision 1, specifies various categories of general assistance eligibility, it is necessary to include the basis of exemption from work readiness as information which must be verified.

Subitem (5) is necessary to determine the relationship of a caretaker to a minor child in the home. If there is a minor child in the home for whom application is being made and the caretaker is a legal custodian of the child, the general assistance unit is a family assistance unit. As a result, the use of AFDC policies and procedures are mandated by Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f).

Item B. This item is necessary to require verification of factors which directly affect eligibility and benefit levels but only if those factors, such as income or property, are indicated by the applicant or recipient or by a federal verification system. The alternative would be to require all applicants and recipients to verify income and/or property when they may have neither. This item is identical to the AFDC program requirement under part 9500.2420, subpart 4, item B, and is required since the policies and procedures of the AFDC program are to be used for families on general assistance.

Item C. This item is similar to item B but requires verification of information derived from sources other than the applicant's or recipient's declaration which renders the applicant's or recipient's statement questionable. This item restricts the circumstances which would render a statement questionable so that a county agency does not routinely question factors which are not normally subject to verification to ensure the program requirements are administered uniformly on a statewide basis. This item is identical to the AFDC program requirement under part 9500.2420, subpart 4, item C.

9500.1216 [See repealer.] This part is being repealed since assistance standards are addressed under part 9500.1231.

9500.1217 [See repealer.] This part is being repealed since the amount of assistance is addressed under part 9500.1231.

9500.1218 [See repealer.] This part is being repealed since assistance for applicants or recipients in a negotiated rate facility, nursing home, or state hospital is addressed under part 9500.1231.

9500.1219 ASSISTANCE UNIT ELIGIBILITY.

The term "assistance unit" is used throughout the General Assistance statutes (Minnesota Statutes, sections 256D.01 to 256D.21), but is not defined. Part 9500.1206, subpart 6a defines "assistance unit" in a manner consistent with the AFDC program which also used that term. The definition specifies that an "assistance unit" means a person or group of persons who are applying for or receiving assistance and whose needs are included in the calculation of a general assistance payment. Determining the composition of an assistance unit involves a basic eligibility element of the general assistance program.

Subpart 1. **Composition of an assistance unit.** This subpart is necessary to instruct county agencies that only members from a filing unit (which has been previously determined pursuant to part 9500.1206, subpart 6a) can be included in an assistance unit. The distinction is reasonable because all persons who reside together and are listed on the combined application form may not be financially responsible for each other. The county agency must determine which individuals are financially responsible for one another and group them into a filing unit. However, all persons in a filing unit may not be applying for, or be eligible for general assistance. The county agency must then determine from the filing unit which members must and which members

cannot have their needs included in the calculation of a general assistance grant.

Subpart 2. **Exclusion of persons otherwise provided for by law.** Minnesota Statutes, section 256D.01, subdivision 1, declares that it is the policy of the state to provide general assistance for persons who are "not otherwise provided for by law." This section is necessary to implement that statutory provision by barring assistance unit membership and, therefore, general assistance eligibility to persons who are provided for by other assistance programs.

Item A. This item is necessary to specifically deny eligibility to persons who are already receiving benefits from other programs in compliance with Minnesota Statutes, sections 256D.01, subdivision 1e, and 256D.02, subdivision 4. Since these individuals are currently having their needs met by programs other than general assistance, they are clearly otherwise provided for by law.

Item B. This item is necessary to require applicants or recipients to apply for other programs for which they may be eligible so a determination can be made whether those applicants or recipients are otherwise provided for by law. The provision is reasonable since, if it were absent, applicants or recipients might not apply for the federal program due to lack of information, differing processing requirements, or differing program requirements. This is particularly true now that general assistance benefits for families are identical to AFDC. Without this item, the state general assistance program could end up providing assistance to families eligible for the federal AFDC program. This would be contrary to the intended purpose of the general assistance program.

Item C. This item is necessary to bar eligibility for persons who have made application for another program but, by failure to cooperate with the program's requirements, have been made ineligible. If this provision were not included, the general assistance program would supplant the federal programs which is contrary to both the general assistance statutes and federal program intent.

Item D. This item is necessary to implement the provisions of Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (c) which makes the parents of a single adult applicant for general assistance, with whom the applicant resides, financially responsible for the applicant and therefore, members of the filing unit. Under Minnesota Statutes, section 256D.02, subdivision 5, an adult applicant residing with his or her parents is not defined within the definition of a "family". If this item is not included in the rule, the parents would be required to be included in the assistance unit. Due to the statutory definition of "family," such a provision would be contrary to statutory intent.

Item E. This item is necessary to bar general assistance eligibility for individuals who have been disqualified or sanctioned from an assistance program from which they had been receiving benefits. This item is necessary to ensure the general assistance program does not supplant an existing federal assistance program, or circumvent sanction provisions of those programs.

Item F. Minnesota Statutes, section 256D.06, subdivision 5, requires persons to apply for other maintenance benefits for which they are potentially eligible for. This requirement is set forth under part 9500.1254. Item F is necessary to enforce that requirement by barring eligibility for persons who have refused or failed to comply with those provisions.

Item G. Minnesota Statutes, section 256D.06, subdivision 5, requires persons required to apply for other maintenance benefits to execute an interim assistance authorization agreement so county agencies may be reimbursed for any duplicate assistance issued. It would be unreasonable to allow eligibility for persons who have refused to comply with that statutory requirement.

Subpart 3. **State residence requirement.** Minnesota Statutes, sections 256D.02, subdivision 12a; 256D.05, subdivision 1; and 256D.051, subdivision 1 makes Minnesota residence a requirement for general assistance and work readiness eligibility. This subpart implements the statutory residence requirement.

Item A. The combined application form used for all assistance payments asks the applicant whether he or she currently lives in Minnesota and intends to make Minnesota his or her home. This item is necessary to allow the county agency to deny an application when an applicant states that he or she is not a resident and does not intend to make Minnesota his or her home or an applicant refuses to provide the information necessary to determine residence. It is reasonable to allow a denial at this point of eligibility since Minnesota Statutes require that an applicant for general assistance and work readiness be a resident of the state.

Item B. This item is necessary to obtain the demonstration of intent which is required of all applicants by statute. The provision is reasonable since it does not require duplicate verifications of an applicant who has already verified his or her address in the state. If an applicant has already verified a factor which Minnesota Statutes, section 256D.02, subdivision 12a sets forth as adequate to demonstrate intent, it is unreasonable to again require the applicant to verify that information unless the county agency has reason to question the statement of the applicant as indicated by subitems (1) to (4).

Subitem (1). If the applicant has no verified address in the state, it is reasonable to question if he or she currently resides in Minnesota. Since there are other ways in which an individual can demonstrate intent, this subitem will not unreasonably affect the homeless.

Subitem (2). Part 9500.1215, subpart 4, item C specifies that a county agency may require verification of factors which are questionable as evidenced by contrary information on a current application or other information received by the county agency. It is reasonable to interpret an applicant's information stating a residence outside the state as information contrary, in the absence of other information, to an applicant's statement that he or she currently resides in Minnesota.

Subitem (3). Information that an applicant maintains or is having a residence maintained outside Minnesota is a reasonable basis for

questioning whether the person intends to make Minnesota his or her home. Otherwise,what would be the purpose of maintaining or having maintained a home outside Minnesota. This is only a basis for questioning the applicant's statement and is not conclusive to intent.

Subitem (4). Minnesota Statutes, chapter 256G, the Minnesota Unitary Residence Act, states that persons residing in excluded time facilities do not establish county or state residence. If an applicant has only been in the state as a resident of such a facility, it is reasonable to question that individual's statement on the application and to require further verification.

Item C. This item is necessary to specify means by which an applicant can demonstrate his or her intent to live in Minnesota. Subitems (1), (2), (8), and (10) implement specific requirements of Minnesota Statutes, section 256D.02, subdivision 12a. Subitems (3) to (7), (9), and (11) were established in consultation with the rule advisory committee. Under Minnesota Statutes, section 256D.02, subdivision 12a, clauses (1) and (4) the commissioner is granted authority to establish means of verifying intent. As set forth below, subitems (3) to (7), (9), and (11) are a reasonable implementation of that statutory authority.

Subitem (3). It is necessary to include this subitem to allow persons who clearly intend to make Minnesota their home the means to verify this intention prior to actually moving into a residence. This provision is reasonable since it avoids placing an applicant in a "catch-22" situation wherein the applicant cannot obtain benefits without a residence, and cannot obtain a residence without the benefits. Subitem (3) is a reasonable means to address the residence problem of the homeless.

Subitem (4). This subitem is necessary to allow an applicant a means to verify that her or she is residing at the stated address without the necessity of obtaining a landlord or apartment manager's statement which is sometimes difficult, if not impossible to do.

Subitem (5). This subitem is necessary to allow an alternative means for a client to verify his residence in cases where other means of documentation are available. For example, when a city directory or telephone directory indicate an individual is a resident in the county, that information is sufficient to verify an individual's residence.

Subitem (6). This subitem was the subject of protracted discussion within the rule advisory committee. It is necessary in order to recognize those situations in which a general assistance applicant is residing with a friend without the knowledge or approval of a landlord. While the department does not condone this practice, it is essentially a private matter between the applicant and his or her roommate and the owner of the residence. The department cannot involve itself in such matters which have no effect on general assistance eligibility. Since the general assistance standard for single individuals is relatively low ($203), the sharing of living quarters is a reasonable means to reduce expenses and is common among the general assistance population. This subitem assumes that the applicants are, in all other respects, eligible for general assistance and are, in fact, residing in the state with the

intention of making Minnesota his or her home. Without this provision, many applicants would be unable to verify their residence without the likelihood of destituting themselves, and perhaps, others. A concern was raised that a roommate is not necessarily a disinterested third party and might be willing to provide a fraudulent document. In consideration of this possibility, the advisory committee indicated that it is reasonable to include a provision for the roommate providing the documentation to also document that he or she resides at the place which both have stated they reside.

Subitem (8). Minnesota Statutes, section 256D.02, subdivision 12a, clause (2) specifies that an individual who comes to Minnesota in response to an offer of employment has demonstrated the requisite intent of the individual to make Minnesota his or her home. Based on the same reason, subitem (9) addresses instances where individuals come to the state for employment purposes but who are not fortunate enough to have obtained an offer of employment prior to entering the state. The provision is reasonable since it requires verification that the applicant has looked for work. The proposal to include this provision was suggested by the representative of Migrant Legal Services and was supported by a majority of the rule advisory committee members.

Subitem (9). Minnesota Statutes, section 256D.02, subdivision 12a, clause (3) requires this provision but left it up to the commissioner to define "temporary absence." Allowing a temporary absence provision of up to 90 days appears to be reasonable since individuals absent more than 90 days can reasonably be expected to have established residency in another state. The 90 day temporary absence provision also seems reasonable since Minnesota Statutes, chapter 256G provides for a lesser time period for transferring financial responsibility between counties. Minnesota Statutes, section 256G.07, subdivision 1 states, "A person who has applied for and is receiving services or assistance under a program governed by this chapter, in any county in this state, and who moves to another county in this state, is entitled to continue to receive that assistance from the county which that person has moved until that person has resided in nonexcluded status for two full calendar months in the county to which that person has moved. For purposes of general assistance and general assistance medical care, this time period is, however, one full calendar month." While the unitary residence and financial responsibility statutes address intrastate moves, the 90 day limitation on temporary absences appears reasonable.

Subitem (10). This subitem is necessary to allow certain professional persons to document the state residence of an individual who, for one reason or other, has not been able to document his or her residence in another manner. It would be unreasonable to refuse to acknowledge the resident status of an individual who is well known to a person engaged in social services, health services, law enforcement, or legal aid who could provide impartial documentation of the applicant's statement that he or she resides in the state.

Subitem (11). This subitem is necessary for an applicant to overcome the presumption that he or she is not a resident of the state which comes as a result of providing evidence that he or she maintains, or is

having maintained, a residence in another state under item B, subitem (2).

Item D. Minnesota Statutes, section 256D.02, subdivision 12a, excludes from the definition of resident a person who is in the state for a temporary purpose but did not define the term "temporary". It is necessary to define the term so that the determination of residence will be done consistently among the counties. For example, in absence of a provision to the contrary, a 25 year old applicant who stated an intention to return to the state of Florida upon retirement at age 65 could be considered in the state for a temporary purpose. Moreover, it would be unreasonable to deny eligibility based on a temporary residence provision based on an applicant's intention to do something in the distant future. In determining whether an applicant is in the state for only a temporary purpose, it is reasonable to conclude that an applicant, who is new to the state, and who also indicates an intent to leave the state within 30 days of application, is only in the state for a temporary purpose.

Subpart 4. **Minors.** Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (10) specifies the eligibility requirements for a child under the age of 18 who is not a member of a family assistance unit; Minnesota Statutes, section 256D.01 prohibits general assistance eligibility for persons otherwise provided for by law; and Minnesota Statutes, section 256D.01, subdivision 1e, prohibits the use of general assistance for foster care, child welfare services, or other social services. This subpart is necessary to implement those statutory provisions.

Item A. This item implements Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (10) which specifically provides general assistance eligibility to a child who is legally emancipated.

Item B. This item implements the statutory requirement under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (10) which provides general assistance eligibility to a child living with an adult with the consent of an agency acting as a legal custodian. This item instructs county agencies to use this provision only in situations where the child does not reside with an adult who is a family member since that situation would be addressed under the "family" provision. The living arrangement also requires the written consent of the agency acting in its legal capacity as custodian of the child. An agency without legal determination of custodianship would not have authority to approve or disapprove of a child's living arrangements and to do so could place a county agency in conflict with child protection laws. To require that permission for the living arrangement be in writing is necessary to ensure uniform administration of the program among the counties and to provide a document with which an agency can verify the eligibility of the child. This provision must be considered in conjunction with the statutory prohibition against using general assistance for foster care.

Item C. This item is analogous to item B but recognizes that a legal custodian might be a parent or other individual, and not the county agency as in item B. Item C provides for the contingency when a child lives with another adult with the expressed written consent of the

child's parents. Item C also requires the written consent of the county agency for this placement which is reasonable when viewed in terms of the agency's child protection responsibilities. As in item B, this provision cannot be used where the household can be licensed for child foster care since the child could be otherwise provided for by law.

Item D. This item allows eligibility for the child in the absence of an adult in the home, if it is part of the social services case plan for the child. This item is authorized under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (10).

Subpart 5. **Refusal of suitable employment.** This subpart is necessary to implement Minnesota Statutes, section 256D.051, subdivision 8 which prohibits eligibility for persons who refuse a legitimate offer of suitable employment or quit suitable employment within 60 days prior to application for assistance.

Subpart 6. **Temporary absence.** This subpart is necessary to specify the circumstances under which an individual who is not physically present in the applicant's home can have his or her needs met by a general assistance grant. Provisions for this contingency is made in the AFDC program rules under part 9500.2140, subpart 5. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program, it is reasonable to use the AFDC standards for temporary absences.

9500.1220 [See repealer.] This part is being repealed since standards of assistance are set forth under part 9500.1231.

9500.1221 PROPERTY LIMITATIONS.

This part is necessary to specify the amount and conditions under which an applicant or recipient of general assistance may own or acquire property without using that property to provide for his or her needs. Minnesota Statutes, section 256D.05, subdivision 1, establishes general assistance eligibility for "each person or family whose income and resources are less than the standard of assistance established by the commissioner...." Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that a family on general assistance have its grant determined using the policies and procedures of the AFDC program. Minnesota Statutes, section 256D.08, subdivision 1, clause (1) excludes real or personal property or liquid assets which do not exceed those permitted under AFDC. Finally, Minnesota Statutes, section 256D.05, subdivision 5 prohibits the transfer of property without adequate compensation in the same manner as in the AFDC program. Due to the statutory requirements to base general assistance on AFDC program requirements, it is reasonable for the general assistance rule to borrow heavily from the AFDC rule provisions. However, since Minnesota Statutes, section 256D.08, subdivision 1, clauses (2) and (3) provide for additional exclusions from resources for applicants and recipients of general assistance, the general assistance property exclusions will include exclusions specific to the general assistance program.

Subpart 1. **Determination of equity value of property available to assistance unit.** This subpart is necessary to confirm the resource requirement of filing unit members who are financially responsible for members of the assistance unit. It is a reasonable interpretation of the requirement under Minnesota Statutes, section 256D.15.

Items A. to D. These item are identical to the provisions under the AFDC program rule part 9500.2340, subpart 1, items A to D. Adoption of AFDC requirements is a reasonable implementation of Minnesota Statutes, sections 256D.01, subdivision 1a, paragraph (f) and 256D.08, subdivision 1, clause (1).

Subpart 2. **Equity value; excluded real and personal property.** This subpart is necessary to specify resources that are excluded from the general assistance property limit and to establish property limits an assistance unit may have and still obtain or retain eligibility for general assistance. The proposed rule provision differs from the corresponding AFDC provisions in format and to the extent that general assistance statutes provide additional exclusions from resources.

Item A. This item is the same as AFDC rule part 9500.2340, subpart 2.

Item B. This item is the same as AFDC rule part 9500.2340, subpart 3, item A.

Item C. This item is necessary to implement Minnesota Statutes, section 256D.08, subdivision 2 which recognizes that it would be self-defeating and unreasonable to require an applicant or recipient of general assistance to liquidate a resource which might enable the applicant or recipient to attain self-sufficiency. With this concept in mind, it is reasonable for the rule to extend the exemption to personal property which is necessary to obtain or retain employment.

Item D. This item is necessary to implement Minnesota Statutes, section 256D.08, subdivision 1, clause (2) which requires the commissioner to provide exclusions for other property essential to the family as a means of self-support or self-care. This item restricts the exclusion to non-liquid property which produces earned income and is consistent with the purpose of the general assistance program state in Minnesota Statutes, section 256D.01, subdivision 1. It is reasonable not to exclude property which produces unearned income, since ownership of such property would constitute an investment. To exclude investments for applicants and recipients of general assistance would be contrary to the purpose of the general assistance program which is to provide assistance to those who are not otherwise provided for. This item further excludes, as required by statute, non-liquid property which is not currently producing income but is reasonably expected to produce income in the foreseeable future. To require an individual to liquidate such property would simply postpone the individual's application, and would inhibit his or her ability to attain self-sufficiency.

Item E. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (c) extends financial responsibility of a parent to an adult child when the adult child lives with the parent. The statute does not extend this responsibility to anyone but a parent and, due to the unusual nature of the statute, must be literally defined. Since the statute did not

extend financial responsibility of a stepparent for an adult stepchild, or one sibling for another, and since these individuals are included in the filing unit, it is necessary to specifically exclude the resources of those individuals. Failure to specify the exclusion would create unreasonable ambiguity and confusion among the county agencies which must implement the rule.

Item F. The AFDC program prohibits filing unit membership for current recipients of SSI or MSA (which is based on SSI eligibility). Since AFDC rules part 9500.2340, subpart 3, item C, excludes the resources of these persons, the general assistance rule also excludes the resources of these persons. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f)requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the AFDC program.

Item G. This item is the same as AFDC rule part 9500.2340, subpart 3, item E.

Item H. This item is the same as AFDC rule part 9500.2340, subpart 3, item G.

Item I. This item is the same as AFDC rule part 9500.2340, subpart 3, item F.

Item J. This item is the same as AFDC rule part 9500.2340, subpart 3, item H.

Item K. This item is the same as AFDC rule part 9500.2340, subpart 3, item J.

Item L. This item is necessary to reflect a program difference between the AFDC program and general assistance. AFDC rule part 9500.2380, subpart 2, item F excludes the income from all educational grants and loans, including income from work study. It would be unreasonable and inconsistent to then count that student's income as a resource during the period of time they are intended to cover. This is reflected in AFDC rule part 9500.2340, subpart 3, item K which excludes the value of educational grants and loans. The General Assistance Act makes no provision for the exclusion of student income and broadly defines income at 256D.02, subdivision 8. Clearly, the legislature recognized student income and chose not to exclude it as is evidenced by the last sentence of subdivision 8 which requires that room and board, tuition and fee payments made on behalf of a student by a parent be included as income. At the same time, the statutes prohibits the use of income which is not actually available to an applicant or recipient, with the result that student income which was received and spent by an applicant prior to application cannot be budgeted against current need. If, on the other hand, a recipient received student income which was budgeted against need, it would be unreasonable to again count the same money against a resource limit. This rule item is reasonable since it addresses these factors consistent with general assistance statutes.

Item M. This item is the same as AFDC rule part 9500.2340, subpart 3, item L.

Item N. This item is the same as AFDC rule part 9500.2340, subpart 3, item M.

Item O. This item is consistent with AFDC rule part 9500.2340, subpart 3, item N. However, the AFDC term "assistance unit" has been replaced with the general assistance term "filing unit".

Item P. This item is consistent with AFDC rule part 9500.2340, subpart 3, item O. However, the AFDC term "assistance unit" has been replaced with the general assistance term "filing unit".

Item Q. This item is necessary to implement Minnesota Statutes, section 256D.08, subdivision 2 which requires the commissioner to provide by rule for the exclusion of resources of an applicant whose need for assistance will not exceed 30 days. The proposed item accomplishes that requirement but restricts the exclusion to non-liquid property. To make the exclusion all inclusive would allow the exclusion of the resources of an applicant who may have, for example, $10,000 in his or her checking account. This would conflict with Minnesota Statutes, section 256D.01, subdivision 1, which intends general assistance for persons who are unable to provide for themselves. On the other hand, it would also be unreasonable to require an applicant to dispose of a vehicle, or other non-liquid property to establish eligibility for less than 30 days. The provision is reasonable since the intent is to provide assistance for short term needs rather than requiring the liquidation of resources which would result in a recipient remaining on assistance for a protracted period of time.

Item R. Minnesota Statutes, section 256D.08, subdivision 2 requires the commissioner to provide by rule for the exclusion of property from the determination of eligibility for general assistance when it appears likely that an undue hardship would be imposed on an individual or family by the forced disposal of the property. This item was formerly addressed under part 9500.1210 which is being repealed. This item recognizes that an applicant might have eligibility denied for a federal program due to excess available resources even though the applicant is attempting unsuccessfully to liquidate those resources. Since the non-liquid resource cannot be used to meet current needs, the applicant is in need of assistance. This situation, in which an applicant has "fallen through the cracks" of a federal program, is the precise situation for which the state general assistance program is intended. The propose rule requires that the sale price of property be reasonable to avoid situations in which an applicant overprices his or her property to avoid liquidation. This item is a reasonable implementation of Minnesota Statutes, section 256D.08, subdivision 2.

Item S. This item is the same as AFDC rule part 9500.2340, subpart 3, item P.

Item T. This item is necessary to implement Minnesota Statutes, section 256D.06, subdivision 1b which allows the disregard of certain earned income placed in a savings account.

Subpart 3. **Exclusion of excess property.** This subpart is a restatement of part 9500.1212 and is necessary to accomplish the rule format change.

9500.1222 [See repealer.] This part is being repealed since assistance standards are addressed under part 9500.1231.

9500.1223 EXCLUDED INCOME.

This part is necessary to specify what income, and whose income will be used to determine the eligibility and benefit level of an assistance unit. There is essentially no new policy proposed in this part. The format change is necessary to consolidate current rule parts 9500.1205, subpart 3; 9500.1224; and AFDC rule part 9500.2380, subpart 2 as required for assistance units consisting of a family member. There is considerable duplication between the current general assistance and AFDC provisions and it is reasonable to integrate the two.

Subpart 1. **Evaluation of income.** This subpart is necessary to specify that all income which is not specifically excluded is deemed available to an assistance unit to meet its needs. It is reasonable to provide that unless income is excluded it is deemed available to avoid ambiguity which may arise when an assistance unit has income available for which there is no specific provision.

Subpart 2. **Excluded income of all filing unit members.** This subpart is necessary to specify income that is excluded when determining benefit levels or eligibility of all filing unit members. This subpart is a consolidation of previous general rule provisions and is primarily a format change.

Item A. This item was previously found in part 9500.1205, subpart 3, item O.

Item B. This item was previously found in part 9500.1205, subpart 3, item Q.

Item C. This item is not currently found in the general assistance rule but is consistent with the AFDC rule requirement under part 9500.2380, subpart 2, item DD. Although the applicant or recipient may not have actually made the cash payment for a rental deposit, he or she made use of a benefit under emergency assistance which, under AFDC policy, is limited and may not subsequently be used for another purpose. Under these circumstances, it is reasonable to exclude the return of these deposits as income. The only other alternative would be to count the income and negate the emergency grant, but that procedure is prohibited by federal regulation.

Item D. This item was previously found in part 9500.1205, subpart 3, item U.

Item E. This item was previously found in part 9500.1205, subpart 3, item AA.

Item F. This item was previously found in part 9500.1205, subpart 3, item V.

Item G. This item was previously found in part 9500.1205, subpart 3, item T.

Item H. This item is necessary to specify that work and training allowances under the Work Readiness Program are in addition to any grant of general assistance. It would not be reasonable to treat these funds as income when the same type of reimbursement is excluded for other employment and training programs.

Item I. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item C, with the clarification that the wages are not subject to FICA withholdings.

Item J. This item was previously found in part 9500.1205, subpart 3, item BB.

Item K. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item E.

Item L. This item addresses the exclusion for loans granted under the AFDC program rules (part 9500.2380, subpart 2, items I and J). It is necessary to add the qualification regarding educational loans on which payment is deferred since those monies are counted as income for "single individuals" and "married couples without children" under the General Assistance Program. Minnesota Statutes, section 256D.02, subdivision 8, defines income and clearly contemplates the counting of student income as evidenced by the final sentence under that subdivision. The item is reasonable because it is consistent with Minnesota Statutes.

Item M. This item was previously found in part 9500.1205, subpart 3, item W.

Item N. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item L.

Item O. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item M.

Item P. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item M.

Item Q. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item O.

Item R. This item was previously found in part 9500.1205, subpart 3, item X.

Item S. This item was previously found in part 9500.1205, subpart 3, item FF.

Item T. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, items R and S and with Minnesota Statutes, section 256D.07 which states, in part, "The first grant may be reduced by the amount of emergency general assistance provided to the applicant."

Item U. This item was previously found in part 9500.1205, subpart 3, item GG.

Item V. This item was previously found in part 9500.1205, subpart 3, item P.

Item W. This item was previously found in part 9500.1205, subpart 3, item JJ.

Item X. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item X.

Item Y. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item AA.

Item Z. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item BB.

Item AA. This item is consistent with AFDC requirements under part 9500.2380, subpart 2, item CC.
Item BB. This item was previously found in part 9500.1205, subpart 3, item MM.

Subpart 3. **Additional income exclusions, filing unit member who is not a member of assistance unit.** This subpart is necessary to specify that certain income of filing unit members must not be deemed available to members of the assistance unit. Generally, this is income which the filing unit member uses to meet his or her own needs.

Item A. This item is necessary so excluded or disregarded income from one public assistance program is not used to subsidize another. It would be unreasonable, for example, to deem income, which was disregarded by the AFDC program as an employment incentive, to a general assistance unit to meet its needs. The net effect would be to remove the intended incentive from the AFDC program which would be unreasonable. Moreover, no public assistance program formally recognizes that its standards are in excess of a recipient's needs. It would therefore be unreasonable to deem any part of the assistance grant, or any income taken into account in the calculation of that grant, to the needs of an individual who is not in that assistance unit.

Item B. This item is necessary to implement the provisions of Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (c) which prohibits the counting of any income received by the parent of an adult child applicant against the need standard of that adult child. This is reasonable since to do so would have the effect of taking income which was specifically intended to meet the needs of the parent and using it to meet the needs of the adult child.

Item C. This item is necessary to recognize the restricted nature of the statutory extension of financial responsibility for a child, no longer a minor, who is an applicant for general assistance. The reasonableness of this provision has been addressed under part 9500.1221, subpart 2, item E.

Item D. This item is necessary to ensure that the rule is not making individuals who are not applying for assistance destitute in order to alleviate the needs of individuals who are applying for assistance. It is reasonable to allow such individuals an exclusion equal to the amount

of their unmet needs as defined by the AFDC program before deeming their income available to others while, at the same time, recognizing their financial responsibility to the applicant or recipient.

Item E. This item is necessary to recognize that portions of the income of a filing unit member may be committed to meeting the needs of a person who does not live in the applicant or recipient household. Deeming this income available to meet the needs of the general assistance unit could create an unmet need on the part of another person, and may, in fact, conflict with court orders to provide support. The proposed rule reasonably restricts this exclusion by requiring that the individual for whom the filing unit member is making payments is a dependent as evidenced by federal income tax dependency status. This same situation is provided for in AFDC rule under part 9500.2500, subpart 4, item G, subitems (1) and (2).

Subpart 4. **Additional income exclusions; members of a family.** This subpart is necessary to recognize two program differences between the AFDC program and general assistance. While Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires the use of AFDC policies and procedures for families on general assistance, the extension of those policies and procedures to "single individuals" and to "married couples without children" is, in some specific instances, contrary to statute. This subpart provides income exclusions specific to members of a family.

Item A. AFDC rules under part 9500.2380, subpart 2, item F requires the exclusion of "all educational grants and loans, including income from work study programs." Pursuant to Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f), the same income must be excluded for families on general assistance. However, the definition of "income" under Minnesota Statutes, section 256D.02, subdivision 8, includes certain incomes of students by excluding payments from parents as in-kind income. This item is a reasonable implementation of those requirements.

Item B. AFDC rules under part 9500.2380, subpart 2, item Y specifically excludes SSI payments from consideration. The general assistance program is required to follow this procedure for family assistance units. However, Minnesota Statutes, section 256D.02, subdivision 8, includes "disability benefits" within the definition of "income". In most cases, receipt of SSI benefits would render individuals and married couples ineligible for general assistance since SSI benefit levels are higher than those of the general assistance program. Since there is not a statutory income exclusion for SSI and MSA payments for single individuals and married couples without children, it is reasonable to only grant this exclusion to assistance units consisting of one or more members of a family.

Subpart 5. **Additional income exclusions, assistance units consisting of individuals who are not members of a family.** The introduction to this SNR asserted the necessity and reasonableness of consistency among the various public assistance programs. Since Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) mandates the use of AFDC policies and procedures for families, the rule has reasonably used those policies and procedures for all applicants and recipients where not prohibited by

law or where it would be unreasonable or inappropriate to use different policies. In some instances, it is inappropriate to use the AFDC policies and procedures designed for families with dependent children when households do not contain dependent children. This subpart specifically addresses income exclusions for assistance units consisting of individuals who are not members of a family. In most cases, the items cite existing rule provisions which are being moved to accomplish a format change.

Item A. This item is required by Minnesota Statutes, section 256D.06, subdivision 1. This exclusion was previously found under part 9500.1205, subpart 3, item A.

Item B. This exclusion was previously found under part 9500.1205, subpart 3, item B. Since a minor child would not be in this assistance unit, the reference to a minor child is deleted in item B.

Item C. This exclusion was previously found under part 9500.1205, subpart 3, item C.

Item D. This exclusion was previously found under part 9500.1205, subpart 3, item D. This item also addresses the contingency when an applicant or recipient may not yet have a job but requires the items to accept one.

Item E. This exclusion was previously found under part 9500.1205, subpart 3, items E to J and recognizes that an individual might be required to pay costs associated with employment in a manner other than payroll deduction.

Item F. This exclusion was previously found under part 9500.1205, subpart 3, item M.

Item G. This exclusion was previously found under part 9500.1205, subpart 3, item R. This item was amended to include public assistance rather than specific reference to AFDC.

Item H. This exclusion was previously found under part 9500.1205, subpart 3, item S.

Item I. This exclusion is necessary to implement the provisions of Minnesota Statutes, section 256D.06, subdivision 1b which exempts certain incomes placed in savings.

9500.1224 [See repealer.] This part is being repealed because income evaluation is more fully addressed under parts 9500.1223, 9500.1225, and 9500.1226.

9500.1225 EARNED INCOME.

This part is necessary to specify the procedures that county agencies must use in determining earned income. The changes in this part are necessary to provide consistency with AFDC program requirements.

RULE 55 SNR

Subpart 1. **County agency duty to determine earned income.** The change in this subpart is necessary to change the term "local agency" to "county agency" since it has been changed in Minnesota Statutes, section 256D.02, subdivision 12 and to delete the reference to part 9500.1224 since it is being repealed.

Subpart 2. **Earned income from self-employment.** The change in the introductory sentence to this subpart is necessary to change the term "local agency" to "county agency".

Item A. The dollar amounts in item A are being adjusted to be consistent with the amounts under the AFDC program in part 9500.2380, subpart 6, items I, J, K, and L.

Item B. The introduction to this item has been revised to indicate when the self-employment budget month period begins for applicants and recipients.

Item D. This item is being amended to be consistent with requirements under the AFDC program, part 9500.2380, subpart 9.

9500.1226 UNEARNED INCOME.

This part is necessary to specify the treatment of unearned income as defined in part 9500.1206, subpart 32c. It is necessary to address unearned income separately since it is not subject to the special considerations provided for earned income. There are, however, specific considerations applied to earned income.

Subpart 1. **County agency to determine unearned income.** The change to this subpart is necessary to inform the county agency that it must determine the total amount of unearned income available to the filing unit. The use of the term "filing unit" replaces the former reference to "individuals identified in part 9500.1224, subpart 1" since part 9500.1224 is being repealed. The references to subparts 2 to 4 are no longer appropriate since those subparts are being repealed.

Subparts 2 to 4. [See repealer.] These subparts are being repealed since they are more clearly addressed elsewhere in this rule part. The treatment of education grants, scholarships, and loans as unearned income is addressed under subpart 7. Income allocated from a responsible relative under subpart 3 is repealed since subpart 8 provides that any income from a filing unit member who is not a member of the assistance unit which is not excluded under part 9500.1223 is deemed unearned income available to the assistance unit. Subpart 4 is being repealed since lump sums may be treated as earned or unearned income as set forth in part 9500.1226, subpart 9.

Subpart 5. **Deductions for certain costs.** This subpart is necessary to implement the statutory requirement of applying available income against unmet need. It is reasonable to conclude that amounts expended to receive unearned income are amount which are not available to meet unmet needs. This subpart is reasonable since it excludes the costs necessary to secure payment of unearned income. This subpart is identical to the AFDC requirement under part 9500.2380, subpart 10, item A.

Subp. 6. **Payments for disability or illness.** This subpart is necessary to include certain benefits as "unearned income" when they do not fall within the statutory definition of "earned income". This subpart is identical to the AFDC requirement under part 9500.2380, subpart 10, item B. Inclusion of this subpart is necessary to satisfy the statutory requirement to use AFDC policies and procedures for families on general assistance. Since there is no statutory prohibition against treating single individuals and married couples without children the same as families, this subpart applies equally to families, single individuals, and married couples without children.

Subp. 7. **Education grants, scholarships, and loans.** This subpart is necessary to specify the treatment of the income of a full-time postsecondary student which is available to an assistance unit composed only of a single adult or a married couple without children. Minnesota Statutes, section 256D.02, subdivision 8, defines income for the general assistance program. Since the final sentence of that subdivision makes an exception to the exclusion of in-kind income for payments made for room, board, tuition, or fees by a parent on behalf of a child enrolled as a full-time student in a postsecondary institution, it is reasonable to conclude that the statute intended to count, or not exclude, other income available to the student. Subdivision 8 requires a departure from AFDC procedures for assistance units which are not composed of one or more members of a family. Financial aid may cover some of the same needs as a grant of general assistance and, as such, would establish ineligibility for the student since he or she would be able to provide for himself or herself. At the same time, it is reasonable to conclude that financial aids are also intended to cover expenses of a student which are not contemplated by the general assistance program such as tuition, fees, books, supplies, transportation, and miscellaneous personal expenses. Financial aids which are not available to meet a student's basic needs are excluded. This provision is reasonable since it only applies income from a student's financial aids in excess of direct student expenses.

Subp. 8. **Nonexcluded filing unit member income.** This subpart is necessary to prevent the multiple use of exclusions and disregards which may apply to the earned income of a member of a filing unit who is not a member of the assistance unit. Those exclusions are specified under part 9500.1223. It is reasonable to treat nonexcluded income of those persons as unearned income available to the assistance unit.

Subp. 9. **Lump sums received by filing unit.** This subpart is necessary to specify the treatment of lump sums which is different under general assistance than under AFDC. The AFDC program requires a period of ineligibility as a result of the receipt of a lump sum which is determined by dividing the amount of the lump sum by the monthly assistance standard. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) makes a specific exception for lump sums from the general tenet to follow AFDC policies and procedures. A family assistance unit which is in a period of ineligibility for AFDC due to the receipt of a lump sum and which does not have any of the lump sum remaining to meet its needs and which has not improperly transferred the lump sum is eligible for general assistance. The first sentence is necessary to specify that lump sums are to be considered income for general assistance purposes. As income, the lump sum shall be treated

as either earned or unearned income. The second sentence under this subpart states lump sums are considered income in the month received and a resource thereafter. This sentence is consistent with Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) which states, in part, "nonrecurring lump sums received by the family must be considered income in the month received and a resource in the following months."

9500.1227 [See repealer.] This part is being repealed since gross income is addressed under parts 9500.1223, 9500.1225 and 9500.1226 as excluded income, earned income, or unearned income.

9500.1228 [See repealer.] This part is being repealed since countable income is addressed under parts 9500.1223, 9500.1225 and 9500.1226 as excluded income, earned income, or unearned income.

9500.1229 [See repealer.] This part is being repealed since prospective budgeting is addressed under part 9500.1233.

9500.1230 [See repealer.] This part is being repealed since payment provisions are addressed under part 9500.1239.

9500.1231 ASSISTANCE STANDARDS.

This part is necessary to specify the procedures for county agencies to follow to determine assistance standards to ensure that the provisions of Minnesota Statutes, section 256D.01, subdivision 1a, are followed.

Subpart 1. **Standard, single individual.** Minnesota Statutes, section 256D.01, subdivision 1a, paragraphs (a) and (f) tie general assistance standards to those of the AFDC program and mandate that when the AFDC standards of assistance increase then the general assistance standards shall increase by the same percentage. The current standard of $203 per month for a single individual is the standard previously found in part 9500.1217, subpart 1. That rule part was repealed to accomplish a format change.

Subpart 2. **Standard, individual residing in a nursing home, negotiated rate facility, or regional treatment center.** This subpart is necessary to specify the standard of assistance for individuals residing in a nursing home, negotiated rate facility, or regional treatment center. This subpart is reasonable because it cites the statutory requirement under Minnesota Statutes, section 256D.01, subdivision 1b.

Subpart 3. **Standard, married couple without children.** This subpart is necessary to specify the assistance standard for a married couple who do not have children and to specify the standard for one partner in a couple if the other is not included in the assistance unit. This subpart is reasonable because it consistent with Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (d).

Subpart 4. **Standard, filing unit with a minor child.** This subpart is necessary to specify the assistance standard for a family. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (e) requires the

use of AFDC standards for families on general assistance. It further mandates that, "In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the general assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit." The statute is clear and unambiguous in the situation where all members of a family are in the general assistance unit. However, in situations in which some members are applicants or recipients of general assistance due to ineligibility for AFDC, the procedure is less clear and requires more detailed procedures as provided in subpart 6.

Subpart 5. **Standard, single adult residing with parents with minor children.** This subpart is necessary to specify the assistance standard for a single adult residing with parents with minor children. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (c).

Subpart 6. **Standard, assistance unit composed of part or all members of a family.** This subpart is necessary to specify the assistance standard for assistance units composed of part or all members of a family. The problem arises as a result of the different standards for first and subsequent persons in the AFDC program. If standards were assigned to persons applying for or receiving family general assistance in the same manner as is done in the AFDC program, the first adult in the general assistance unit would receive a standard of $187 whereas he or she would only receive $73 if he or she were eligible for inclusion in the AFDC assistance unit. This creates the situation were persons would profit by their ineligibility for the federal program, which is obviously contrary to statutory intent. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (e) states, in part, "In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the general assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit." The procedure outlined in items A and B is a reasonable implementation of this statutory requirement.

Subpart 7. **Standard applies to full month.** This subpart is necessary to avoid repeated changes and confusion in the assistance standard when the circumstances affecting an applicant or recipient change. This subpart does not permit the reduction of an individual's standard in mid-month, subsequent to the issuance of a grant, which would technically be an overpayment. It does, however, allow an increase in an individual's standard when circumstances indicate increased need, and allows the county agencies to issue supplementary payments to meet that increased need. This provision was unanimously supported by the members of the general assistance advisory committee.

9500.1232 STATE PARTICIPATION.

Subpart 1. to 3. These subparts are being repealed since beginning in 1991, state participation will be 100 percent under the general assistance program.

Subpart 4. **State participation for payment in excess of state standards.** Minnesota Statutes, section 256D.03, subdivision 2a allows a county agency to make payments of general assistance that are higher than the standards established by the commissioner from its own resources. The change in this subpart replaces the former reference to part 9500.1230, subpart 5 which has been repealed with the statutory cite governing payments in excess of state standards.

Subpart 5. **State participation for costs of providing transportation to recipients assigned to literacy training.** The change to this subpart is necessary to correct a rule cite which is no longer correct due to a format change. Part 9500.1257 is being repealed. The rule part which deals with transportation to recipients assigned to literacy training is found under part 9500.1259, subpart 1, item D, subitem (6). Therefore, that is the proper cite for state participation costs for providing transportation to recipients assigned to literacy training.

9500.1233 FINANCIAL ELIGIBILITY TESTS.

This part is necessary to implement the provisions of Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) which requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program. The introduction to this SNR addressed the reasonableness of uniform procedures among public assistance programs where there are no statutory or other compelling reasons to prohibit program consistency. Since families receiving general assistance must have their grant determined using the policies and procedures of the AFDC program, this part has borrowed much of the language of the AFDC rule verbatim as it relates to testing of income. In those rule parts, the SNR will simply cite the appropriate AFDC rule provision.

Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) provides that general assistance for members of a family shall be based on policies and procedures of the AFDC program. Minnesota Statutes, section 256D.06, subdivision 1 provides "General assistance shall be granted in an amount that when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance for general assistance. In determining eligibility for and the amount of assistance for an individual or married couple, the county agency shall disregard the first $50 of earned income per month." Since Minnesota Statutes specifically provides an income test for single individuals and married couples without children, it is not reasonable to adopt the AFDC gross income test for assistance units which are not family assistance units.

Subpart 1. **Prospective eligibility.** This subpart is necessary to comply with the statutory requirement to use AFDC policies and procedures for assistance units containing a member of a family. This subpart is identical to the AFDC program requirements under part 9500.2500, subpart 1.

Subpart 2. **Termination and suspension of assistance when prospectively ineligible.** This subpart is necessary to comply with the statutory

requirement to use AFDC policies and procedures for assistance units containing a member of a family. This subpart is identical to the AFDC program requirements under part 9500.2500, subpart 2.

Subpart 3. **Retrospective eligibility.** This subpart is necessary to comply with the statutory requirement to use AFDC policies and procedures for assistance units containing a member of a family. This subpart is identical to the AFDC program requirements under part 9500.2500, subpart 3.

Subpart 4. **Gross income test for family assistance units.** This subpart is necessary to comply with the statutory requirement to use AFDC policies and procedures for assistance units containing a member of a family. This subpart is identical to the AFDC program requirements under part 9500.2500, subpart 4.

Subpart 5. **Payment eligibility test.** This subpart is necessary to specify the payment eligibility test for determining the standard of assistance. Item A complies with the statutory requirement to use AFDC policies and procedures for assistance units containing a member of a family. Item A is consistent with the AFDC program requirements under part 9500.2500, subpart 5. Item B is necessary to establish the payment eligibility test for single individuals and married couples without children. Minnesota Statutes, section 256D.06, subdivision 1 states, General assistance shall be granted in an amount that when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance for general assistance. In determining eligibility for and the amount of assistance for an individual or married couple, the county agency shall disregard the first $50 of earned income per month." The $50 disregard is excluded under part 9500.1223, subpart 5, item A. Item C simply states the county agency must apply the assistance unit's countable income against the assistance unit's standard as required under Minnesota Statutes, section 256D.06, subdivision 1.

9500.1235 EMPLOYMENT DISREGARDS FOR EMPLOYED MEMBERS OF A FAMILY ASSISTANCE UNIT.

Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires the use of AFDC policies and procedures for assistance units consisting of one or more family members. This part is necessary to implement that requirement. This part is consistent with AFDC program requirements under part 9500.2580.

9500.1237 AMOUNT OF ASSISTANCE PAYMENT.

Subpart 1. **Amount of assistance payment.** This subpart is necessary to implement the requirements of Minnesota Statutes, sections 256D.01, subdivision 1a, 256D.051, subdivision 1a, and 256D.06, subdivision 1, which require the assistance amount to be based on the difference between the assistance standard and nonexcluded income. It is reasonable to require payment for a whole month to provide uniform administration and to provide a standard for issuing assistance

payments. This subpart is consistent with AFDC program rules under part 9500.2620.

Subpart 2. **Prorate the month of application.** This subpart is necessary to prevent the issuance of retroactive benefits for a period of time prior to application. It is reasonable to provide benefits only for a period of time from the date of application, or the date all eligibility factors have been met, whichever is later, since those time periods establish the basis for determining program eligibility. This subpart is consistent with AFDC program rules under part 9500.2620.

Subpart 3. **Minimum payment for families.** This subpart is necessary to implement Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f), which requires that the policies and procedures of the AFDC program apply to families on general assistance. This subpart is consistent with AFDC rules, part 9500.2620, item B.

Subpart 4. **Persons without a verified residence address** Minnesota Statutes, section 256D.05, subdivision 6 mandates special payment provisions for persons without a verified residence address and outlined the terms under which this might be done. It is necessary to promulgate rules for the specific implementation of this statutory provision to ensure uniform implementation of the statutory requirements. The rule makes provisions for payments for persons who might be transient, and therefore not residents of the state as defined under Minnesota Statutes, section 256D.02, subdivision 12a, while ensuring that homeless residents of the state are not discriminated against in the administration of general assistance.

Item A. This item is necessary to carry out the department's responsibility under Minnesota Statutes, section 256D.04, subdivision 2, which requires that the commissioner promulgate rules "to the end that general assistance may be administered as uniformly as possible throughout the state". This item is a reasonable implementation of that requirement. It ensures that the commissioner will know which counties are utilizing this option. The advance notice provision is necessary to prepare an automated eligibility system to issue a correct benefit in a timely manner, and 30 days is a reasonable period of time for that advanced notice.

Item B. This item is necessary to ensure that county implementation of payment provisions for persons without a verified residence address in apply equally to all applicants who are without a verified addressed. The prohibition against issuance of assistance on a weekly basis to persons with a medically certified mental illness or mental retardation or a related condition, or to an assistance unit that includes minor children is necessary to implement Minnesota Statutes, section 256D.05, subdivision 6, paragraph (d).

Item C. This item is necessary to establish a procedure for issuing weekly general assistance payments. This item allows assistance payments to be divided into four payments to be issued weekly. Minnesota Statutes, section 256D.05, subdivision 6, paragraph (a) clause (2) allows the county agency to divide the monthly assistance standard into weekly payments.

Item D. This item is necessary to establish a procedure for issuing weekly general assistance payments when eligibility is redetermined on a weekly basis as set forth in subitems (1) to (4). Minnesota Statutes, section 256D.05, subdivision 6, paragraph (a) clause (3) allows the county agency to determine eligibility for a period of one week at a time. This item is necessary to clarify the distinction between a grant which is calculated monthly, but issued in weekly installments, and a grant which is calculated weekly. The first option (item C), that of issuing a monthly benefit in weekly installments, is one which can be accomplished by an automated state system with uniform and consistent issuance of benefits on four occasions each month. It is reasonable since it will enable the counties to know, in advance, when benefits will be available and the county can adjust its distribution system accordingly. The second option (item D), that of determining eligibility weekly, is dependent upon the applicant's schedule which does not lend itself to automation, and requires specific instructions to the county agencies so that the process is carried out fairly and uniformly among the counties.

Subitem (1) requires that the amount of assistance be determined by prorating the monthly assistance standard at the time of application and at the time of weekly redetermination or as specified under the emergency general assistance rule provision under part 9500.1261. This provision is necessary to allow the amount of assistance to be responsive to an applicant's situation at redetermination. For example, at the time of application for benefits for the first week of eligibility the applicant might be a resident of a negotiated rate facility which requires a prorated reduced monthly standard. At the weekly redetermination the individual may have entered the community from the facility and would require a prorated full standard of assistance or may require emergency assistance under part 9500.1261 which would allow for a greater or lesser amount dependent upon the circumstances. This subitem is necessary to ensure grants are issued uniformly statewide. This subitem is consistent with Minnesota Statutes, section 256D.05, subdivision 6, paragraph (a) clause (3).

Subitem (2) requires that the forms required for weekly redetermination be approved by the department. This requirement is necessary to ensure the information requested is consistent with part 9500.1215, subpart 1. Part 9500.1245, subpart 6 requires recipients to complete forms for redetermination of eligibility which the commissioner has prescribed to be the combined application form (CAF) which is 33 pages long. The requirement to complete a CAF for weekly redetermination is not reasonable. The requirement that the forms used for weekly redetermination be approved by the department is necessary to ensure applicants and recipients are treated in a fair and consistent manner. The requirement that the form contain a statement of need by the recipient is necessary to comply with Minnesota Statutes, section 256D.05, subdivision 6, paragraph (c).

Subitem (3) is necessary to provide an exception to the normal 10 day notice requirement of part 9500.1259, subpart 4, which is not practical for a seven day eligibility period. Subitem (3) is reasonable because it is consistent with Minnesota Statutes, section 256D.05, subdivision 6, paragraph (c).

Subitem (4) is necessary to impose a reasonable limit on the use of weekly payments. If the intention of the statute and the rule is to guard against issuing assistance for a full month to persons who may be transient and therefore not residents of the state as required by Minnesota Statutes, section 256D.02, subdivision 12a, and the recipient is still in the state after 30 days, it would be unreasonable to continue to guard against his or her transiency. In addition, the individual would still have to demonstrate his or her intention to remain in the state as a requirement for ongoing eligibility.

Item E. The item is necessary to implement the provision of Minnesota Statutes, section 256D.05, subdivision 6, paragraph (a), clause (1) which authorizes the issuance of assistance in the form of vouchers or vendor payments. This item is reasonable because it is consistent with Minnesota Statutes.

Item F. This item is necessary to specify that normal notice provisions apply unless special provision is made, such as under item D, subitem (3). Part 9500.1259, subpart 4, item C allows for a different notice consideration for recipients who receive assistance on a weekly basis.

Item G. This item is necessary to specify how a recipient may establish a verified address. It does so by referencing the state residence requirements under part 9500.1219, subpart 3, item C. The provisions of this part no longer apply to a recipient who has verified a residence address. Minnesota Statutes, section 256D.05, subdivision 6, paragraph (b) specifies certain ways in which a recipient may verify his or her residence address, and authorizes the commissioner to provide by rule for others. The proposed rule addresses the residence provision under part 9500.1219, subpart 3, and it is reasonable to refer to that section under this rule part.

Subpart 5. **Initial payments for mandatory participants in the work readiness program.** This subpart is necessary to establish a standard for issuing initial payments to mandatory participants in work readiness.

Item A (1) is necessary to implement the statutory requirements for initial payments to persons who are mandatory participants in the work readiness program as set forth under Minnesota Statutes, section 256D.051, subdivision 1a, paragraph (b). This item is reasonable since it recognizes that some counties have periodic orientations and allows the applicant or recipient some latitude in selecting the orientations he or she will attend as long as he or she attends an orientation within 30 days. It is also reasonable to provide a period of time in which a county can schedule an orientation, as opposed to a specific date, for ease of county administration of the general assistance grant. At the same time, this item allows for the cessation of payments to persons who do not initially comply with program requirements without the more stringent notice and termination requirements for other grant recipients.

Item A (2) is necessary since some counties do not have mass orientations available on a daily or weekly basis and need to schedule the orientation for the individual. This item further specifies that the date of orientation must be within 30 days of application and

specifies the procedure for grant determination subsequent to the recipient's attendance at the orientation. This item is reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivision 1b.

Item B. This item is necessary to implement Minnesota Statutes, section 256D.051, subdivision 1a, that county agencies inform the applicant or recipient that eligibility will end without further notice for individuals who fail to attend the required orientation.

Item C. This item is necessary to implement Minnesota Statutes, section 256D.051, subdivisions 1a and 1b. The advisory committee discussed the bar to assistance for failure to attend a scheduled orientation without good cause. Statute is not clear on whether the sanction for failure to attend an orientation is without a time limit. Certainly, the intent of the legislature is to have work readiness participants attend an orientation and to ensure their attendance the legislature has imposed a penalty on the recipient for failure to do so. However, administratively it is necessary to establish a reasonable time period in which a new application for assistance will be considered. If an applicant failed to attend orientation in March of 1989 and is in need in October 1990, should assistance be denied until attendance at the next scheduled orientation which may be in November? It does not appear reasonable to establish a permanent bar from receiving assistance until attendance at a scheduled orientation. Since assistance can be prorated to the date of the orientation, it seems reasonable to impose a 60 bar on eligibility and then treat all applications as new applications. This item is necessary to inform persons whose eligibility has ended what he or she must do to again become eligible for general assistance. This item is reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivisions 1a and 1b.

Item D. This item is necessary to implement the provisions of the last sentence of Minnesota Statutes, section 256D.051, subdivision 1b which allows the special payment provisions of subpart 4 to apply to persons without a verified residence address who are mandatory participants in the work readiness program. This item is a reasonable because it is consistent with Minnesota Statutes, section 256D.051.

Subpart 6. **Assistance payment when need will not exceed 30 days.** Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12) and section 256D.08, subdivision 2 make special provisions for general assistance applicants whose need for assistance is not expected to exceed 30 days. The statutes, however, do not specify the amount of assistance to be paid to those applicants. These provisions have been in statute and rule (9500.1210, subpart 1, item D, and 9500.1258, subpart 1, item M, subitem (7)) since 1986, and some problems have arisen regarding the amount of assistance payment to be paid to these applicants. If a person's need for assistance is not likely to exceed 30 days, then it is logical to conclude that the individual is going to lose eligibility within that time period, usually as a result of the anticipated receipt of income. The problems arise out of determining prospective eligibility within a calendar month as is required by part 9500.1243, subpart 1. If an individual can anticipate the receipt of income in excess of his or her standard in the calendar month of application, the application must be denied. If, on the other

hand, excess income cannot be anticipated during the calendar month of application, assistance can be issued for that month, but the individual must be prospectively eligible for the second month. The result is that an individual who applied on the 28th of a given month, for example, and anticipated receipt of income rendering him or her ineligible on the 26th of the following month, would only be eligible for 2 or 3 days of assistance, depending on the number of days in the month of application since he or she would be prospectively ineligible for assistance in the second month. On the other hand, an individual who applied for assistance on the 3rd day of a given month and anticipated the receipt of excess income on the 1st day of the following month would receive 27 or 28 days of assistance, depending on the number of days in the month of application. In the preceding examples, we have two individuals in exactly the same situation with the result that one would receive 25 more days of assistance than the other. The proposed rule would allow the two hypothetical individuals to receive the same amount of assistance. This subpart is a reasonable implementation of legislative intent.

Subpart 7. **Payments to facilities with negotiated rates.** Minnesota Statutes, section 256D.01, subdivision 1b, requires the commissioner to adopt rules specifying that the standards of assistance shall authorize the payment of rates negotiated by the counties to the facilities identified in Minnesota Statutes, sections 256I.01 to 256I.07. Part 9500.1231, subdivision 2 specifies the standard for those individuals who are residents in negotiated rate facilities and this subpart is necessary to specify the procedure to be followed to make payments to those facilities. If an applicant or recipient has no income, the county agency must simply pay the negotiated rate on behalf of an eligible individual. This is the only reasonable interpretation of the statutory language. If, however, an individual has income in excess of his or her standard, it is only reasonable to apply the excess income to the cost of the facility under the basic tenet that general assistance payments are to be made on behalf of individuals who are unable to provide for themselves as stated in Minnesota Statutes, section 256D.01, subdivision 1. It is also necessary to make provision for those individuals whose circumstances on the first day of the month of application are vastly different than their circumstances on the date on which they enter a negotiated rate facility. For instance, an individual may have been employed and have received income above general assistance standards early in the month and be placed in a negotiated rate facility in the middle of the month. Assuming that the individual spent the money he or she earned, it would be unreasonable to reduce a county's payment to the facility by the amount of the applicant's excess income since it is no longer available, and the deficit in the general assistance payment would have to be paid out of county funds or absorbed by the facility. It is the clear intention of the statute that facilities are to be paid out of general assistance funds in the absence of other resources. This subpart accounts for this possibility and makes allowances for payment to the facility at a time when all eligibility factors, such as the applicant's or recipient's income can be accurately determined. This subpart also specifies the dates to be included in a facility payment to ensure uniform application by all counties.

Subpart 8. **Payments to shelter facilities.** This subpart is necessary to implement Minnesota Statutes, section 256D.05, subdivision 3 which requires that payments be made to a shelter for battered women on behalf of a resident woman and her children out of general assistance funds. This subpart is a reasonable implementation of the statutory intent to make these payments on behalf of persons who are without adequate resources to make payment and to allow those persons to retain income and resources up to the standards of assistance for general assistance or AFDC in anticipation of their departure from the shelter. It is also reasonable to provide for retroactive eligibility in recognition that women who avail themselves of the shelter are in an emergency situation at the time of their admission and, as a result, are not able to apply for assistance in advance or in person. On the other hand, it is also reasonable to require that an application be filed within ten days of admission to the facility to obtain retroactive eligibility sot that there is a reasonable expectation that the required information and verifications are available.

Subpart 9. **Additional grants to start employment.** This subpart is necessary to implement Minnesota Statutes, section 256D.051, subdivision 16. This subpart is reasonable because it is consistent with Minnesota Statutes.

9500.1238 [See repealer.] This part is being repealed since rule provisions governing emergency general assistance are addressed under part 9500.1261.

9500.1239 PAYMENT PROVISIONS.

Subpart 1. **Grant issuance.** This subpart is necessary to implement the provisions of Minnesota Statutes, section 256D.09, subdivision 1 which mandates that grants of general assistance be issued in cash on the first day of each month unless a specific exception is given in statute. The provision is reasonable in that it provides for the uniform issuance of payments among the counties.

Subpart 2. **Time period for issuance of assistance.** This subpart is necessary to ensure that if payments are to be mailed that they be mailed in time to reach the recipient by the first day of the month. This is a reasonable implementation of the statutory requirement to pay benefits in cash on the first day of the month.

Item A. This item is necessary to allow the county agency to exercise its option to issue weekly assistance under part 9500.1237, subpart 4. This item reasonably requires that the agency provide the recipient with a schedule with which the recipient can be assured of receiving his or her benefits.

Item B. This item is necessary to allow the state or county agency to issue benefits by means other than mail issuance of checks or county warrants, such as electronic benefit payment, without violating current rules provisions which were adopted prior to the conception of alternative benefit delivery systems.

Subpart 3. **Special voucher or vendor payment provisions.** This subpart is necessary to specify and limit circumstances under which payment of a recipient's benefits can be made to someone other than the recipient, in a form other than cash or check. This subpart is necessary to implement other statutory provisions dealing with assistance payments.

Item A. Minnesota Statutes, section 256D.09, subdivision 1, and part 9500.1261, subpart 4, item G, require that grants of emergency general assistance be made in the form of voucher or vendor payments, unless the county agency has determined that cash would best resolve the emergency. This item is necessary to implement that requirement. The item refers to the specific provision in the proposed rule and the reasonableness of the provision will be established under that rule part.

Item B. Minnesota Statutes, section 256D.09, subdivision 2a authorizes the assignment of representative payees for drug dependent persons. This item cites part 9500.1272 which was adopted in July 1990 and is unchanged in this rulemaking effort.

Item C. Minnesota Statutes, section 256D.05, subdivision 6 authorizes the county agency to provide assistance to persons without a verified address in the form of vouchers or vendor payments. This item is implemented under part 9500.1237, subpart 4.

Item D. Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that AFDC policies and procedures be used for an assistance unit consisting of one or more family members. This item is necessary to implement that statutory requirement. This item is consistent with AFDC program requirements under part 9500.2680, subpart 2, item D.

Item E. Minnesota Statutes, section 256D.051, subdivision 5 requires that vendor or protective payments be provided to the remaining members of an assistance unit when all members of the assistance unit who are mandatory participants in the work readiness program have had assistance terminated due to noncompliance with work readiness requirements. The proposed item is reasonable since the remaining members in the assistance unit would be children who require protection so that their needs are met.

Item F. Minnesota Statutes, section 256D.09, subdivision 2 requires the commissioner to provide by rule for the voucher or vendor payment of the needs of applicants or recipients who have failed to use their resources in their own or their family's best interest. The item is reasonable since it requires documentation of the reasons for the determination. Part 9500.1211, subpart 4, item H provides an appeal right for a recipient prior to the change in payment method. The rule also provides an objective basis for determining mismanagement by referring to requests for emergency assistance as well as a review provision to determine if the vendor or voucher payments are still appropriate.

Item G. This item is necessary to implement the provisions of Minnesota Statutes, sections 256D.01, subdivision 1b, and 256D.05, subdivision 3 which provide for vendor payments to negotiated rate and shelter facilities.

9500.1240 [See repealer.] This part which dealt with county warrants is being repealed because it is addressed under part 9500.1239 which deals with payment provisions.

9500.1242 [See repealer.] This part which dealt with vendor payments is being repealed because it is addressed under part 9500.1239 which deals with payment provisions.

9500.1243 BUDGETING.

At this point in the eligibility process, the county agency will have determined that an assistance unit is eligible for monthly grants of general assistance. It is now necessary to provide by rule for the issuance and amounts of those grants through the process of "budgeting". The process of budgeting is used so changes in the circumstances of the assistance unit such as assistance unit composition, residence, resources, and income will be reflected in the assistance payment in a consistent and uniform manner. Minnesota Statutes, section 256D.06, subdivision 1 states, "General assistance shall be granted in an amount that when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance for general assistance." Minnesota Statutes, section 256D.051, subdivision 1a states, "Grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance." Minnesota Statutes, section 256D.051, subdivision 15 states, "The laws and rules that apply to general assistance also apply to the work readiness program, unless superseded by a specific inconsistent provision." Finally, Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires the assistance units consisting of one or more members of a family have its grant determined using the policies and procedures of the AFDC program. Minnesota Statutes are clear that a general assistance grant must be calculated by subtracting any income which is actually available to an assistance unit from the assistance unit's standard of need and issuing a grant for the difference. Since public assistance grants are issued in advance on the first day of a calendar month so that the assistance unit will have the money available to meet its need during the coming month, the necessary information about income which is actually available to meet the assistance unit's needs is not available to perform the necessary calculations. The current general assistance rule addresses this problem by having a county agency "anticipate" what income the assistance unit will have available during the ensuing month. The county agency subtracts that amount from the assistance unit's standard of need and issues a grant for the difference. This system is referred to as "prospective budgeting" and requires the budget month to be the same as the payment month. If the assistance unit has no income, or income which does not fluctuate, the system works fairly well. However, when income fluctuates from month to month, this system is often inaccurate since a county worker must rely upon a "best guess" as to future earnings. It is obvious that if the "best guess" is inaccurate, the grant which is issued is incorrect.

Since statute requires that general assistance shall be granted in an amount that when added to the nonexempt income actually available to the assistance unit, the total equals the applicable standard of assistance for general assistance. If the grant is inaccurate, the grant amount must be corrected by issuing a supplementary payment or by citing the assistance unit with an overpayment. This process, which is administratively burdensome, is also extremely confusing to a recipient who receives essentially two budget calculations each month; one based on anticipated income, and the other based on actual income. The problem is further compounded if the recipient is receiving benefits from another assistance program such as Food Stamps or subsidized housing which base their benefits, in part, on the amount of the general assistance grant received by the recipient.

The AFDC program, the Food Stamp program, and the SSI program have dealt with this problem by using the system of retrospective budgeting wherein the income actually available in a given month is applied against the assistance unit's standard of need in that same month to calculate a benefit to be paid in a subsequent month. This system of budgeting is more consistent with the statutory language of "actually available" income since the calculation is performed after the budget month is over and accurate earnings information is available. Under this system, the budget month and the payment month are separated by an intervening processing month during which the calculations are made. The problem with the system is that the public assistance grant is not immediately responsive to change.

With respect to the two budget alternatives, the general assistance advisory committee concluded that:

1. AFDC retrospective budgeting is mandated for family general assistance under Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f).
2. Retrospective budgeting is mandated by the Food Stamp program for all persons with a recent work history or who received earnings.
3. In cases where there are no earnings, there is no effective difference in the budgeting systems.
4. The time lag in responding to changes under retrospective budgeting may be beneficial or detrimental to a recipient who has experienced a change in income.
5. If the time lag from retrospective budgeting results in an emergency situation for a recipient, emergency general assistance is available to the recipient without restriction as to the number of times per year that emergency general assistance can be granted.

In weighing the obvious administrative and recipient advantages of retrospective budgeting against the possible short-term detriment to recipients who have experienced a loss of income, Department statistics indicate that as of April 1, 1990, there were 585 assistance units without children with earnings sufficient to affect a grant out of a total population of 21,254 cases. In other words, if a change to retrospective budgeting adversely affected every possible case, which is extremely unlikely, the change would affect less than three percent of the total general assistance population. In view of the obvious advantages of consistency among the programs to both the recipients and the county agencies, it is reasonable to apply retrospective budgeting to all persons who are recipients of general assistance in the same

manner as the AFDC program. Where the following provisions are the same as AFDC, the AFDC rule will be cited. Any exceptions to the AFDC requirements will be noted and discussed.

Subpart 1. **Prospective budgeting.** This subpart is consistent with AFDC program requirements under part 9500.2520, subparts 1 and 2.

Item A is consistent with AFDC requirements under part 9500.2520, subpart 2, item A.

Item B is consistent with AFDC requirements under part 9500.2520, subpart 2, item B.

Item C is consistent with AFDC requirements under part 9500.2520, subpart 2, item C.

Item D is consistent with AFDC requirements under part 9500.2520, subpart 2, item E. AFDC part 9500.2520, subpart 2, item D is not included in the proposed rule since the federal program requires the collection of child support from federal child support collection units under Title IV-D. The general assistance program has no such requirement.

Item E is necessary to implement the provisions of Minnesota Statutes, section 256D.01, subdivision 1b which requires payment to negotiated rate facilities. It is reasonable to make exception to retrospective budgeting in this instance, since income which was available two months prior to a recipient entering a facility may no longer be available to apply against the rate charged by the facility.

Subpart 2. **Retrospective budgeting.** This subpart is consistent with AFDC program requirements under part 9500.2520, subparts 3 and 4.

Item A is consistent with AFDC requirements under part 9500.2520, subpart 4, item A.

Item B is consistent with AFDC requirements under part 9500.2520, subpart 4, item B.

Subpart 3. **Recoupment of overpayments.** This subpart is consistent with AFDC program requirements under part 9500.2640, subpart 1.

Item A is consistent with AFDC requirements under part 9500.2640, subpart 2.

Item B is consistent with AFDC requirements under part 9500.2640, subpart 4.

Item C is consistent with AFDC requirements under part 9500.2640, subpart 3.

Subpart 4. **Correction of underpayments.** This subpart is consistent with AFDC program requirements under part 9500.2640, subpart 8.

Subpart 5. **Prohibition against use of general assistance grant to recover overpayment from other maintenance programs.** This subpart is

necessary to prohibit the use of general assistance grants to pay other maintenance benefits overpayments. Although the general assistance program uses the policies and procedures of the federal AFDC program, it is a state funded program. It would be unreasonable to use a general assistance grant to reimburse a federal program because the client would then be unable to meet his or her basic needs. This subpart is reasonable because Minnesota Statutes require that a grant of general assistance be paid to a recipient with certain, specific exceptions. Those exceptions do not include an AFDC overpayment.

9500.1245 APPLICANT AND RECIPIENT RESPONSIBILITIES.

This part is necessary to specify the responsibilities of applicants and recipients which must be met to remain eligible for general assistance. The responsibilities listed are reasonable since they reflect specific statutory requirements.

Subpart 1. **Applicant reporting requirements.** Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that families on general assistance must follow the policies and procedures of the AFDC program. The AFDC program has specific requirements for the reporting of a recipient's circumstances. Therefore, it is necessary to require similar reporting by general assistance applicants. It is also reasonable to make the reporting requirements applicable to single individuals and married couples without children since there is no statutory or other compelling reason to exempt these individuals from the reporting requirement. The current general assistance rule has no specific reporting requirement which has resulted in considerable confusion regarding whether a general assistance recipient is required to report, what changes must be reported, how often, or in what manner. Therefore, it is necessary to specify reporting requirements for those individuals. It is reasonable to use the forms and procedures which are already in place for other assistance programs such as AFDC and Food Stamps to uniformly administer the program and to minimize the confusion for recipients and county agencies. This subpart is consistent with AFDC program requirements under part 9500.2700, subpart 1.

Subpart 2. **Responsibility to inquire.** This subpart is necessary to inform applicants and recipients of their responsibility to inquire when they are unsure whether a change in circumstances must be reported. This subpart is consistent with the AFDC program requirements under part 9500.2700, subpart 3.

Subpart 3. **Household report form.** This subpart is necessary to inform applicant and recipients when household report forms must be submitted. This subpart is consistent with the AFDC program requirements under part 9500.2700, subpart 5.

Subpart 4. **Late household report forms.** This subpart is necessary to inform county agencies how to treat late household report forms. This subpart is consistent with the AFDC program requirements under part 9500.2700, subpart 6.

Subpart 5. **Changes which must be reported.** This subpart is necessary to inform applicants and recipients what changes must be reported and

the time period for reporting those changes. This subpart is consistent with the AFDC program requirements under part 9500.2700, subpart 7 with the exception of AFDC items G and H which have no bearing on general assistance eligibility.

Subpart 6. **Redetermination of eligibility.** This subpart is necessary to specify the redetermination requirements for general assistance which are somewhat different than AFDC. AFDC rule part 9500.2420, subpart 5 specifies the requirements for AFDC and contains references to "error-prone profiles" which have no applicability to general assistance because general assistance is not subject to federal quality control requirements. Moreover, the department has not required a face-to-face redetermination of eligibility for general assistance recipients and there is no statutory or other compelling reason to require one.

Item A. This item is necessary to make allowance for the weekly redetermination of eligibility permitted as a county option under Minnesota Statutes, section 256D.05, subdivision 6, paragraph (a), clause (3).

Item B. This item is necessary to specify the circumstances under which a disqualified recipient can regain eligibility subsequent to the sanction period. Since some of these individuals may have continued to receive medical assistance or food stamps during the period of disqualification, their cases have remained open on the county and state case records with a cash grant of $0. Under those circumstances, it would be unreasonable to require the recipient to go through another application process including an interview. However, it would also be unreasonable to issue a cash grant without first determining whether the recipient's circumstances had changed in a manner affecting eligibility during the disqualification period. A reasonable compromise is the requirement for redetermination of eligibility by completing a report form which contains all the relevant information.

Item C. This item is necessary to require a county agency to redetermine eligibility when a change which affects program eligibility is reported. This item is consistent with the AFDC program requirement under part 9500.2420, subpart 5.

Subpart 7. **Other maintenance benefits.** Minnesota Statutes, section 256D.06, subdivision 5 requires applicants who are possibly eligible for maintenance benefits from other sources apply for those benefits within 30 days of the general assistance application. This subpart is necessary to implement that statutory requirement. The requirement that an individual who has been terminated from general assistance due to the failure to apply for other maintenance benefits and remains ineligible until he or she complies is necessary to implement the statutory requirement that the individual apply for benefits to which he or she may be entitled. Since the individual is or could be otherwise provided for by law, it is reasonable to deny eligibility for general assistance.

Subpart 8. **Work readiness program.** This subpart is necessary to specify the duty of an applicant or recipient who is not exempted under part 9500.1251 to comply with the requirements of the work readiness program as a condition of eligibility. Compliance with work readiness

program requirements is required under Minnesota Statutes, section 256D.051.

Item A. This item is reasonable because it states the statutory requirements under Minnesota Statutes, section 256D.051, subdivision 3.

Item B. This item is reasonable because it states the statutory requirements under Minnesota Statutes, section 256D.051, subdivision 3c.

Subpart 9. **Persons exempt from work readiness, voluntary participation.** This subpart is necessary to specify that any recipient may be afforded work readiness services if they do desire. It would be unreasonable to deny a recipient an opportunity to achieve self-sufficiency just because the recipient was not a mandatory work readiness participant. This subpart permits a general assistance recipient to volunteer to participate in work readiness.

9500.1246. [See repealer.] This part is being repealed since effective January 1, 1991 state participation for emergency general assistance will be 100 percent.

9500.1248 DETERMINATION OF COUNTY OF FINANCIAL RESPONSIBILITY.

Minnesota Statutes, chapter 256G, specifies how the county of financial responsibility is determined. Subparts 1 and 2 are being repealed since the procedure for determining county of financial responsibility is set forth in statute. Subpart 3 is necessary to inform county agencies that the procedure for determining county of responsibility is set forth in Minnesota Statutes, chapter 256G. Subpart 3 is reasonable since it cites the statutory reference governing determination of county of financial responsibility.

9500.1250 LOCAL AGENCY REPORTS.

This part is being amended to delete reference to the MEED program which is no longer being funded.

9500.1251 WORK READINESS EXEMPTIONS.

This part is necessary to specify which applicants or recipients of general assistance are required to participate in the work readiness program and which are not. Primarily, the persons who are exempt are those persons who previously fit a category of eligibility for general assistance under the current rule which makes provision for the parallel programs of general assistance and work readiness assistance. As discussed in the introduction to the Statement of Need and Reasonableness, the expansion of work readiness assistance to a full year, as opposed to six months, renders the distinction between the assistance unnecessary. It is reasonable for administrative purposes to have only one general assistance program with mandatory participation by nonexempt persons in the work readiness program.

RULE 55 SNR

The items under this part are necessary to specify that all persons who are not specifically exempt must participate. It is reasonable to prohibit participation for persons who could be exempt by cooperating with a requirement to sign an interim assistance agreement, since those persons might otherwise be provided for by law, and, as such, be barred from eligibility for assistance.

Item A. This item is necessary to implement the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1). It is a reasonable combination of the provisions found in the current rule at part 9500.1258, subpart 1, items A and B.
Item B. This item is necessary to implement Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (2). It is a reasonable modification to former part 9500.1258, subpart 1, item C in that it contains a requirement that no other household member is available to provide the necessary care. It is not the intent of statute to create a hardship for an individual who suffers from an illness, injury, or other incapacity by depriving that person of the care from the only individual able to provide it. This could result if the caretaker were required to participate in the work readiness program. The result of this action would be to simply shift the burden from one public assistance program to another, or to leave individuals without necessary care. If, on the other hand, there is more than one individual in the household available to provide care, it is reasonable to require the applicant or recipient to participate in work readiness.

Item C. This item is contained in current rule as part 9500.1258, subpart 1, item D. Due to the rule format change, part 9500.1258 is being repealed. Item C is simply a format change.

Item D. This item is contained in current rule as part 9500.1258, subpart 1, item E. Due to the rule format change, part 9500.1258 is being repealed. Item D is simply a format change.

Item E. This item is currently found under part 9500.1258, subpart 1, item H. The item has been amended to reflect the statutory language under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (5).

Item F. This item is required by Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6) which specifies that persons who have an application pending for the RSDI disability program or the SSI program are categorically eligible for general assistance and exempt from mandatory work readiness participation. The statute makes the further restriction that if the application is subsequent to a denial of a previous application, and that denial was not appealed, that the new application be based on a different disability or it must allege new or aggravated symptoms of the original disability. This rule provision is reasonable since it prevents an individual from avoiding work readiness participation by a continuous filing of applications for social security which the social security administration has determined to be without merit.

Item G. This item is necessary to implement another provision of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6) which specifies general assistance and work readiness

exemption for persons who are appealing an adverse action by the social security administration. The proposed rule provides the exemption for all persons who are appealing a termination of benefits to which the person had been previously entitled, but places a restriction upon persons who are appealing or requesting a reconsideration of a denial of an initial application. The restriction that a person provide medical evidence in support of his or her social security disability application is reasonable since that time period is specified in Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6).
Item H. This item is contained in current rule as part 9500.1258, subpart 1, item J. Due to the rule format change, part 9500.1258 is being repealed. Item H is simply a format change.

Item I. This item is contained in current rule as part 9500.1258, subpart 1, item O. Due to the rule format change, part 9500.1258 is being repealed. Item I is simply a format change.

Item J. Minnesota Statutes, section 256D.051, subdivision 3a specifies that persons between the ages of 16 and 19 years who are full-time secondary school students are not required to participate in the work readiness program. This item is reasonable because it implements Minnesota Statutes.

Item K. This item implements Minnesota Statutes, section 256D.051, subdivision 3a which exempts children under the age of 16 from participation in the work readiness program.

Item L. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11) specifies the general assistance eligibility for a woman in her last trimester of pregnancy and, therefore, exemption from work readiness. This item recognizes that a woman in the last months of pregnancy may have difficulty complying with work readiness requirements. A woman in the first or second trimester of pregnancy could also be exempt from work readiness requirements but only if she has a medical certification stating that her condition is disabling within the terms of item A. This item is reasonable because it implements Minnesota Statutes.

Item M. This item is necessary to implement Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12). This requirement is currently found in part 9500.1258, subpart 1, item M, subitem (7) and is placed here as a format change.

Item N. This item is necessary to implement Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (14). This requirement is currently found in part 9500.1258, subpart 1, item M, subitem (2) and is placed here as a format change.

Item O. This item is necessary to implement Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (13) which makes an individual who lives in an isolated area eligible for general assistance. The proposed rule exempts the time necessary to transport children to and from child care from the time requirement in the same manner as the AFDC program. The effect of the statutory categories of eligibility for general assistance is simply to exempt an individual from participation in the work readiness program. It does not confer

any additional benefits upon the applicant or recipient. The rule proposes to extend the exemption from work readiness participation to persons whose homestead is isolated. This exemption is reasonable because travel time for participation would be excessive.

Item P. This item is necessary to implement Minnesota Statutes, section 256D.051, subdivision 3a which specifies which persons are required to register for and participate in the work readiness program. The proposed rule specifies that a parent is exempt from participation if there is a child under the age of six where there is not suitable child care available at no cost to the family (as required by statute) but specifies that the phrase "at no cost to the family" implies unreimbursed, or non-disregarded expenditures for child care.

Item Q. This item is necessary to implement Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (8). The proposed rule requires that a person be referred to appropriate remedial programs or other maintenance benefits prior to exemption under this provision, which is reasonable when viewed in the context of the purpose of the program "to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work." For example, a 21 year old individual who is chemically dependent and functionally illiterate is unlikely to obtain permanent employment. However, it would be unreasonable and contrary to the purpose of the general assistance program to not address these barriers to employment prior to exempting the individual from the work readiness program. A second example would be an individual who is age 52, chemically dependent, and functionally illiterate. This individual is also unlikely to obtain permanent employment but might be eligible for SSI. It would be unreasonable to continue general assistance since the individual may otherwise be provided for by law.

9500.1252 [See repealer.] This part is being repealed because it is unnecessary. Minnesota Statutes, section 256.016 requires the Department of Human Services to comply with specific "plain language" requirements. Therefore, this part is unnecessary.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Subpart 7. **Reimbursement for interim assistance.** The changes to this subpart are essentially editorial changes. The term "local agency" is being changed to "county agency" pursuant to the change in Minnesota Statutes, section 256D.02, subdivision 12. The sentence which authorized the county agency to retain 25 percent of the interim assistance recovered is being deleted since effective January 1, 1991, the county agency will no longer provide a match for general assistance.

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Subpart 2. **Reimbursement for interim assistance and special services.** The changes to item A are essentially editorial changes. The term "local agency" is being changed to "county agency" pursuant to the

change in Minnesota Statutes, section 256D.02, subdivision 12. Subitem (1) is being changed since effective January 1, 1991, the county agency will no longer provide a 25 percent match for general assistance. The corresponding changes in subitems (2) and (3) are necessary to reflect the change in subitem (1).

9500.1257 [See repealer.] This part is being repealed since literacy training requirements for recipients is addressed under part 9500.1259.

9500.1258 [See repealer.] This part is being repealed since the exemptions from work readiness are addressed under part 9500.1251.

9500. 1259 COUNTY AGENCY RESPONSIBILITY.

Subpart 1. **Work readiness program.** This subpart is necessary to implement Minnesota Statutes, section 256D.051, subdivision 2 governing county duties under the work readiness program. The proposed rule provides for the inclusion of voluntary as well as mandatory registrants with the work readiness program. It would be unreasonable to refuse a service to an applicant or recipient which could help them attain self-sufficiency (a stated purpose of the program) simply because they are exempt from mandatory participation.

Item A. This item is required by Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause 1. The rule requires that the orientations be offered by county agencies no less frequently than monthly. This requirement is necessary since there are special payment provisions available to a county which relate to an initial certification period which is determined by an orientation date. Since the initial certification period is not to exceed 30 days, it follows that an orientation must be offered within the same time period.

Item B. This item is necessary to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (2); and section 256D.052, subdivisions 1 and 2. The rule provision is reasonable since it requires a review of a participant's exemption status from the work readiness program (required by statute) as part of a work readiness assessment. It also defines "functionally illiterate" using the current definition in the current rule under part 9500.1258, subpart 1, item P. Subitem (1) is identical to part 9500.1258, subpart 1, item P, subitem (1) and is reiterated here due to the format change which repeals part 9500.1258. Subitem (2) essentially restates the current rule at part 9500.1258, subpart 1, item P, subitem (2) but does not contain the references to time limitations or to situations where an applicant or recipient might receive a score which is inaccurately low. Since functional illiteracy is no longer a category of eligibility for general assistance under Minnesota Statutes, section 256D.05, subdivision 1 and the work readiness program is now year round, there is no longer a need to time limit a determination or to guard against an applicant or recipient manipulation of a test score to gain an advantage which no longer exists.

Item C. This item is necessary to implement the requirement under Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a),

clause (2) that a county agency develop an employability development plan (EDP) which addresses barriers to employment that an applicant or recipient might have. This item is a reasonable statement of the statutory requirement. The five subitems are necessary to ensure that county agencies administer the work readiness program in a consistent manner. It is reasonable to require that an applicant's or recipient's barriers to employment be addressed in a logical hierarchy. For example, subitem (1) requires that the county agency address the individual's inability to communicate in the English language prior to referring him or her to a literacy program or a secondary education program, on the reasonable basis that a person who can not communicate in English language cannot benefit from an educational program taught in a language that the participant does not understand.

Subitem (2) makes the reasonable assumption that an individual's illiteracy must be addressed prior to a referral to a secondary education program. An individual who cannot read could easily become frustrated or fail in a secondary education program, which would not benefit the individual, service provider, or county agency.

Subitem (3) requires a participant who has not completed his or her secondary education to participate in an education program if available and appropriate. This subitem recognizes that failure to complete a secondary education program is a barrier to employment. However, this subitem also recognizes a secondary educational program may not be available or may not be appropriate for all individuals.

Subitem (4) requires an individual who has no work experience to participate in a jobs seeking skill program in addition to a job search requirement. This requirement is necessary to increase the probability of success in his or her job seeking activities. This subitem is required under Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (5). Subitem (5) requires participants who have a work history to engage in job search activities without requiring them to participate in job seeking skills training since these participants already have skills in that area as evidenced by their prior employment. This subitem prevents the mandatory referral of individuals to programs which may be inappropriate for them.

The general requirements and limitations in an EDP are required under Minnesota Statutes, section 256D.051, subdivision 2. It requires that barriers to employment be addressed and allows the county agency to also require job search in cases where that might be appropriate. This is reasonable since individuals who have characteristics which might be considered barriers to employment may have a work history and the ability to work in spite of their barriers such as a functionally illiterate individual who has a history of employment in areas which do not require the ability to read. Item C also prohibits the county agency from requiring an individual to participate in work readiness program activities which interfere with employment, which, after all, is the goal of the program. However, the employment in question must be such that it can lead to self-sufficiency as determined by the county agency.

Item D. This item is necessary to implement Minnesota Statutes, section 256D.052, which specifies county agency duties regarding participants

who are functionally illiterate. Subitem (1) is a restatement of Minnesota Statutes, section 256D.052, subdivision 2, clause (1). It is reasonable to use statutory where necessary to preserve continuity in the rule. Subitems (2) to (5) are the same as Minnesota Statutes, section 256D.052, subdivision 2, clauses (2) to (5). Subitem (6) is required under Minnesota Statutes, section 256D.052, subdivision 3. Subitem (7) is required under Minnesota Statutes, section 256D.052, subdivision 3. The requirement to prohibit disqualification for noncompliance due to unavailability of child care is reasonable since it is possible that child care services or child care funding may not be available.

Item E. This item is required by Minnesota Statutes, section 256D.051, subdivision 3c and section 256D.101, subdivisions 1 to 3. Subitem (1) cites the requirement under Minnesota Statutes, section 256D.101, subdivision 1, paragraph (a). Subitem (2) cites the requirement under Minnesota Statutes, section 256D.101, subdivision 1, paragraph (b). Subitem (3) is required by Minnesota Statutes, section 256D.101, subdivision 1, paragraphs (a) and (b) which specify that notice to a recipient who is in noncompliance with work readiness program requirements for the first time in six months must state the date by which the recipient must take corrective action; that the date must not be less than five working days from the mailing of the notice; the disqualification to be imposed if the recipient fails to take corrective action; and that the recipient may confer with the county agency to discuss the notice. The rule specifies the disqualification period set forth under Minnesota Statutes, section 256D.051, subdivision 3c which is reasonable to enable implementation of these provisions without having to refer to several disparate sections of statute. Subitem (4) is subject to the same statutory requirements as subitem (3) but reflects the different time limitations under Minnesota Statutes, section 256D.101, subdivision 1, paragraph (b) which governs a notice required for a second or subsequent instance of noncompliance in a six month period and the different disqualifications to be imposed as required under Minnesota Statutes, section 256D.051, subdivision 3c. Subitem (5) is necessary to implement Minnesota Statutes, section 256D.101, subdivision 2. The proposed rule substitutes the phrase "exemption status from work readiness participation," for the statutory term "eligibility for general assistance" since unless exempt from work readiness, a general assistance recipient must participate in work readiness. Subitem (6) is necessary to implement Minnesota Statutes, section 256D.101, subdivision 1, paragraph (b) which requires county agencies to assign pick up schedules for recipients who have not provided the county agency with a mailing address. This is a reasonable provision since it provides a clear, easily understandable method for recipients to receive notice and benefits.

Item F. This item is necessary to implement the authorization stated in Minnesota Statutes, section 256D.051, subdivision 9. The proposed rule extends the authorization to include the advance notice required by item E, subitem (1), which is reasonable since providers who have contracted with county agencies are in a better position to specify the things a participant must do to comply with the EDP. The notice does not bear on eligibility for benefits and does not require county action. Authorizing a contractor to issue this notice in no way infringes upon

the recipient's right to confer directly with the county agency or to access the appeal process.

Subpart 2. **Appeals.** This subpart is necessary to implement the special appeals provisions of Minnesota Statutes, section 256D.101, subdivision 3, which allows a recipient who the county agency proposes to terminate from assistance due to noncompliance with a program requirement, to file an appeal of the proposed termination within five days after the proposed termination and continue his or her benefits pending the hearing.

Subpart 3. **Information about other programs.** This subpart is necessary to require county agencies to provide information about other programs. This requirement is found in the AFDC program rules under part 9500.2740, subpart 3. It is reasonable to require consistency among the programs where there are no statutory or other compelling reasons to differ.

Subpart 4. **Notices.** This subpart is necessary to provide uniform standards for county issuance of notices. The normal requirement that a recipient be given 10 days advance notice of an adverse action is reasonable in that it provides a recipient with reasonable time to prepare for the reduction or, in the alternative, to appeal the action and to continue to receive benefits pending the hearing. The 10 day notice provision is standard in AFDC, Food Stamps, MSA, and MA. Since the general assistance program is required to follow and procedures of the AFDC program for family assistance units, it is reasonable to also adopt the AFDC provisions for notices, with the exception of certain provisions which are not applicable to general assistance.

Item A. The general notice provision for adverse actions by county agencies is 10 days. However, it is reasonable to make some exception to the general rule when to follow it would be unreasonable, for example, in cases of probable fraud. The proposed rule adopts the identical provision found in AFDC program rules under part 9500.2740, subpart 7, item B, for the purpose of program consistency.

Item B. The exception to the 10 day notice provision specifies situations wherein the county agency need only provide notice no later than the effective date of the action. These exceptions are reasonable since they involve cases where the client is aware that a reduction will occur. Again, it is reasonable to attain consistency among the programs unless there is a compelling reason not to do so. The subitems under item B are consistent with AFDC requirements under part 9500.2740, subpart 7, item C, subitems (1) to (4), (7), and (9).

Item C. This item is necessary to specify that special notice provision in rule will supersede these general notice provisions. It is necessary to make this clear since the general notice provision would have the affect of nullifying the special notice provisions and would be contrary to the statutory provisions governing special notice.

9500.1260 [See repealer.] This part is being repealed since appeal rights are addressed under part 9500.1211, subpart 4, and notice requirements are addressed under part 9500.1259.

9500.1261 EMERGENCY ASSISTANCE.

Minnesota Statutes, section 256D.06, subdivision 2 requires that grants of emergency general assistance (EGA) be made to eligible individuals, married couples, or families for emergency needs. It further requires the commissioner to promulgate rules defining those needs. The current general assistance rule addresses EGA under part 9500.1238 in extremely broad terms, with the result that there has been considerable confusion and inconsistent application among the counties. It is, therefore, necessary to specify the terms and conditions under which a grant of EGA will be issued to conform to the commissioner's duties set forth in Minnesota Statutes, section 256D.04, subdivision 2 (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 proposed rule was developed based on input from the department, counties, and client advocacy groups.

Subpart 1. **Emergency assistance.** This subpart is necessary to specify that an individual, married couple, or family need not be residents of the state as set forth in part 9500.1219, subpart 3 to be eligible for EGA. The provision is reasonable because Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), states, "Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs." Minnesota Statutes, section 256D.051, subdivision 1, paragraph (b) states, "Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs." This subpart also specifies that the grant of EGA may exceed the standards in part 9500.1231. Minnesota Statutes, section 256D.06, subdivision 2, states, "Notwithstanding the provisions of subdivision 1 [sets forth assistance standards], a grant of general assistance shall be made to an eligible individual, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist and the individual is ineligible for the program of emergency assistance under aid to families with dependent children at the time of application hereunder. If a recipient relates facts to the county agency which may be sufficient to constitute an emergency situation, the local agency shall advise the recipient of the procedure for applying for assistance pursuant to this subdivision." Minnesota Statutes make it clear that EGA may be issued to an individual or family regardless of whether or not the nonexempt income actually available to the individual or family exceeds the applicable standard of assistance for general assistance. This subpart is reasonable because it implements Minnesota Statutes.

Subpart 2. **Emergency situation.** Minnesota Statutes, section 256D.06, subdivision 2 requires the commissioner to define emergency needs in rule. Therefore, it is necessary to define emergency situations. It is reasonable to restrict the definition of "need" to "basic needs" as opposed to other needs which an individual or family might have, but are not a requisite of subsistence, health, or safety. The term "basic need" is defined in part 9500.1206, subpart 7a. The term "emergency" is

defined in Webster's Collegiate Dictionary as: "1: an unforeseen combination of circumstances or the resulting state that calls for immediate action; 2: a pressing need." The definition of emergency and common usage of the term implies a sense of urgency, or a reference to time. For example, scientists accept that the sum will eventually burn out, which is a life-threatening situation, but no action is being taken since the disaster is not expected to occur for several million years and, therefore, it not regarded as an emergency. On the other hand, a strict interpretation of the term "immediate" would imply that an individual or family's application for emergency assistance could be denied today if the loss of a basic need item were not to occur until tomorrow. Both of those references to time are clearly unreasonable. Since the statute restricts assistance issued under Minnesota Statutes, section 256D.06, subdivision 2, to a 30 day period, that same period of time appears to be a reasonable implementation of the time period understood as "immediate".

Item A. This item is necessary to specify that the assistance is required immediately (as discussed above) and that the assistance required be financial. This item recognizes that there may be situations which would otherwise fall within the definition of an emergency situation but which cannot be resolved by a grant of assistance alone, such as a woman whose health or safety is threatened by a spouse. A grant of assistance, in and of itself, is not sufficient to prevent the abuse. If, on the other hand, the woman resolves to remove herself from that situation and required an emergency grant to do so, that would be a financial matter, and within the scope of the program.

Item B. This item is necessary to implement the requirement in Minnesota Statutes, section 256D.06, subdivision 2, that the request be for "temporary assistance" and not exceed 30 days. The proposed item makes a reasonable interpretation of statute that the 30 day restriction refers to a future period of 30 days subsequent to application and does not intend to bar a payment to individuals whose emergency situation is the culmination of events occurring over a longer period of time.

Subpart 3. **Eligible persons.** Minnesota Statutes, section 256D.06, subdivision 2 requires that grants of EGA be made to "an eligible individual, married couple, or family." This subpart is necessary to define who is an eligible individual, married couple, or family.

Item A. This item is necessary to implement the provisions of Minnesota Statutes, section 256D.06, subdivision 2 which prohibits the issuance of an EGA grant to an individual who is eligible for emergency assistance under AFDC, or who is a recipient of AFDC in the month of application for EGA. This statutory provision is consistent with the general prohibition against providing general assistance to individuals who are otherwise provided for by law (Minnesota Statutes, section 256D.01, subdivision 1). However, Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11) states, "A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs." While a woman in the third trimester of pregnancy is eligible for AFDC because of the eligibility of the unborn child, the woman is not eligible for emergency assistance under AFDC

because the child is not yet born. Since a woman in this situation is not otherwise provided for by law in an emergency situation, the legislature made this single exception to the prohibition against granting EGA to recipients of AFDC.

Item B. This item is necessary to implement the general prohibition against issuing general assistance for the needs of persons who are otherwise provided for by law and Minnesota Statutes, section 256D.06, subdivision 2. Subdivision 2 provides, "Notwithstanding the provisions of subdivision 1, a grant of general assistance shall be made to an eligible individual, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exists and the individual is ineligible for the program of emergency assistance under aid to families with dependent children and is not a recipient of aid to families with dependent children at the time of application thereunder. ..." The proposed item is more specific than statute in prohibiting EGA eligibility for an individual who has received emergency assistance under AFDC in the month of application for EGA, which is reasonable since such an individual would not again be eligible for the AFDC emergency payment but has had his or her need otherwise provided for by law.

Item C. This item is necessary to implement the general prohibition in Minnesota Statutes, section 256D.01, subdivision 1, against providing general assistance to persons who are able to provide for themselves. In view of the requirements throughout the General Assistance Act that persons apply for any other maintenance benefits for which they may be entitled, the prohibition against general assistance eligibility for persons who are able to provide for themselves, and the prohibition against providing general assistance to persons who are otherwise provided for by law, it is reasonable to conclude that the legislature intended to make general assistance available only as a last resort. This is particularly true of EGA which allows for grants in excess of standard amounts for individuals or families who may be ineligible for monthly assistance but who have found themselves in an emergency situation. It is reasonable to require applicants to utilize any resources which are available to them prior to authorizing EGA funds. Moreover, since members of the applicant's filing unit have, by definition, a financial responsibility to the applicant, it is reasonable to require those persons to utilize any available resources to meet the emergency needs of an applicant for EGA. On the other hand, it is necessary and reasonable to specify that resources alternative to EGA actually be available to meet a basic need prior to its loss in order to apply them against the need. Considering the extreme nature of circumstances required to qualify as an emergency situation and the extra benefit to be conferred by a grant of EGA, it is reasonable to regard income and resources which would be excluded for applicants or recipients of benefits within the standard amounts as available to meet emergency needs which may be above, or in addition to, those standard amounts. On its face, it would be unreasonable and in conflict with the prohibition against granting assistance to persons who are able to provide for their own need, to not regard available cash and other liquid resources which are otherwise excluded for monthly grant eligibility as not being available to meet an emergency need. Furthermore, Minnesota Statutes, section 256D.08, subdivision 2 provides

for the exclusion from consideration in determining eligibility for general assistance, resources which would bar eligibility for AFDC. For example, a family would be denied AFDC benefits is the family had more than $2,500 in equity value in a vehicle in combination with non-excluded personal property; whereas that same family would be eligible for general assistance benefits if the vehicle were necessary for the self support of the assistance unit. It is reasonable to require an applicant for EGA to make use of that equity, if available to meet his or her emergency need. By definition, these additional exclusions in the General Assistance Act pertain to non-liquid resources and, as such, are not immediately available to meet an emergency need. However, if it is possible to liquidate resources in time to meet an emergency need, it is reasonable to require that liquidation. The definition of "liquidate" under part 9500.1206, subpart 18c provides for the sale of, or borrowing using equity as collateral, of non-liquid property. The proposed rule places a reasonable restriction on borrowing by stating "so long as the terms of any borrowing cannot be reasonably expected to place the borrower in another emergency situation within three months including the month of application." The practice of borrowing to meet an unusual need or situation is common among persons who are not applicants or recipients of public assistance and there is no reasonable basis to exempt applicants or recipients of public assistance from utilizing their available resources to meet emergencies, whenever possible, just as other individuals do. The specification of a three month period of time was considered a reasonable period by the advisory committee. It is not so short as to create repeated emergencies or so long that it does not acknowledge the recipient's circumstances can change for the better.

Item D. There is no restriction in statute or rule to the number of times per year a person may apply for or receive grants of EGA, nor is there a eligibility restriction relating to gross income or resources, other than that they be insufficient to meet an emergency need. As a result, the program is vulnerable to abuse by individuals who could divert most, if not all, of their available income or resources to non-essential purposes and then make application for EGA to pay for basic needs. In a real sense, these would be planned "emergencies," and contrary to the accepted definitions of emergency would imply unforeseeability or at least a lack of intention. Therefore, it is necessary to provide for this contingency by rule. The emergency assistance rule of the AFDC program makes such a provision by requiring persons applying for a grant to cover certain, specific needs to have spent a specific portion of their available income to meet that specific need. The proposed rule recognizes that monthly grants of assistance for single persons and for married couples without children are substantially lower than a typical AFDC grant, with the result that an applicant for EGA might well have spent all of his or her income on basic need items, such as shelter and food, and still not have paid anything toward another basic need, such as a utility. Under this situation, the individual would have an application for an emergency payment to the loss of an essential utility denied under the AFDC rules; whereas the lack of payment would not be a bar under EGA. This is reasonable when considering low incomes. On the other hand, a requirement that an applicant for EGA must have spent at least half of his or her available income on basic needs in order to be eligible for an emergency payment is reasonable to prevent planned emergencies on the

part of low income persons, or to restrict eligibility for higher income persons who have spent their available income in an irresponsible manner. The proposal to determine the applicant's expenditures for the 60 days previous to application is more reasonable than the AFDC provision which requires one year since the general assistance population is less stable than the AFDC population and a year's history might not be available to an applicant for EGA. This item exempts chemically dependent, mentally ill, or mentally retarded persons since these persons may have an impaired ability to manage financial resources.

Item E. This item is necessary to specify that EGA cannot routinely be issued to persons who have been disqualified from receiving a monthly grant due to noncompliance with the requirements of the work readiness program. To issue EGA to cover basic needs when the applicant is without funds due entirely to circumstances within his or her control would negate the provisions of Minnesota Statutes, section 256D.051, subdivision 3c which imposes sanctions on mandatory work readiness participants who fail, without good cause, to meet work readiness participation requirements. On the other hand, it would be unreasonable to deny payment to meet a crisis which is unrelated to the applicant's or recipient's compliance with work readiness requirements, such as losing one's shelter due to a natural disaster. To withhold EGA payment in this type of unrelated circumstance would amount to an additional penalty for noncompliance. Finally, it would be unreasonable to deny relief under EGA to members of a disqualified person's assistance unit who have no effective control over the actions of the disqualified person.

Subpart 4. **Payment provisions.** This subpart is necessary to establish standards for making emergency assistance payments. The current rule does not address emergency payments. As a result, there is no uniformity among the counties in the treatment of emergency situations. It is reasonable to establish standards for making emergency assistance payments to ensure fiscal accountability and administrative oversight. When a county agency determines an applicant has an emergency situation and is eligible for EGA, the county must resolve the situation in the most cost effective manner as set forth under item A to H.

Item A. This item requires the county agency to assess both the immediate need and the near term needs of the applicant if the request for an emergency grant is approved. The proposed rule requires the county agency to consider a period of time of three months from the date of application. This period is considered reasonable in that it is not so short than an applicant or recipient could be in perpetual emergency situations. For example, if a person made application for a threatened loss of shelter and the county agency did not take into account that is was likely that the applicant after making the shelter payment would not have sufficient resources for food or utilities, even though there was sufficient food for the day of application or a disconnection notice had not yet been received from the utility company, it could be reasonably anticipated that the applicant would again be forced to make application for EGA to obtain food or continue necessary utilities. Assessing only immediate needs on the day of application would necessitate additional administrative expense for the county and would force EGA applicants to submit numerous applications for what in fact are combined short term

needs. On the other hand, the proposed period of time recognizes the relatively short term nature of an emergency situation. The choice of three months is a reasonable period since it provides some stability to the EGA applicant without imposing excessive emergency assistance costs on the state. Specifically, this item would allow a county agency to deny a request for a payment to sustain an applicant in a situation that he or she clearly cannot afford. To allow this type of payment would either not resolve the emergency or would create a situation in which an individual, through repeated EGA applications, would receive a standard of assistance higher than that permitted under Minnesota Statutes, section 256D.01, subdivision 1b.

Item B. This item is necessary to specify that a county agency may restrict its payment for EGA to the more economical solution to an emergency situation, when alternatives exist. This is a reasonable recognition of the public trust involved with a public service agency. On the other hand, it is also reasonable to prohibit a county agency from moving an applicant or recipient with the attendant disruption of the applicant's life for insignificant savings. The proposed provision to restrict the county's option to situations in which there is at least a 25 percent savings in general assistance funds is reasonable. It is further reasonable to not allow a county agency to deny a grant of emergency assistance to maintain an individual in his or her present circumstances when there is no alternative. To allow such a denial would be an unreasonable aggravation of the homeless problem.

Item C. This item is necessary to place a limit on the period of time which can be considered in determining cost effectiveness. For example, in the absence of such a provision, an applicant for EGA for shelter might reasonably argue that over a period of 30 years, the most cost effective solution to his or her housing problem would be for the county agency to buy him or her a house. It is not reasonable nor consistent with public policy to anticipate that an applicant or recipient will need to rely on public assistance for long periods of time. The choice of a three month period is consistent with its use throughout this part.

Item D. This item is necessary to enable the county agency to require vendor payments of future needs in cases in which the applicant has a history of mismanagement of his or her available resources severe enough to result in an application for emergency assistance. The provision is reasonable in that it only applies to persons whose emergency situation arises, not from lack of resources, but from mismanagement of available resources. Allowing the county agency to provide for the recipient's basic needs by vendor payments is an appropriate and reasonable solution to the underlying problem. The provision makes the reasonable requirement that the use of vendor payments in these cases be reviewed at each redetermination of eligibility to assess whether the recipient is in a better position to manage his or her available resources for his or her benefit or to maintain a subsistence reasonably compatible with decency and health. This provision exists in the current rule under part 9500.1242, item A.

Item E. This item is necessary to provide a reasonable measure for the need for food. The "Thrifty Food Plan" established by the Department of Agriculture is a readily available measure that is easily understood and

is compatible with a subsistence level compatible with decency and health.

Item F. This item is necessary to restrict payments for clothing to clothing that is necessary for the season of application.

Item G. This item is necessary to place reasonable restrictions on emergency payments for shelter. Without such a restriction, as is the case with the current rule, county agencies have been without authority to withhold emergency payments for mortgage foreclosures or contract for deed cancellations which in some cases have exceeded $10,000 for a single individual which is clearly unreasonable under a program intended to provide for subsistence reasonably compatible with decency and health. It is important to recognize that dependent children with an emergency need will, in most cases, have that need meet by the program of emergency assistance under AFDC for which eligibility for monthly AFDC is not a requirement. In other words, even though a family, for one reason or another, is receiving general assistance and not AFDC; or is not receiving public assistance at all, and has an emergency need, Minnesota Statutes, section 256D.01, subdivision 1 requires the use of emergency assistance under AFDC as the primary benefit. The stated purpose of the AFDC emergency assistance program is to prevent the destitution of a dependent child. As a result, the benefits provided under that program are, in most cases, more liberal than general assistance, and families on general assistance have access to that program once each year. The restriction of emergency payments for shelter under EGA to four times the assistance unit's monthly standard is an AFDC requirement and is reasonable to provide payment caps to prevent excessive payments.

Item H. This item is in current rule under part 9500.1242, item C. The movement to this item is simply a format change.

Subpart 5. **Assistance for transportation.** This subpart is necessary to comply with Minnesota Statutes, section 256D.07 which requires counties to inquire and determine at application if the applicant is in immediate need of necessary transportation and, if so, to grant emergency general assistance to meet that need. Since the need for transportation was identified by the legislature as a specific emergency needs, it is reasonable to exempt it from the restrictions of an emergency situation listed in subpart 2.

Item A. This item is necessary to restrict the transportation payment to a 30 day period of time to comply with Minnesota Statutes, section 256D.06, subdivision 2. To allow payment for a longer period of time would constitute a grant in excess of the standards set forth in Minnesota Statutes, section 256D.01, subdivision 1a, and therefore would be contrary to statute. It is reasonable to restrict this payment to transportation necessary to accept employment to further the goal of attainment of self-sufficiency. If an individual has a need for transportation to avoid a direct threat to his or her physical health or safety, that need could be met under the basic definition of an emergency situation under subpart 2.

Item B. This item is necessary to specify that returning to one's home is an example of necessary transportation. It is reasonable to accede

to the applicant's wishes when they are both in the applicant's interest and the state's.

Subpart 6. **Excess grants, county agency payment responsibility.** This subpart is necessary to implement the provisions of Minnesota Statutes, section 256D.03, subdivision 2a which specifies that a county may, from its own resources, make payments of general assistance at a higher standard than that set by the commissioner. This provision is previously found in part 9500.1238 and is restated here due to a format change.

9500.1262 [See repealer.] This part is being repealed because a person who is not exempt under part 9500.1251 from work readiness requirements is a mandatory work readiness participant. The requirements for participation are set forth under part 9500.1259.

9500.1264 [See repealer.] This part is being repealed because notice of disqualification is set forth under part 9500.1259.

9500.1266 [See repealer.] This part is being repealed because sanctions for persons who are disqualified are set forth under part 9500.1259.

9500.1268 [See repealer.] This part is being repealed because appeal rights are set forth under part 9500.1211.

9500.1300 to 9500.1318 [See repealer.] These parts are being repealed since the work readiness requirements under parts 9500.1300 to 9500.1318 have been consolidated under parts 9500.1200 to 9500.1270.

Editorial changes. Laws of Minnesota 1990, chapter 568, article 4, section 24 changed the term "local agency" to "county agency". Article 4, section 84 instructed the Revisor to substitute the phrase "county agency" or "county agencies" for the phrase "local agency" or "local agencies" wherever it appears in Minnesota Statutes, chapters 256 and 256D. Therefore, it is necessary to change those terms in parts 9500.1200 to 9500.1270 to be consistent with statutory terminology.

Repealer. Rule parts being repealed have been addressed according to their chronological order within the rule.

EXPERT WITNESS:

If this rule should go to public hearing, the Department does not plan to have outside expert witnesses testify on its behalf.

DATE: 8-27-90

ANN WYNIA
Commissioner

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Department of Human Services

Adopted Permanent Rules Relating to General Assistance

Rules as Adopted

9500.1202 PURPOSE OF GENERAL ASSISTANCE PROGRAM.

The purposes of the general assistance program are:

A. to provide financial assistance and services to persons unable to provide for themselves, who have not refused suitable employment, and who are not otherwise provided for by law;

B. to provide work readiness services to help employable and potentially employable persons prepare for and attain permanent work; and

C. to aid those persons who can be helped to become self-supporting or to attain self-care.

9500.1206 PROGRAM DEFINITIONS.

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

Subp. 1a. **Actual availability.** "Actual availability," when used in reference to income or property, means that which is in hand or can be readily obtained for current use.

Subp. 2. **Adult child.** "Adult child" means a person aged 18 years or older who resides with at least one parent.

Subp. 3. **Advanced age.** "Advanced age" means the condition that applies to an applicant or recipient who is age 55 or older and whose work history shows a marked deterioration compared to the applicant's or recipient's work history before age 55 as indicated by decreasing occupational status, reduced hours of employment, or decreased periods of employment.

Subp. 4. **AFDC.** "AFDC" means the program authorized by title IV-A of the Social Security Act to provide financial assistance to needy families with dependent children.

Subp. 4a. **Affidavit.** "Affidavit" means a written declaration made under oath before a notary public or other

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authorized officer.

Subp. 4b. **Appeal.** "Appeal" means a written statement from an applicant or recipient that requests a hearing or expresses dissatisfaction with a county agency decision that can be challenged under Minnesota Statutes, section 256.045 and part 9500.1211, subpart 4.

Subp. 5. **Applicant.** "Applicant" means a person who has submitted an application for general assistance to a county agency and whose application has not been approved, denied, or voluntarily withdrawn.

Subp. 5a. **Application.** "Application" means the action by which a person shows in writing a desire to receive assistance by submitting a signed and dated form prescribed by the commissioner to the county agency.

Subp. 6. **Assistance standard.** "Assistance standard" means the amount established by the commissioner under Minnesota Statutes, section 256D.01, to provide for an assistance unit's basic subsistence needs.

Subp. 6a. **Assistance unit.** "Assistance unit" means a person or group of persons who are applying for or receiving assistance and whose needs are included in the calculation of a general assistance payment.

Subp. 6b. **Authorized representative.** "Authorized representative" means a person who is authorized in writing by an applicant or recipient to act on that applicant's or recipient's behalf in matters involving general assistance or emergency general assistance, including submitting applications, making appeals, and providing or requesting information. An authorized representative may exercise the same rights and responsibilities on behalf of the person being represented as an applicant or recipient.

Subp. 7a. **Basic needs.** "Basic needs" means the minimum personal requirements of subsistence and are restricted to:

A. food;

B. clothing;

C. shelter;

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D. utilities; and

E. other items of which the loss, or lack of, is determined by the county agency to pose a direct, immediate threat to the physical health or safety of the applicant or recipient.

Subp. 7b. **Budget month.** "Budget month" means the calendar month from which a county agency uses the income or circumstances of an assistance unit to determine the amount of the assistance payment for the payment month.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or a designated representative.

Subp. 8a. **Corrective payment.** "Corrective payment" means an assistance payment made to correct an underpayment.

Subp. 9. **Costs or disbursements.** "Costs" or "disbursements" means a qualified provider's actual out-of-pocket expenses incurred for the provision of special services to an applicant or recipient.

Subp. 9a. **Countable income.** "Countable income" means gross income minus allowable exclusions, deductions, and disregards.

Subp. 9b. **County agency.** "County agency" has the meaning given in Minnesota Statutes, section 256D.02, subdivision 12.

Subp. 11. **Department.** "Department" means the Department of Human Services.

Subp. 12. **Director of the county agency.** "Director of the county agency" means the director of the county agency or the director's designated representative.

Subp. 12a. **Documentation~~, primary documentation, or alternative documentation~~.** "Documentation" means a written statement or record that substantiates or validates an assertion made by a person or an action taken by a county agency.

~~A. "Primary documentation" means evidence that independently establishes a fact and is provided by a public or private institution or organization having an official responsibility to establish that fact.~~

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~~B.--"Alternative-documentation"-means-evidence,-including-declaration,-that-supports-the-existence-of-a-fact-and-that-is-provided-by-an-individual-or-institution-who-has-no-official-responsibility-to-establish-that-fact.~~

Subp. 12b. **Earned income.** "Earned income" means compensation from lawful employment or lawful self-employment, including salaries, wages, tips, gratuities, commissions, earnings from self-employment, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, earnings under title I of the Elementary and Secondary Education Act, employee bonuses and profit sharing, jury duty pay, picket duty pay, and profit from other lawful activities which accrues as a result of the individual's effort or labor. Earned income does not include returns from capital investment or benefits that accrue as compensation for lack of employment.

Subp. 12c. **Earned income tax credit.** "Earned income tax credit" means the payment that can be obtained by a qualified low-income person from an employer or from the United States Internal Revenue Service under United States Code, title 26, section 32.

Subp. 12d. **~~Emancipated-minor.~~**--~~"Emancipated-minor"-means-a-person-under-the-age-of-18-years-who-is-or-has-been-married,-as-recognized-by-Minnesota-Statutes,-chapter-517,-who-is-on-active-duty-in-the-uniformed-services-of-the-United-States,-or-who-has-been-recognized-as-being-emancipated-by-a-court-of-competent-jurisdiction.~~

~~Subp.-12e.~~ **Emergency.** "Emergency" means a situation that causes or threatens to cause a lack of a basic need item when there are insufficient resources to provide for that need.

Subp. ~~12f.~~ 12e. **Encumbrance.** "Encumbrance" means a legal claim against real or personal property that is payable upon the sale of that property.

Subp. ~~12g.~~ 12f. **Equity value.** "Equity value" means the amount of equity in real or personal property owned by a person. Equity value is determined by subtracting any outstanding

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encumbrances from the fair market value of the real or personal property.

Subp. ~~12h.~~ 12g. **Excluded time facility.** "Excluded time facility" means any hospital, sanitarium, nursing home, shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility, or other institution for the hospitalization or care of human beings, as defined in Minnesota Statutes, section 144.50, 144A.01, or 245A.02, subdivision 14; or a maternity home, battered women's shelter, or correctional facility.

Subp. ~~12i.~~ 12h. **Fair hearing or hearing.** "Fair hearing" or "hearing" means the department evidentiary hearing conducted by an appeals referee to resolve the issues specified in part 9500.1211, subpart 4.

Subp. ~~12j.~~ 12i. **Family.** "Family" has the meaning given it in Minnesota Statutes, section 256D.02, subdivision 5.

Subp. ~~12k.~~ 12j. **Family assistance unit.** "Family assistance unit" means a general assistance unit that consists of one or more members of a family.

Subp. ~~12l.~~ 12k. **Federal Insurance Contribution Act or FICA.** "Federal Insurance Contribution Act" or "FICA" means the federal law under United States Code, title 26, sections 3101 to 3126, that requires withholding or direct payment of income to the federal government.

Subp. 13. **Fees.** "Fees" means a qualified provider's charge for the hours of direct provision of special services to an applicant or recipient.

Subp. 13a. **Filing unit.** "Filing unit" means a person or persons who reside together and whose income and value of resources must be used to determine the eligibility and benefit level of an assistance unit. The filing unit must include:

A. the applicant;

B. the applicant's spouse;

C. the applicant's family; and

D. the natural or adoptive parents of a single adult

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applicant or recipient and the minor children of those parents.

Subp. 14. **Full-time student.** "Full-time student" means a person who is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or postsecondary school, and who meets the school's standard for full-time attendance.

Subp. 14a. **General assistance.** "General assistance" means the program authorized under Minnesota Statutes, sections 256D.01 to 256D.21 and parts 9500.1200 to 9500.1272. When the term general assistance is used in parts 9500.1200 to 9500.1272 it also means work readiness assistance and includes financial benefits received by persons under work readiness assistance.

Subp. 15. **Good cause.** "Good cause" means 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, the inability to obtain transportation or adequate child care, or a conflicting obligation which has been determined by the county agency to be reasonable or justified.

Subp. 15a. **Gross income.** "Gross income" means the total amount of cash or in-kind payment or benefit, whether earned or unearned, before any withholdings, deductions, or disregards, paid to, or for the benefit of, a person, including income specified in Minnesota Statutes, section 256D.02, subdivision 8. Gross income does not include personal property previously established as a resource, subject to the limitations under part 9500.1221.

Subp. 15b. **Gross receipts.** "Gross receipts" means the money received by a self-employed person before the expenses of self-employment are deducted.

Subp. 15c. **Homestead.** "Homestead" means the house owned and occupied by a member of the filing unit as the member's dwelling place together with all contiguous land on which the house is situated and other appurtenant structures.

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Subp. 15d. **Household report form.** "Household report form" means a form prescribed by the commissioner on which a recipient reports information to a county agency about income and other circumstances.

Subp. 16. **Initial supplemental security income payment or initial SSI payment.** "Initial supplemental security income payment" or "initial SSI payment" means the first payment of SSI benefits to the recipient that includes a period when general assistance benefits were also paid.

Subp. 16a. **In-kind income.** "In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid assets, and which the applicant or recipient cannot ~~be made available to the individual in those forms~~ legally require to be paid in cash to the applicant or recipient, including goods, produce, services, privileges, or third-party payments made on behalf of a person for whom the income is intended.

Subp. 17. **Interim assistance.** "Interim assistance" means the total amount of general assistance provided for a recipient, based on the state assistance standards and the negotiated rate provisions of part 9500.1237, subpart 7, to cover the period for which a payment of another maintenance benefit is made. The amount of general assistance considered interim assistance is limited to the total amount the monthly payments for the assistance unit would have been reduced if the other maintenance benefits had been paid at the time of their accrual. The interim assistance period begins with the month of application for general assistance or the first month of eligibility for the other maintenance benefits, whichever is later. Interim assistance does not include per diem payments made to shelters for battered women under Minnesota Statutes, section 256D.05, subdivision 3.

Subp. 18. **Interim assistance authorization agreement.** "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the county agency for the amount of general assistance

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provided during the period when eligibility for another maintenance benefit program is being determined. The agreement must require reimbursement to the county agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

Subp. 18a. **Job Training Partnership Act.** "Job Training Partnership Act" means the Job Training Partnership Act authorized under Public Law Number 97-300 and its successor programs.

Subp. 18b. **Legal custodian.** "Legal custodian" means a person who has been granted legal custody of a minor child by a court; or, if assistance is being requested for the minor child, a person who is defined as an eligible relative caretaker of the minor child under AFDC program rules, part 9500.2440, subpart 7.

Subp. 18c. **Liquid assets or liquid resources.** "Liquid assets" or "liquid resources" means personal property in the form of cash or other financial instruments that are readily convertible to cash.

Subp. 18d. **Liquidate.** "Liquidate" means to convert real or personal property into cash or other financial instruments that are readily convertible to cash. The conversion can be by sale or by borrowing using the nonliquid real or personal property as security for a loan.

Subp. 19. [See repealer.]

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 the registrant's children to and from child care.

Subp. 19b. **Lump sum.** "Lump sum" means nonrecurring income that is not excluded in part 9500.1223.

Subp. 19c. **Mandatory work readiness participant.** "Mandatory work readiness participant" means a general assistance recipient who is not exempt from work readiness under

Approved by Revisor _____

part 9500.1251.

Subp. 20. **Medical certification.** "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 who is qualified through professional training and experience to diagnose or certify the person's condition. For an incapacity involving a spinal subluxation condition, "medical certification" ~~means~~ includes a statement signed by a licensed physician or a licensed chiropractor who is qualified through professional training and experience to diagnose and certify the condition.

Subp. 20a. **Medical evidence.** "Medical evidence" means records, reports, treatment notes, or other written documentation about a person's illness, injury, or impairment from a hospital, clinic, treatment facility, detoxification facility, physician, psychologist, nurse, therapist, or other mental health professional. It may also include evidence listed in a copy of the Disability Determination Rationale provided by the Social Security Administration.

Subp. 21. **Mental illness.** "Mental illness" means the condition of a person who has a psychological disorder resulting in behavior that severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22. **Mental retardation.** "Mental retardation" 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 standardized test and the condition severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22a. **Minnesota supplemental aid or MSA.** "Minnesota supplemental aid" or "MSA" means the program established under Minnesota Statutes, sections 256D.33 to 256D.54.

Subp. 23. **Minor child.** "Minor child" means a person who is under the age of 18; or if age 18, who is a member of a

Approved by Revisor _____

family assistance unit and who is enrolled as a full-time student in an accredited high school and who is expected to graduate by age 19.

Subp. 23a. **Month.** "Month" means a calendar month.

Subp. 24. **Negotiated rate.** "Negotiated rate" means the amount a county agency will pay on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement.

Subp. 24a. **Nonrecurring income.** "Nonrecurring income" means a form of income that is:

A. received only one time or is not of a continuous nature; or

B. received in a prospective payment month but is no longer received in the corresponding retrospective payment month.

Subp. 24b. **Occupational or vocational literacy program.** "Occupational or vocational literacy program" means a program providing literacy training which emphasizes specific language and reading skills needed to perform in employment, complete employment training programs, or complete work readiness programs.

Subp. 25. **Other maintenance benefits.** "Other maintenance benefits" means any of the following:

A. workers' compensation benefits as provided by Minnesota Statutes, chapter 176 and rules adopted thereunder;

B. unemployment compensation benefits as provided by Minnesota Statutes, sections 268.07 to 268.10 and rules adopted thereunder;

C. railroad retirement benefits as provided by United States Code, title 45, sections 231 to 231s;

D. veteran's disability benefits as provided by United States Code, title 38, sections 301 to 363;

E. any benefits provided by the Social Security Administration under United States Code, title 42; or

F. other sources identified by the county agency that provide periodic payments that can be used to meet basic needs and that, if received, would reduce or eliminate the need for

Approved by Revisor _____

general assistance.

Subp. 25a. **Overpayment.** "Overpayment" means that portion of an assistance payment which is greater than the amount for which an assistance unit is eligible, resulting from a calculation error, a client reporting error, a misapplication of existing program requirements by a county agency, or changes in payment eligibility that cannot be affected due to notification requirements.

Subp. 25b. **Parent.** "Parent" means a child's biological or adoptive parent who is legally obligated to support that child.

Subp. 25c. **Participation in a literacy program.** "Participation in a literacy program" means to receive instruction and complete assignments as part of a literacy program in accordance with the schedule or plan established by the literacy training program provider.

Subp. 25d. **Payment month.** "Payment month" means the calendar month for which the county agency issues an assistance payment.

Subp. 25e. **Permanent employment.** "Permanent employment" means suitable employment that is not, by description, of limited duration.

Subp. 25f. **Personal property.** "Personal property" means an item of value that is not real property. Personal property includes, but is not limited to, the value of a contract for deed held by a seller, assets held in trust on behalf of members of an assistance unit, cash surrender value of life insurance, value of a prepaid burial, savings account, value of stocks and bonds, and value of retirement accounts less any costs and penalties for early withdrawal.

Subp. 26. **Potentially eligible.** "Potentially eligible" means that the county agency has determined that the applicant or recipient shows circumstances which appear to meet the eligibility requirements of another maintenance benefit program.

Subp. 26a. **~~Principle~~ Principal wage earner.** "~~Principle~~ Principal wage earner" means the parent who has earned the greater amount of income in the 24 months preceding the month of

Approved by Revisor _____

application.

Subp. 26b. **Probable fraud.** "Probable fraud" means the level of evidence that, if proven as fact, will establish that assistance has been wrongfully obtained.

Subp. 26c. **Prospective budgeting.** "Prospective budgeting" means a method of determining the amount of assistance in which the budget month and payment month are the same.

Subp. 26d. **Qualified professional.** "Qualified professional" means a social worker employed by the county 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 as defined in Minnesota Statutes, section 145A.02, subdivision 18.

Subp. 27. **Qualified provider.** A "qualified provider" means the county agency, or:

A. a nonprofit legal assistance organization;

B. an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy;

C. a private attorney at law; or

D. another organization or person determined by the county agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

Subp. 28a. **Real property.** "Real property" means the land itself and all buildings, structures, and improvements, or other fixtures on it, belonging or appertaining to the land, and all mines, minerals, fossils, and trees on or under it.

Subp. 28b. **Reasonable compensation.** "Reasonable compensation" means the value received in exchange for property transferred to another owner which equals or exceeds the seller's equity in the property, reduced by costs incurred in the sale.

Subp. 28c. **Recipient.** "Recipient" means an individual currently receiving, or suspended for one month from receiving,

Approved
by Revisor _____

general assistance. Recipient includes any person whose needs are included in the payment to an assistance unit.

Subp. 28d. **Redetermination of eligibility.** "Redetermination of eligibility" means the process by which information is collected periodically by a county agency and used to determine a recipient's continued eligibility for assistance.

Subp. 28e. **Reside with.** "Reside with" means to share living quarters such as living rooms, bedrooms, or kitchens. Entrances, laundry rooms, and bathrooms are not considered living quarters.

Subp. 29. **Responsible relative.** "Responsible relative" means the spouse of an applicant or recipient, the parent of an applicant's or recipient's minor child if residing together as a family, the parent of a minor child who is an applicant or recipient, or the parent of an adult child who resides with the parent and is an applicant or recipient.

Subp. 29a. **Retrospective budgeting.** "Retrospective budgeting" means a method of determining the amount of assistance an assistance unit will receive in which the payment month is the second month after the budget month.

Subp. 29b. **Social services.** "Social services" means the services included in a county's community social services plan which are administered by the county board as described under Minnesota Statutes, section 256E.03, subdivision 2.

Subp. 30. **SSI or supplementary security income.** "SSI" or "supplementary security income" means the supplemental security income program administered by the Social Security Administration under United States Code, title 42, sections 1381 to 1383c.

Subp. 31. [See repealer.]

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

A. meets existing health and safety standards set by federal, state, or local regulations;

B. is within the physical and mental ability of a

Approved by Revisor _____

person;

C. provides a gross weekly income equal to the federal or state minimum wage applicable to the job for 40 hours per week, or ~~an~~ a monthly income which, after allowable exclusions, deductions, and disregards would exceed the standard of assistance for the assistance unit, whichever is less; 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. 32a. **Suitable recipient.** "Suitable recipient" means a recipient of general assistance who is determined not to be exempt from work readiness participation under part 9500.1251, and who has been determined to be functionally illiterate by an assessment under part 9500.1259, subpart 1, item B.

Subp. 32b. **Underpayment.** "Underpayment" means an assistance payment, resulting from a calculation error, a client reporting error, or a misapplication of program requirements by a county agency, which is less than the amount for which an assistance unit is eligible.

Subp. 32c. **Unearned income.** "Unearned income" means income received by a person which does not meet the definition of earned income. Unearned income includes interest, dividends, unemployment compensation, disability insurance payments, veterans benefits, pension payments, return on capital investments, insurance payments or settlements, and severance payments.

Subp. 32d. **Vendor.** "Vendor" means a provider of goods or services.

Subp. 32e. **Vendor payment.** "Vendor payment" means a payment made by a county agency directly to a vendor.

Subp. 32f. **Verification.** "Verification" means the process a county agency must use to establish the accuracy or completeness of information from an applicant, recipient, third-party, or other source as that information relates to an assistance unit's eligibility for general assistance or the

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amount of a monthly assistance payment.

Subp. 33. **Vocational specialist.** "Vocational specialist" means a counselor of the Department of Jobs and Training or Division of Vocational Rehabilitation, or another similarly qualified person who advises persons about occupational goals and employment.

9500.1211 APPLICANT AND RECIPIENT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES TO APPLICANTS AND RECIPIENTS.

Subpart 1. **Right to information.** An applicant or recipient has the right to obtain information about the benefits, requirements, and restrictions of the general assistance program.

Subp. 2. **Right to apply.** A person has the right to apply, including the right to reapply, for general assistance. A county agency shall inform a person who inquires about ~~general~~ financial assistance of the right to apply, shall explain how to apply, and shall mail or hand deliver an application form to the person inquiring about assistance. When a county agency ends assistance, the county agency shall inform the recipient in writing of the right to reapply.

Subp. 3. **Authorized representative.** An applicant or recipient of general assistance may designate an authorized representative to act on the applicant's or recipient's behalf. An applicant or recipient has the right to be assisted or represented by an authorized representative in the application, eligibility redetermination, fair hearing process, and any other contact with the county agency or the department.

When a county agency determines that it is necessary for a person to assist an applicant or recipient, the county agency shall designate a staff member to assist the applicant or recipient. The county agency staff member may assist the applicant or recipient to take the actions necessary to submit an application to establish the date of the application.

Upon a request from an applicant or recipient, a county agency shall provide addresses and telephone numbers of

Approved by Revisor _____

organizations that provide legal services at no cost to low-income persons.

Subp. 4. **Appeal rights.** An applicant, recipient, or former recipient has a right to request a fair hearing when aggrieved by an action or inaction of a county agency. A request for a fair hearing must be submitted in writing to the county agency or to the department. The request must be mailed within 30 days after the applicant or recipient receives written notice of the county agency's action or within 90 days when the applicant or recipient shows good cause for not submitting the request within 30 days. A former recipient who receives a notice of overpayment may appeal the action contained in the notice in the manner and within the periods described in this subpart. Issues which may be appealed are:

A. denial of the right to apply for assistance;

B. failure of a county agency to approve or deny an application within 30 days;

C. denial of an application for assistance;

D. suspension, reduction, or termination of assistance;

E. calculated amount of an overpayment and the calculated level of recoupment due to that overpayment;

F. eligibility for and calculation of a corrective payment;

G. other factors involved in the calculation of an assistance payment;

H. a change to protective, vendor, or two-party payments for recipients; and

I. the calculated amount retained by a county agency under an interim assistance authorization agreement from a retroactive benefit payment.

Subp. 5. **Rights pending hearing.** Unless otherwise specified, a county agency shall not reduce, suspend, or terminate payment when an aggrieved recipient requests a fair hearing before the effective date of the action or within ten days of the mailing of the notice, whichever is later, unless

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the recipient requests in writing not to receive continued assistance pending a hearing decision. A county agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the recipient change and the change is not related to the issue under appeal. Assistance issued pending a fair hearing is subject to recovery when, as a result of the fair hearing, the commissioner finds that the recipient was not eligible for such assistance. This subpart shall in no way reduce any rights that the recipient may have under part 9500.1259, subpart 2.

A county agency shall reimburse appellants for reasonable and necessary expenses of attending the hearing, such as child care and transportation costs. A county agency shall reimburse appellant's witnesses and representatives for the expenses of transportation to and from the hearing.

Subp. 6. **Right to review records.** A county agency shall allow an applicant or recipient to review his or her case records that are held by the county agency and that are related to eligibility for or the assistance payment from the program, except those case records to which access is denied under Minnesota Statutes, chapter 13. A county agency shall make case records available to an applicant or recipient as soon as possible but in no event later than the fifth business day following the date of the request. When an applicant, recipient, or authorized representative asks for photocopies of material from the case record, the county agency shall provide one copy of each page at no cost.

Subp. 7. **Right to notice.** When a county agency notifies an applicant or recipient of its intention to deny an application or reduce, suspend, or terminate payment, the county agency shall specify in its notice the action it has taken or intends to take, the reason and legal authority for the action, and the right to appeal and request a fair hearing. The notice shall also inform the applicant or recipient of the conditions under which assistance will continue pending the appeal outcome, the responsibility to repay assistance if the appeal is

Approved
by Revisor _____

unsuccessful, the right to be reimbursed for reasonable and necessary expenses of attending an appeal hearing, and the right to review county agency records in accordance with subpart 6.

9500.1213 APPLICATION REQUIREMENTS.

Subpart 1. **Application for general assistance, county of residence.** An applicant for general assistance must apply for general assistance in the applicant's county of residence. However, a county agency must not refuse to take an application from an individual who appears to reside in another county, but must promptly forward the completed application to the county of residence. The county of residence must use the date the application was filed in the county of application as the application date.

Subp. 2. **County agency requirements.** A county agency must:

A. inform persons who inquire about cash assistance of general assistance eligibility requirements and how to apply for general assistance;

B. offer, by hand or mail, the application form prescribed by the commissioner when a person makes a written or oral inquiry;

C. inform the person that, if the person is found eligible, the county agency must use the date the application form is submitted to the county agency as the starting point for computing assistance, and that any delay in submitting an application form will reduce the amount of assistance paid for the month of application;

D. upon receipt of a signed and dated application from an applicant, the county agency must sign and date the application;

E. designate a staff member to assist the applicant to take the action necessary to submit an application if a county agency determines an applicant needs assistance in completing an application; and

F. inquire and determine at the time of initial application if the applicant has an emergency as defined in part

Approved by Revisor _____

9500.1206, subpart ~~12e~~ 12d, and if so, determine the person's eligibility for emergency assistance under part 9500.1261~~, unless the emergency can be resolved through other sources or by promptly processing an application for monthly assistance~~.

Subp. 3. **Date of application.** The date of application is the date the county agency signs and dates the application.

Subp. 4. **Withdrawal of application.** An applicant may withdraw an application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal and inform the applicant of the agency's understanding that the applicant has withdrawn the application. If, within ten days of the date of the agency's notice, an applicant informs the county agency that the applicant does not wish to withdraw the application, the county agency must reinstate and finish processing the application.

Subp. 5. **Agency verification of information on application.** The county agency shall verify information provided by an applicant as specified in part 9500.1215.

Subp. 6. **Determination of filing unit.** When an application for general assistance is made and when the county agency redetermines the eligibility of a recipient, the county agency must determine the composition of the applicant's or recipient's filing unit. The county agency must determine the composition of a filing unit according to part 9500.1206, subpart 13a.

Subp. 7. **Processing application.** Within 30 days after receiving an application, a county agency must determine the applicant's program eligibility, approve or deny the application, inform the applicant of its decision, and issue assistance when the applicant is eligible. When an applicant establishes the inability to provide required documentation within the 30-day processing period, the county agency shall have an additional 30 days to process the application and to allow the applicant to provide the documentation. If eligibility cannot be determined by the end of the second 30-day

Approved by Revisor _____

period, the application must be denied.

9500.1215 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY.

Subpart 1. **Information that must be verified.** A county agency shall require an applicant or recipient to provide documentation only of information necessary to determine program eligibility and the amount of the assistance payment. Information previously verified and retained by the county agency must not be verified again unless the information no longer applies to current circumstances.

Subp. 2. **Sufficiency of documentation.** An applicant or recipient must provide documentation of the information required under subpart 4, or authorize a county agency to verify it by other means; however, the burden of providing documents for a county agency to use to verify eligibility is upon the applicant or recipient. A county agency shall help an applicant or recipient to obtain documents that the applicant or recipient does not possess and cannot obtain. When an applicant or recipient and the county agency are unable to obtain ~~primary or alternate~~ documents needed to verify information, the county agency may accept an affidavit from an applicant or recipient as sufficient documentation.

Subp. 3. **Contacting third parties.** A county agency must obtain an applicant's or recipient's written consent to request information about the applicant or recipient which is not of public record from a source other than county agencies, the department, or the United States Department of Health and Human Services. An applicant's signature on an application form shall constitute this consent for contact with the sources specified on that form. A county agency may use a single consent form to contact a group of similar sources, such as banks or insurance agencies, but the sources to be contacted must be identified by the county agency before requesting an applicant's consent. A county agency shall not provide third parties with access to information about a person's eligibility status or any other part of the case record without that person's prior written

Approved
by Revisor _____

consent, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act under Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act must only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or a third party.

Subp. 4. **Factors to be verified.** The county agency must verify the factors of program eligibility in items A to C at the time of application, when a factor of eligibility changes, and at each redetermination of eligibility.

A. A county agency must verify:

(1) the identity of each adult and child for whom assistance is requested;

(2) age, if required to establish eligibility;

(3) state residence;

(4) the basis of a claim of exemption from participation in work readiness; and

(5) the relationship of a caretaker to the child for whom application is made.

B. The county agency must verify the information in subitems (1) to (6) when that information is acknowledged by an applicant or recipient or obtained through a federally mandated verification system:

(1) receipt and amount of earned income, including gross receipts from self-employment;

(2) receipt and amount of unearned income;

(3) termination from employment;

(4) ownership and value of real property;

(5) ownership and value of personal property; and

(6) dependent care costs of an employed filing unit member at the time of application, redetermination, or a change in provider.

C. A county agency may verify additional program eligibility and assistance payment factors when it determines that information on the application is inconsistent with

Approved by Revisor _____

statements made by the applicant, other information on the current application, information on previous applications, or other information received by the county agency. The county agency must document the reason for verifying the factor in the case record of an assistance unit. Additional factors that may be verified, subject to the conditions of this item, are:

(1) the presence of a child in the home;

(2) the death of a parent or spouse;

(3) marital status;

(4) residence address; and

(5) income and property that an applicant or recipient has not acknowledged receiving or having.

9500.1219 ASSISTANCE UNIT ELIGIBILITY.

Subpart 1. **Composition of an assistance unit.** The county agency must determine the composition of the assistance unit, as defined in part 9500.1206, subpart 6a, from eligible members of the filing unit. All members of the filing unit must be included in the assistance unit with the exception of and subject to subparts 2 to 6.

Subp. 2. **Exclusion of persons otherwise provided for by law.** Filing unit members shall not be included in an assistance unit if they meet one or more of the following conditions:

A. a filing unit member is receiving benefits under the AFDC, refugee cash assistance, SSI, or Minnesota supplemental aid programs, or has benefits paid on the member's behalf for foster care, child welfare, or subsidized adoption;

B. a filing unit member appears to be currently eligible for benefits under AFDC or refugee cash assistance, or is eligible to have benefits paid on the member's behalf for foster care, child welfare, or subsidized adoption;

C. a filing unit member has been determined to be eligible for AFDC or SSI but cannot receive benefits under those programs because the member refused or failed to comply with a requirement of those programs;

D. a filing unit member is a parent of a single adult

Approved
by Revisor _____

applicant or recipient who resides with a single adult applicant together with the parents' other family members;

E. a filing unit member who is in a period of disqualification from AFDC, SSI, or general assistance due to noncompliance with a program requirement;

F. a filing unit member has, without good cause, refused or failed to comply with part 9500.1254; or

G. a filing unit member has refused to sign an interim assistance authorization agreement as required under part 9500.1251, subpart 2, items F and G.

Subp. 3. **State residence requirement.** No applicant shall be included in an assistance unit unless the applicant is a resident of Minnesota. A resident is a person living in the state with the intention of making a home here and, not for any temporary purpose, as determined by items A to E.

A. An applicant must state on a form prescribed by the commissioner that the applicant lives in the state and intends to make a home in Minnesota.

B. The county agency must verify an applicant's statement of intent to make a home in Minnesota if questionable. An applicant's statement of intent to make a home in Minnesota is questionable if:

(1) the applicant has no verified residence address in the state;

(2) the applicant provides identification indicating a residence outside the state;

(3) the applicant indicates that he or she maintains or is having maintained a residence outside the state; or

(4) the applicant is only present in the state as a resident of an excluded time facility.

C. An applicant's intent to make a home in Minnesota can be verified by:

(1) a residence address on a valid Minnesota driver's license, Minnesota identification card, or voter registration card;

Approved by Revisor _____

(2) a rent receipt or a statement by the landlord, apartment manager, or homeowner showing that the applicant is residing at an address within the county of application;

(3) a statement by a landlord or apartment manager indicating the applicant has located housing which is affordable for the applicant;

(4) postmarked mail addressed to and received by the applicant at the applicant's address within the county;

(5) a current telephone or city directory with the applicant's residence address within the county;

(6) a written statement by an applicant's roommate verifying the applicant's residence and the date the applicant moved in. The roommate must also verify that the roommate lives in the residence by providing a copy of the roommate's mortgage statement, lease agreement, or postmarked mail addressed to and received by the roommate at that address;

(7) documentation that the applicant came to the state in response to an offer of employment;

(8) documentation that the applicant has looked for work by presenting completed job applications or documentation from employers, the local jobs service office, or temporary employment agencies;

(9) documentation that the applicant was formerly a resident of the state for at least 365 days and is returning to the state after an absence of less than 90 days; or

(10) an affidavit from a person engaged in public or private social services, legal services, law enforcement, or health services that the affiant knows the applicant, has had personal contact with the applicant, and believes the applicant is living in the state with the intent of making Minnesota the applicant's permanent home.

D. In addition to meeting one of the requirements of item C, an applicant described by item B, subitem (2), must document that the applicant has severed the applicant's residence in another state. Documentation may include bank

Approved by Revisor _____

statements indicating the closing of accounts, a document showing cancellation or termination of a lease, or verification that real property used as the applicant's residence in another state is abandoned or for sale.

E. Notwithstanding the provisions of item C, any applicant specified in item B, subitems (2) to (4), who also indicates an intention to leave the state within 30 days of application, will be considered to be in the state for a temporary purpose and is not a resident.

Subp. 4. **Minors.** No child under the age of 18 who is not a member of a family as defined in Minnesota Statutes, section 256D.02, subdivision 5, shall be included in an assistance unit unless:

A. the child is legally emancipated ~~as-defined-in part-9500.1206,-subpart-12d~~;

B. the child lives with an adult who is not a family member or legal custodian with the express written consent of an agency acting in its legal capacity as a custodian of the child;

C. the child lives with an adult who is not a family member or legal custodian with the express written consent of the child's parents or legal guardian, together with the express written consent of the county agency; or

D. the child does not live with an adult but is at least 16 years of age and whose living arrangement is approved in a social services case plan for the child and includes general assistance as a component of the plan.

Subp. 5. **Refusal of suitable employment.** A person is not eligible for general assistance if, without good cause, the applicant refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving general assistance shall be terminated from the general assistance program and disqualified from general assistance for ~~60-days~~ two months. This subpart applies only to those applicants or recipients who are not exempt from work

Approved by Revisor _____

readiness participation requirements under part 9500.1251.

Subp. 6. **Physical presence.** The physical presence requirements for family general assistance are the same as the physical presence requirements under the AFDC program. The county agency shall not consider the needs of a family assistance unit member who is not present in the home at the time of application in the calculation of a general assistance grant unless an exception from the physical presence requirement is provided for under the AFDC program rules, part 9500.2140, subpart 5, items A to C.

9500.1221 PROPERTY LIMITATIONS.

Subpart 1. **Determination of equity value of property available to assistance unit.** The county agency must determine the equity value of real and personal property available to the assistance unit. The equity value of real and personal property available to a member of the filing unit who is not included in the assistance unit, but who is a responsible relative of an assistance unit member, must be considered real and personal property available to the assistance unit.

A. When real or personal property is owned by two or more persons, the county agency shall assume that each person owns an equal share, except that either person owns the entire sum in a joint personal checking or savings account. When a person documents greater or lesser ownership, the county agency shall use that share to determine the equity value held by an applicant or recipient.

B. Real or personal property owned by an applicant or recipient is presumed legally available unless the applicant or recipient documents that the property is not legally available. When real or personal property is not legally available, its equity must not be applied against the limits in subpart 2.

C. An applicant must disclose whether the applicant transferred, within one year before the application or redetermination, real or personal property valued in excess of the property limits in subpart 2 for which reasonable

Approved
by Revisor _____

compensation was not received. A recipient shall disclose all transfers of property valued in excess of the limits in subpart 2 according to the reporting requirements in part 9500.1245, subpart 5. When a transfer of real or personal property has occurred, the applicant or recipient shall comply with subitems (1) and (2) as a condition of eligibility for general assistance.

(1) The applicant or recipient who transferred the property must provide a description of the property, information necessary to determine the property's equity value, the name of the individual who received the property, and the circumstances of and reason for the transfer.

(2) If reasonable compensation for the property was not received and the property can be reasonably reacquired, or when reasonable compensation can be secured, the property is presumed legally available to the applicant or recipient.

D. A recipient may build the equity value of the recipient's real and personal property to the limits in subpart 2.

Subp. 2. **Equity value; excluded real and personal property.** The equity value of all nonexcluded real and personal property must not exceed $1,000. The county agency shall exclude the value of the real or personal property in items A to T when determining equity value.

A. The applicant's or recipient's homestead according to subitems (1) to (3).

(1) An applicant or recipient who is purchasing real property through a contract for deed and using that property as a home is considered the owner of the real property.

(2) The amount of land that can be excluded under this item is limited to surrounding property which is not separated from the home by intervening property owned by others. Additional property must be assessed as to its legal and actual availability according to subpart 1.

(3) When real property that has been used as a home by an applicant or recipient is sold, the county agency shall treat the cash proceeds from that sale as excluded

Approved by Revisor _____

property for a period of six months if the applicant or recipient intends to reinvest those proceeds in another home and agrees to maintain the proceeds, unused for other purposes, in a separate account.

B. One motor vehicle, not otherwise excluded, when its equity value does not exceed $1,500 exclusive of the value of special equipment for a handicapped household member. The county agency shall establish the equity value of a motor vehicle by subtracting any outstanding encumbrances from the loan value listed in the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the N.A.D.A. Official Used Car Guide, or when an applicant or recipient disputes the value listed in the guide as unreasonable given the condition of a particular vehicle, the county agency may require the applicant or recipient to document the value of the vehicle by securing a written statement from a motor vehicle dealer licensed under Minnesota Statutes, section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. It is published monthly by the National Automobile Dealers Used Car Guide Company and is available through the Minitex interlibrary loan system. It is subject to frequent change.

C. The value of nonliquid real or personal property that is essential to the owner's self-support, self-care, or needed to obtain or retain suitable employment.

D. The value of nonliquid property which currently produces net earned income and is being used for the support of the assistance unit or a reasonable expectation exists that the property will be used within six months or the next income-producing season, whichever is later, to produce net earned income for the support of the assistance unit.

E. The value of real or personal property owned exclusively by the stepparent or sibling of a single adult applicant or recipient who resides with the stepparent or sibling.

Approved
by Revisor _____

F. The value of real and personal property owned exclusively by a recipient of supplemental security income or Minnesota supplemental aid.

G. The value of corrective payments but only for the month in which the payment is received and the following month.

H. Money escrowed in a separate account that is needed to pay real estate taxes or insurance and that is used for that purpose at least semiannually.

I. A mobile home used by an applicant or recipient as a home.

J. Money held in escrow by a self-employed person to cover employee FICA, employee tax withholding, sales tax withholding, employee workers' compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly.

K. Income received in a budget month until the end of that month. This includes monthly general assistance payments and emergency general assistance payments.

L. The value of school loans, grants, or scholarships over the period they are intended to cover if the income from these sources is either excluded by rule or has been used in the calculation of a grant.

M. The value of personal property not otherwise specified which is commonly used by household members in day-to-day living.

N. Payments listed in part 9500.1223, subpart 2, item O, which are held in escrow for the period necessary to replace or repair the personal or real property. This period must not exceed three months.

O. One burial plot per member of a filing unit.

P. The value of a prepaid burial account, burial plan, or burial trust up to $1,000 for each member of a filing unit who is covered by that account, plan, or trust.

Q. The value of an applicant's nonliquid resources if an applicant is excluded by part 9500.1251, subpart 2, item M,

Approved
by Revisor _____

because the applicant's need for assistance will not exceed 30 days.

R. The value of real and personal property in excess of the limits in this subpart if the applicant is making a good faith effort to sell the property at a reasonable price.

S. Other real or personal property specifically disregarded by federal law, state law, or federal regulation.

T. In addition to the limits specified in items A to S, an amount up to $1,000 which is accumulated in a separate account from earnings by a resident in a facility licensed under parts 9520.0500 to 9520.2500 or a resident in a supervised apartment with services funded under parts 9535.0100 to 9535.1600 for whom discharge and work are part of a treatment plan. This item applies during residency and for up to 18 additional months if the person moves to an inpatient hospital setting. The accumulated earnings, and the interest on the earnings, are to be used upon discharge from the facility. Any withdrawal before discharge must be counted as income in the month of withdrawal and treated as an available resource in the following months.

Subp. 3. **Exclusion of excess property.** If the county agency determines that an assistance unit is not eligible for general assistance due to owning property in excess of the limit in subpart 2, the county agency must inform the applicant or recipient in writing of the conditions under which excess property may be excluded.

9500.1223 EXCLUDED INCOME.

Subpart 1. **Evaluation of income.** The county agency must determine income available to members of an assistance unit to determine program eligibility and the assistance amount. Income available to members of an assistance unit includes all nonexcluded income whether received by assistance unit members or filing unit members who are not members of the assistance unit when that income is deemed available to members of the assistance unit.

Approved
by Revisor _____

Subp. 2. **Excluded income of all filing unit members.** The county agency shall exclude items A to BB from the income of all filing unit members:

A. food stamps;

B. United States Department of Housing and Urban Development (HUD) refunds or rebates for excess rents charged and HUD relocation and rehabilitation funds;

C. rental security deposit refunds to the client whether paid by the client or by emergency assistance or emergency general assistance;

D. benefits under title IV and title VII of the Older Americans Act of 1965;

E. all Volunteers in Service to America (VISTA) payments;

F. title I loans or grants through the Minnesota Housing Finance Agency;

G. payments for basic care, difficulty of care, and clothing allowance received for providing family foster care under parts 9545.0010 to 9545.0260 or adult foster care under parts 9555.5105 to 9555.6265;

H. work and training allowances and reimbursements received through the work readiness program;

I. work and training allowances received from county agency social services programs that are not classified as wages subject to FICA withholding;

J. reimbursement for employment training received through the Job Training Partnership Act;

K. reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment;

L. loans, whether from private, public, or governmental lending institutions, governmental agencies, and private individuals provided the filing unit member documents that the lender expects repayment. This exclusion does not include education loans on which payment is deferred;

M. state and federal income tax refunds including Minnesota property tax refunds and the earned income tax credit;

Approved
by Revisor _____

N. funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made from public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency subsequent to a presidential declaration of disaster;

O. payments issued by insurance companies which are specifically designated as compensation to a member of an assistance unit for partial or total permanent loss of function or body part or insurance payments specified under Minnesota Statutes, section 256.74, subdivision 1, clause (7);

P. reimbursements for medical expenses which cannot be paid by medical assistance;

Q. payments by the vocational rehabilitation program administered by the state under Minnesota Statutes, chapter 129A, except those payments that are for current living expenses;

R. in-kind income, as defined in part 9500.1206, subpart 16a, except for payments made for room, board, tuition, or fees by a parent on behalf of a single adult applicant who is enrolled as a full-time student in a postsecondary institution;

S. assistance payments to correct underpayments in a previous month;

T. payments to an applicant or recipient issued under part 9500.1261, 9500.2800, or 9500.2820 for emergency or special needs; however, an initial month's grant may be reduced by the amount of emergency assistance issued to cover that month's needs;

U. nonrecurring cash gifts, such as those received for holidays, birthdays, and graduations, not to exceed $30 per filing unit member in a calendar quarter;

V. tribal settlements excluded under Code of Federal Regulations, title 45, section 233.20(a)(4)(ii)(e), (k), and (m);

W. any form of energy assistance payment made by the Low Income Home Energy Assistance Program, payments made directly to energy providers by other public and private

Approved by Revisor _____

agencies, benefits issued by energy providers when the Minnesota Department of Jobs and Training determines that those payments qualify under Code of Federal Regulations, title 45, section 233.53, and any form of credit or rebate payment issued by energy providers;

X. the first $50 of child support received;

Y. proceeds from the sale of real or personal property;

Z. payments made from state funds for subsidized adoptions under Minnesota Statutes, section 259.40;

AA. interest payments and dividends from property that is not excluded from and does not exceed the $1,000 limit under part 9500.1221, subpart 2; and

BB. income that is otherwise specifically excluded from AFDC program consideration in federal law, state law, or federal regulation.

Subp. 3. **Additional income exclusions, filing unit member who is not a member of assistance unit.** In addition to the income exclusions in subpart 2, the county agency shall exclude the following income of a filing unit member who is not a member of the assistance unit:

A. income that was excluded, disregarded, or allocated in the calculation of a public assistance grant unless the allocation was to meet the needs of persons in the general assistance unit;

B. benefits from the Retirement, Survivors, and Disability Insurance program and any income based on a disability that is received by the parent or parents of a single adult applicant or recipient;

C. income of a stepparent or of a sibling of a single adult applicant or recipient;

D. an amount equal to the standards assigned to filing unit members who are not in the general assistance unit in part 9500.1231, subpart 6, item A; and

E. child support, spousal support, or other payments to meet the needs of a person who lives outside of the household

Approved by Revisor _____

who is or could be claimed as a dependent for federal personal income tax liability or for whom payment is required by court order.

Subp. 4. **Additional income exclusions; family assistance units.** In addition to the income exclusion in subpart 2, the county agency shall exclude the following income from a family assistance unit:

A. educational grants and loans, including income from work study; and

B. income, including retroactive payments, from SSI or Minnesota supplemental aid.

Subp. 5. **Additional income exclusions, assistance unit consisting of individuals who are not members of a family.** In addition to the income exclusions in subpart 2, the county agency shall exclude the following costs from the income of filing unit members when the assistance unit consists of individuals who are not members of a family:

A. the first $50 of earned income for each individual who receives earned income;

B. the cost of transportation to and from employment which is not reimbursed, based on the lesser of the actual cost, or the amount allowed for the use of a personal car in the United States Internal Revenue Code for a maximum of 100 miles per day;

C. a meal allowance of $2 for each day that the individual has a break for a meal during work hours and eats a meal at work, unless the individual can establish that higher costs are both necessary and reasonable;

D. the cost incurred by an applicant or paid by a recipient for uniforms, tools, and equipment which are necessary to accept or retain a job;

E. mandatory payments or deductions from pay for insurance premiums, union dues, association dues, retirement contributions, FICA, state and federal personal income tax withholding, not to exceed the amount specified in the state or federal tax withholding tables for an individual with the same

Approved
by Revisor _____

income and number of dependents as the applicant or recipient;

F. other work expenses required for employment and approved by the county agency;

G. public assistance payments received by women residing in facilities for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3, for whom general assistance payments are made to pay for residence in the facility;

H. stipends received from the displaced homemaker services program; and

I. in addition to the $50 specified in item A, up to $150 per month from the earnings of a resident of a facility licensed under parts 9520.0500 to 9520.0690 or a resident of a supervised apartment with services funded under parts 9535.0100 to 9535.1600 for whom discharge and work are part of a treatment plan, provided that the disregarded sum is placed in a separate savings account by the resident.

9500.1225 EARNED INCOME.

Subpart 1. **County agency duty to determine earned income.** The county agency must determine the total amount of earned income available to the filing unit. Earned income from self-employment must be calculated according to subpart 2. Earned income from contractual agreements must be calculated according to subpart 3. The total amount of earned income available to an individual for a month must be determined by combining the amounts of earned income calculated under subparts 2 to 4. The total amount of earned income available to an assistance unit for a month must be determined by combining the total earned income of each filing unit member.

Subp. 2. **Earned income from self-employment.** The county agency must determine the amount of earned income from self-employment by subtracting business costs from gross receipts according to items A to D.

A. Self-employment expenses must be subtracted from gross receipts except for the expenses listed in subitems (1) to

Approved by Revisor _____

(14):

(1) purchases of capital assets;

(2) payments on the principal of loans for capital assets;

(3) depreciation;

(4) amortization;

(5) the wholesale costs of items purchased, processed, or manufactured that are unsold inventory with a deduction for the costs of those items allowed at the time they are sold;

(6) transportation costs that exceed the amount allowed for use of a personal car in the United States Internal Revenue Code;

(7) the cost of transportation between the individual's home and place of employment;

(8) salaries and other employment deductions made for members of an individual's assistance unit or for individuals who live in the individual's household for whom the individual is legally responsible;

(9) monthly expenses in excess of $71 for a roomer;

(10) monthly expenses in excess of $86 for a boarder;

(11) monthly expenses in excess of $157 for a roomer-boarder;

(12) annual expenses in excess of $103 or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income;

(13) expenses not allowed by the United States Internal Revenue Code for self-employment income; and

(14) expenses which exceed 60 percent of gross receipts for child care performed in an individual's home unless the individual can document a higher amount. When funds are received from the quality child care program, those funds are excluded from gross receipts, and the expenses covered by those

Approved
by Revisor _____

funds must not be claimed as a business expense that offsets gross receipts.

B. Except for farm income under item C, the self-employment budget period begins in the month of application for applicants and in the first month of self-employment for recipients. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month in which those expenses are paid except for subitems (1) to (3):

(1) The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

(2) Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

(3) Gross receipts from self-employment may be prorated forward to equal the period over which the expenses were incurred except that gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

C. Farm income must be annualized. Farm income is gross receipts minus operating expenses, subject to item A. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from sale of home-produced foods.

D. Income from rental property must be considered self-employment earnings when the owner spends an average of 20

Approved by Revisor _____

hours per week on maintenance or management of the property. A county agency must deduct an amount for upkeep and repairs, according to item A, subitem (11), for real estate taxes, insurance, utilities, and interest on principal payments. When an applicant or recipient lives on the rental property, the county agency must divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of rooms to determine the expense per room. The county agency shall deduct expenses from rental income only for the number of rooms rented, not for rooms occupied by an assistance unit. When an owner does not spend an average of 20 hours per week on maintenance or management of the property, income from rental property must be considered unearned income. The deductions described in this item must be subtracted from gross rental receipts.

Subp. 3. **Earned income from contractual agreements.** The county agency must prorate the amount of earned income received by individuals employed on a contractual basis over the period covered by the contract even if the payments are received over a shorter period.

Subp. 4. **Other earned income.** The county agency must consider all other forms of earned income not specifically provided for under subparts 2 and 3 to be earned income available to the individual in the month it is received.

9500.1226 UNEARNED INCOME.

Subpart 1. **County agency duty to determine unearned income.** The county agency must determine the total amount of unearned income available to the filing unit. The total amount of unearned income available to a filing unit for a month must be determined by combining the total unearned income of each filing unit member.

Subp. 2. to 4. [See repealer.]

Subp. 5. **Deductions for certain costs.** Costs incurred to secure payments of unearned income shall be deducted from unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

Approved
by Revisor _____

Subp. 6. **Payments for disability or illness.** Payments for illness or disability must be considered unearned income whether the premium payments are made wholly or in part by an employer or a recipient.

Subp. 7. **Education grants, scholarships, and loans.** Educational grants, scholarships, and loans, including assistance funded under title IV of the Higher Education Act, which are available to an assistance unit that does not contain a member of a family must be considered unearned income, together with the in-kind income derived from the payment of room and board and tuition and fees paid by the parents of the student. The county agency must subtract tuition and fees, in addition to books, supplies, transportation, and miscellaneous personal expenses as indicated by the school, from the total educational grants, loans, scholarships, and in-kind income. The deductions of these expenses are to be made at the time that the educational funds become available for the student's benefit, and any excess funds prorated over the remainder of the time they were intended to cover. School expenses that exceed loans, grants, and scholarships may be deducted from work study income.

Subp. 8. **Nonexcluded filing unit member income.** Income from a filing unit member who is not a member of the assistance unit which is not excluded under part 9500.1223 is deemed unearned income available to the assistance unit.

Subp. 9. **Lump sums received by filing unit.** Lump sums received by a filing unit must be considered as earned income under parts 9500.1223 and 9500.1225 or as unearned income under subparts 5 to 8. For recipients of general assistance, lump sums are considered income in the month received and a resource in the following months.

9500.1231 ASSISTANCE STANDARDS.

Subpart 1. **Standard, single individual.** Except as provided in subpart 2, the standard of assistance for a single adult who does not reside with his or her parents; an adult

Approved
by Revisor _____

applicant or recipient who resides with his or her parents and those parents have no minor children; or an emancipated minor applicant or recipient ~~defined under part 9500.1206, subpart 12d,~~ is $203 per month. The standard in this subpart shall be increased by the same percentage as any increase in subpart 4.

Subp. 2. **Standard, individuals residing in a nursing home, negotiated rate facility, or regional treatment center.** The standard of assistance for an assistance unit composed of one individual who resides in a nursing home, negotiated rate facility, or regional treatment center is the amount established as the clothing and personal needs allowance for medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 1.

Subp. 3. **Standard, married couples without children.** The standards of assistance for a married couple without children are the same as the first and second adult standards under subpart 4. If one member of the couple is not included in the general assistance grant, the standard for the other is the second adult standard under subpart 4.

Subp. 4. **Standards, filing units with a minor child.** The county agency shall use the standards in items A to M to determine the amount of assistance for a filing unit with a minor child or children. The standard of assistance shall increase or decrease to remain equal to the equivalent AFDC standards under part 9500.2440, subpart 6:

A. first adult, $187;

B. second adult, $73;

C. first child, $250;

D. second child, $95;

E. third child, $89;

F. fourth child, $76;

G. fifth child, $76;

H. sixth child, $77;

I. seventh child, $66;

J. eighth child, $64;

K. ninth child, $55;

Approved
by Revisor _____

L. tenth child, $54; and

M. each additional child, $53.

Subp. 5. **Standard, single adult residing with parents with minor children.** A single adult applicant or recipient who resides with his or her parents who have minor children will receive a child standard from subpart 4 as though the single adult were an additional minor child added to an assistance unit composed of the parent and minor child or children.

Subp. 6. **Standard, assistance unit composed of part or all members of a family.** The county agency shall determine the assistance standard for a family assistance unit as follows:

A. The county agency shall assign standards from subpart 4 to each member of the filing unit as though each was a member of an AFDC assistance unit composed of the entire filing unit. If a member or members of a family are not to be included in the assistance unit, the county agency shall assign standards from subpart 4 to those members first and to the remaining members of the assistance unit last. Each adult in the filing unit except the first will receive a second adult standard. A minor parent family member shall be treated as provided in subitem (1) or (2).

(1) A minor parent family member who resides with his or her parent will be assigned a child standard.

(2) A minor parent family member who does not reside with his or her parent or parents shall be assigned an adult standard. If two adult standards have already been assigned to filing unit members, the minor parent will be assigned a second adult standard.

B. The county agency shall add together the standards assigned to the members of the general assistance unit in item A. That total is the standard for the assistance unit. In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit.

Approved
by Revisor _____

Subp. 7. **Standard applies to full month.** Except when an increase must be made in the standard of assistance applicable to an assistance unit due to the addition of a member to the assistance unit or when a recipient enters the community from a negotiated rate facility, the standard of assistance applicable to an assistance unit the first day of a payment month or at the time of application, whichever is later, applies to the assistance unit for the entire month. When a decrease must be made in the standard of assistance for an assistance unit, the decrease shall be effective in the month following the month in which the change necessitating the reduction in the standard took place.

9500.1232 STATE PARTICIPATION.

Subpart 1. to 3. [See repealer.]

Subp. 4. **State participation for payment in excess of state standards.** State participation is not available for special need items or the amount of the higher county agency standard authorized under Minnesota Statutes, section 256D.03, subdivision 2a, which exceed the applicable state assistance standards.

Subp. 5. **State participation for costs of providing transportation to recipients assigned to literacy training.** State participation for the actual costs of providing transportation under part 9500.1259, subpart 1, item D, subitem (6), is 100 percent.

9500.1233 FINANCIAL ELIGIBILITY TESTS.

Subpart 1. **Prospective eligibility.** A county agency shall determine whether the eligibility requirements that pertain to an assistance unit will be met prospectively for the payment month. To prospectively assess income, a county agency shall estimate the amount of income an assistance unit expects to receive in the payment month.

Subp. 2. **Termination and suspension of assistance when prospectively ineligible.** When an assistance unit is prospectively ineligible for general assistance for at least two

Approved
by Revisor _____

consecutive months due to excess income, assistance must be terminated. When an assistance unit is prospectively ineligible for general assistance for only one month and is prospectively eligible the following month, assistance must continue. The income for the single month in which prospective ineligibility exists must be applied retrospectively as described in subpart 3, resulting in suspension for the corresponding payment month.

Subp. 3. **Retrospective eligibility.** After the first two months of program eligibility, a county agency must determine whether an assistance unit is prospectively eligible for the payment month. The county agency must then determine whether the assistance unit is retrospectively eligible by applying the gross income test for family assistance and the payment eligibility test to the income from the budget month. When either the gross income test for family assistance units or the payment eligibility test is not satisfied, assistance must be suspended when ineligibility exists for one month, or terminated when ineligibility exists for more than one month.

Subp. 4. **Gross income test for family assistance units.** A county agency shall apply a gross income test both prospectively and retrospectively for each month of program eligibility. A family assistance unit is not eligible when available income as determined in parts 9500.1223 to 9500.1226 equals or exceeds 185 percent of the standard of assistance for the assistance unit. The income applied against the gross income test must include the gross earned income of a dependent child in the assistance unit who is not a full-time student and whose income is from a source other than the Job Training Partnership Act. The income in items A to F must be considered in the gross income test.

A. Gross earned income from employment, before mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and disregards, unless the employment income is specifically excluded under part 9500.1223.

B. Gross earned income from self-employment, less deductions for self-employment expenses in part 9500.1225, subpart 2, but before any reductions for personal state and

Approved
by Revisor _____

federal income taxes, business taxes, personal FICA, personal health and life insurance, and disregards.

C. Unearned income after allowable expenses in part 9500.1226, unless the income has been specifically excluded in part 9500.1223.

D. Gross earned income from employment as determined under item A which is received through the Job Training Partnership Act by a member of an assistance unit who is a dependent child after the child has received both Job Training Partnership Act earnings and assistance for six payment months in the same calendar year.

E. Gross earned income from employment, as determined under item A, which is received through employment other than the Job Training Partnership Act by a member of an assistance unit who is a dependent child and a full-time student after the child has received both those earnings and assistance for six payment months in the same calendar year.

F. Child support and spousal support received or anticipated to be received by an assistance unit less the first $50 of current child support.

Subp. 5. **Payment eligibility test.** Each assistance unit must pass a test of payment eligibility prospectively and retrospectively for each program month that the unit is otherwise eligible.

A. Family assistance units which have passed the gross income test, must use the income described in subpart 4 to determine payment eligibility except that:

(1) earned income of a dependent child who is a part-time or full-time student must be excluded; and

(2) the disregards as determined in part 9500.1235 must be deducted from earned income.

B. Assistance units which do not contain a member of a family must use the income determined in parts 9500.1223 to 9500.1226 to determine payment eligibility.

C. The county agency must apply the assistance unit's countable income against the assistance unit's standard. If the

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income is equal to or greater than the standard, the assistance unit must be denied assistance or assistance must be terminated.

9500.1235 EMPLOYMENT DISREGARDS FOR EMPLOYED MEMBERS OF A FAMILY ASSISTANCE UNIT.

The county agency shall deduct the disregards in items A to D from the gross earned income of employed members of a family assistance unit.

A. A $90 work expense, whether employment is full-time or part-time, must be deducted from the gross earned income of each employed member of an assistance unit and $75 for other financially responsible household members who are excluded from the assistance unit, except that sanctioned individuals must not receive this disregard.

B. A monthly deduction for costs for care of a dependent child or an adult dependent who is in the assistance unit. These costs must be documented according to part 9500.1215, subpart 4, item B, subitem (6). This disregard must only be deducted from the gross income of a member of an assistance unit, and must be applied after all other disregards have been applied. The deduction must not exceed $175 for each dependent age two or older, or $200 for each dependent under the age of two when employment equals or exceeds 30 hours per week. The deduction shall not exceed $174 for each dependent age two or older, or $199 for each dependent under the age of two when employment is less than 30 hours per week. A deduction for dependent care costs is not allowed when the care is provided by a member of the filing unit.

C. A deduction for a $30 and one-third work incentive disregard. This disregard must be allowed for each employed member of an assistance unit. The first $30 must be subtracted from the balance of gross earned income after subtracting the work expense allowed under item A. One-third of the balance must also be subtracted after allowing the $30 disregard. This disregard is limited by subitems (1) to (6).

(1) The disregard must not be deducted from the

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by Revisor _____

income of an applicant in the initial month when applying the payment eligibility test in part 9500.1233, subpart 5, except that an applicant who has received general assistance in any of the four months previous to the month of application and who retains eligibility for this disregard from the prior period of eligibility under subitems (2) to (5) shall be eligible for this disregard when determining payment eligibility. When an applicant satisfies the payment eligibility test in the first month, this disregard must be used to calculate the assistance payment amount for that month when the applicant is otherwise eligible to receive it.

(2) Eligibility for this disregard is limited to four payment months in subitems (3) to (5) and cannot be deducted again from the income of that member of the assistance unit until that member has not been a recipient of general assistance for a period of at least 12 consecutive payment months.

(3) The four months of eligibility for this disregard are only those payment months in which any part of the $30 and one-third work incentive is applied against income. When the four months of eligibility for this disregard are interrupted for at least one payment month before the period of eligibility is completed, the recipient is eligible for a new period of four months, with the next subsequent month of its use considered to be the first month, except as otherwise noted in subitems (4) and (5).

(4) When this disregard is not applied because income from a recurring source results in suspension of an assistance payment, that month must not be counted as a month of the four-month period, but this interruption does not establish eligibility for a new four-month period.

(5) When employment is ended, reduced, or refused without good cause, a person shall not be eligible for any of the employment disregards under items A to D in the first month following the month in which that employment is ended, reduced, or refused. The month in which those disregards are disallowed

Approved by Revisor _____

must be counted as one of the four consecutive months in the period of eligibility for this disregard and the remaining months of eligibility must be counted in the consecutive months which immediately follow, regardless of loss of eligibility or change in employment status.

(6) Receipt of a $30 and one-third work incentive disregard of income used to calculate benefits or eligibility for the AFDC or medical assistance programs has no effect on the eligibility for the disregard for recipients of family general assistance.

D. A deduction for a $30 work incentive disregard. This disregard applies for a period of eight months to members of an assistance unit who have completed the four-month period of eligibility for the $30 and one-third work incentive disregard. This disregard is allowed beginning with the first month following the fourth month of eligibility for the $30 and one-third work incentive disregard and must be counted in consecutive months regardless of the loss of eligibility or change in employment status.

9500.1237 AMOUNT OF ASSISTANCE PAYMENT.

Subpart 1. **Amount of assistance payment.** The county agency must issue an assistance payment to an assistance unit in an amount equal to the difference between the standard of assistance determined in part 9500.1231 and the assistance unit's countable income as determined in parts 9500.1223 to 9500.1226, for a whole month without separate standards for shelter, utilities, or other needs, except as provided under subparts 2 to 9.

Subp. 2. **Prorate the month of application.** When program eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all eligibility factors are met for that applicant, whichever is later. This provision must apply when an applicant loses at least one day of program eligibility.

Approved
by Revisor _____

Subp. 3. **Minimum payment for families.** When the difference between countable income and the standard of assistance for an assistance unit containing members of a family in a payment month is less than $10, an assistance payment must not be issued, but that month must be considered a month of program eligibility. When recoupment of an overpayment reduces the assistance payment, pursuant to part 9500.1243, subpart 3, and the subsequent level of payment is less than $10, the assistance payment must be made.

Subp. 4. **Persons without a verified residence address.** A county agency may make payments to eligible persons without a verified address as specified in items A to G.

A. A county agency which chooses to make payments under this subpart must notify the department of its intention to do so 30 days before implementation.

B. A county agency must apply this subpart equally to all applicants or recipients who are without a verified residence, except that this subpart must not be applied to persons who are certified as having mental illness, mental retardation or a related condition, or a family assistance unit unless requested in writing by the family assistance unit.

C. A county agency may divide the monthly assistance grant into four payments to be issued weekly for four weeks each month.

D. A county agency may determine eligibility and provide assistance on a weekly basis as specified in subitems (1) to ~~(4)~~ (5).

(1) The amount of assistance issued under this item may be determined either by prorating the monthly assistance standard which applies to the individual at the time of application and at the time of weekly redetermination, or as specified in part 9500.1261.

(2) Forms required for weekly redetermination of eligibility must be approved by the department. The form must contain a statement of need by the recipient.

(3) Notwithstanding part 9500.1259, subpart 4,

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the county agency must notify the recipient each time weekly assistance is issued under this item that subsequent weekly assistance will not be issued unless the recipient claims need.

(4) ~~Assistance issued~~ Weekly determination of eligibility under this item must not continue beyond the first full calendar month subsequent to the month of application. Beginning with the second full calendar month, assistance may be issued as specified in item C to a recipient who has not verified a residence address but who is a resident of the state as determined by part 9500.1219, subpart 3~~, as specified by item~~ e.

(5) The provisions of this item must not be applied to any assistance unit which receives, or is expected to receive countable income within the month of application or the following month.

E. Assistance provided under items C and D may be in the form of cash or separate vouchers or vendor payments for food, shelter, or other needs.

F. Except for weekly redetermination for assistance under item D, notices must be provided to recipients under this subpart as specified by part 9500.1259, subpart 4.

G. Assistance must not continue under this subpart when the recipient has verified a residence address as specified in part 9500.1219, subpart 3, item C.

Subp. 5. **Initial payments for mandatory participants in the work readiness program.** Initial payments may be made to mandatory participants in the work readiness program as specified in items A to D.

A. The county agency ~~may:~~ must choose one of the methods described in subitems (1) and (2) to make initial payments. The county agency must use the method it chooses for all applicants, except that for family assistance units or assistance units of more than one person, the county agency must use the method described in subitem (1).

(1) The county agency may make payments to cover a period of time which begins with the date of application, or

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the date on which all eligibility factors have been met, whichever is later, and ending on the last day of the month in which a work readiness orientation is scheduled~~;-or~~.

(2) The county agency may prorate an initial payment to cover only the initial certification period which begins on the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the date on which all mandatory participants in the assistance unit must attend a scheduled orientation. This initial certification period must not exceed 30 days. If all mandatory participants in an assistance unit attend the scheduled orientation, the county agency must then issue an additional grant of assistance to cover the period beginning the day after the scheduled orientation and ending on the final day of the month. Subsequent grants of assistance must be issued according to part 9500.1237, subpart 1 or 4.

B. The county agency must inform all mandatory participants in the assistance unit that:

(1) each mandatory participant must attend an orientation within 30 days after application; ~~and~~

(2) a mandatory participant who fails, without good cause, to attend the required orientation will lose eligibility for assistance without further notice due to noncompliance with work readiness requirements subject to reinstatement upon a showing of good cause~~.~~; and

(3) a mandatory participant who has been disqualified from work readiness may not be eligible for emergency general assistance during the period of disqualification.

C. Subsequent assistance must not be issued within 60 days from the date of the initial application to a mandatory participant whose eligibility has ended for failing, without a showing of good cause, to attend a scheduled orientation unless the person completes an application, is determined eligible, attends an orientation, or has become exempt from work readiness participation under part 9500.1251.

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D. The county may make payment under ~~items~~ item A ~~and~~ B to persons without a verified address according to subpart 4 as long as the county agency implements the provision consistently for all applicants and recipients.

Subp. 6. **Assistance payment when need will not exceed 30 days.** For persons who are exempt from registration with the work readiness program under part 9500.1251, subpart 2, item M, the county agency shall issue a grant determined by subtracting any countable income that the applicant has received since the first of the calendar month of application and any countable income the applicant is expected to receive before the date on which the county agency has anticipated that the applicant will lose eligibility for general assistance, from his or her prorated standard of assistance. The prorated standard of assistance must be determined by comparing the number of days between the date of application or the date all eligibility factors have been met, whichever is later, and the date which the county agency has anticipated that the applicant will lose eligibility for general assistance, with a 30-day month.

Subp. 7. **Payments to facilities with negotiated rates.** In addition to any payment an individual is entitled to by comparing the individual's countable income determined by parts 9500.1223 to 9500.1226 with the standard of need specified under part 9500.1231, subpart 7, the county agency must make direct payment on behalf of an individual described under part 9500.1231, subpart 2, to a negotiated rate facility out of general assistance funds unless other funds are available. An individual who has countable income in excess of the standard specified in part 9500.1231, subpart 2, but who is otherwise eligible for general assistance, is eligible for a payment to be made to a facility on the individual's behalf. However, the initial payment to the facility must be reduced by the amount that the individual's countable income exceeds the standard applicable to the individual on the first day of the month in which the individual enters the facility. Payments for months subsequent to the month in which the individual enters the

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by Revisor _____

facility must be reduced by the amount the individual's countable income exceeds the standard specified by part 9500.1231, subpart 2. If the individual's countable income exceeds that standard by an amount equal to, or greater than, the facility's monthly rate, there is no eligibility under the general assistance program. The county agency may make payment to the facility either in advance each month, or upon receipt of a billing statement from the facility. Payments to the facility shall cover a period beginning on the date the county agency receives an application signed by the applicant or the date all eligibility factors have been met, or the date the individual enters the facility, whichever is later, and ending on the date the recipient leaves the facility.

Subp. 8. **Payments to shelter facilities.** In addition to any payment to which an individual may be eligible under other parts of this program or under the aid to families with dependent children program, the county agency shall make payment on behalf of that individual to a secure crisis shelter, a housing network, or other shelter facility which provides shelter services to women and their children who are being or have been assaulted by males with whom they are residing or have resided in the past. The county agency's payment to the shelter must be reduced by the amount that the individual's countable income determined by parts 9500.1223 to 9500.1226 exceeds their standard of assistance as determined by part 9500.1231. Eligibility for a shelter payment under this subpart shall not affect the individual's eligibility or benefit level for general assistance or aid to families with dependent children and there can be concurrent payments under this subpart and those programs. Eligibility for a shelter payment under this subpart begins with the date an applicant enters the shelter provided that the shelter files the applicant's completed application with the county agency within ten days of the date the applicant entered the shelter, and ends on the date the individual leaves the shelter.

Subp. 9. **Additional grants to start employment.** In

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by Revisor _____

addition to any other benefits to which a recipient or applicant, otherwise eligible, might be entitled under this part, the county agency may, within the limits of available appropriations, make grants necessary to enable individuals to accept bona fide offers of employment. A grant may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. A grant under this subpart shall not be furnished more than once in any 12-month period.

9500.1239 PAYMENT PROVISIONS.

Subpart 1. **Grant issuance.** Grants of general assistance shall be issued to the recipient according to subparts 2 and 3.

Subp. 2. **Time period for issuance of assistance.** The state or county agency shall mail assistance payments to the address where the assistance unit lives, or an alternate address when approved by the county agency, within time to allow postal service delivery to occur no later than the first day of each month unless:

A. the county agency has exercised its option to issue assistance weekly under part 9500.1237, subpart 4, item C or D, in which case the county agency must provide the recipient with a schedule by which the recipient is to visit the agency to pick up the payments or notices; and

B. the state or county agency issues payments by means other than checks, in which case the payments must conform to the time limits in this subpart.

Subp. 3. **Special voucher or vendor payment provisions.** Assistance must be paid directly to a recipient, except as provided in items A to H.

A. When a county agency has determined that a voucher or vendor payment is the most effective way to resolve an emergency situation under part 9500.1261, payment shall be made by voucher or directly to a vendor.

B. When the county agency has reason to suspect that a client is drug dependent, payment shall be made as provided

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by Revisor _____

under part 9500.1272.

C. When the applicant or recipient has no verified residence address, payment shall be made as provided under part 9500.1237, subpart 4, item C, D, or E.

D. When the applicant or recipient requests in writing that all or part of the assistance be issued in the form of vendor payments and the county agency approves the request, payment shall be made by vendor payment.

E. When an assistance unit consists of only minor children due to the disqualification of one or both parents who have not complied with the work readiness program, payment shall be made by vendor or protective payment.

F. When a county agency has determined that a recipient has exhibited a continuing pattern of money mismanagement, payment shall be made by vendor or protective payment. A continuing pattern of money mismanagement exists when a recipient has received a total of two or more grants of emergency assistance within an 18-month period. For the purposes of this provision, grants of emergency assistance are payments made under part 9500.1261 or 9500.2820 or emergency payments from county funds. In order to be counted for this provision, the emergencies for which grants were issued must have resulted from the recipient's failure to use available resources for the payment of basic need items. The county agency must review the use of protective or vendor payments under this item at each redetermination of eligibility.

G. When a county agency has established a negotiated rate with providers of room and board, boarding care, supervised living, or adult foster care, payment shall be made by vendor payment.

H. When an applicant or recipient resides in a shelter facility as defined in Minnesota Statutes, section 256D.05, subdivision 3, payment shall be made by vendor payment.

9500.1243 BUDGETING.

Subpart 1. **Prospective budgeting.** A county agency shall

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by Revisor _____

use prospective budgeting to calculate the assistance payment amount for the first two months for an applicant who has not received general assistance for at least one payment month preceding the first month of payment under a current application, subject to items A to E.

A. Income received or anticipated in the first month of program eligibility must be applied against the need of the first month. Income received or anticipated in the second month must be applied against the need of the second month.

B. When the assistance payment for any part of the first two months is based on anticipated income, an initial assistance payment amount must be determined based on information available at the time the initial assistance payment is made. When the amount of actual countable income is different than the anticipated countable income which was budgeted to determine the assistance payment for the first two months, the assistance unit is liable for an overpayment or is eligible for a corrective payment for the difference between anticipated and actual countable income for those two months.

C. The assistance payment for the first two months of program eligibility must be determined by budgeting both recurring and nonrecurring income for those two months.

D. An assistance unit shall have the assistance payment amount determined prospectively according to items A to C if the assistance unit:

(1) has had assistance suspended for a month as provided by part 9500.1233, subpart 2; and

(2) has experienced a recurring change of at least $50 in net income, exclusive of the disregards in part 9500.1235, items B and C, in the month preceding the month of suspension or in the month of suspension.

E. An individual who enters a facility with a negotiated rate or a shelter facility described in Minnesota Statutes, section 256D.05, subdivision 3, shall have an assistance payment determined prospectively from the date the individual entered the facility. Any income, including grants

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by Revisor _____

of public assistance, received by the individual before entering the facility must only be applied against the assistance unit's standard specified under part 9500.1231, subpart 2, and not against the payment to the facility as specified in part 9500.1237, subparts 7 and 8. Any assistance payments made to the individual beginning two months after the month the individual leaves the facility must be determined retrospectively according to subpart 2.

Subp. 2. **Retrospective budgeting.** Retrospective budgeting must be used to calculate the monthly assistance payment amount after the payment for the first two months has been made under subpart 1. Retrospective budgeting is subject to items A and B.

A. Retrospective budgeting is used to determine the amount of the assistance payment in the first two months of program eligibility when:

(1) an assistance unit applies for general assistance for the same month for which general assistance has been terminated, the interruption in eligibility is less than one payment month, and the general assistance payment for the immediately preceding month was determined retrospectively; or

(2) a person applies to be added to an assistance unit, that assistance unit has received general assistance for at least two preceding months, and that person has been receiving general assistance for at least two months as a member of another assistance unit.

B. Income received in the budget month by an assistance unit and by a filing unit member who is not included in the assistance unit must be applied against the standard of assistance to determine the assistance payment to be issued for the payment month, except as provided in subitems (1) to (4).

(1) When a source of income ends before the third payment month, that income is not considered in calculation of the assistance payment for the third payment month. When a source of income ends before the fourth payment month, that income is not considered when determining the assistance payment for the fourth payment month.

Approved by Revisor _____

(2) When a member of a filing unit leaves the household of the assistance unit, the income of that member is not budgeted retrospectively for any full payment month in which that household member does not live with that household and is not included in the filing unit.

(3) When a child is removed from an assistance unit because the child is no longer a dependent, the income of that child is not budgeted retrospectively for payment months in which that child is not included in the assistance unit.

(4) When a person ceases to have financial responsibility for one or more members of an assistance unit, the income of that person is not budgeted retrospectively for the payment months which follow the month in which financial responsibility ends.

Subp. 3. **Recoupment of overpayments.** When a recipient receives an overpayment, the overpayment must be recouped or recovered under the conditions of this part even when the overpayment is due to agency error or to other circumstances outside the person's responsibility or control, according to items A to ~~C~~ D.

A. When a county agency discovers that a person has received an overpayment for one or more months, the county agency shall notify that person of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the person's right to appeal recoupment of the overpayment.

B. When an assistance unit is eligible for assistance, the county agency shall recoup an overpayment by reducing one or more monthly assistance payments until the overpayment is repaid. The amount of repayment deducted from a monthly assistance payment shall be three percent of the assistance unit standard of assistance for the payment month.

C. A county agency shall not initiate efforts to recover overpayments from a person no longer on assistance

Approved by Revisor _____

unless the amount of overpayment is greater than $35 or overpayment was due to fraud.

D. This subpart shall not be applied to nonfamily assistance units until the MAXIS automated eligibility system is implemented on a statewide basis.

Subp. 4. **Correction of underpayments.** A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment or by issuing a separate payment to a current recipient. When an underpayment occurs in a payment month specified in subpart 1, and is not identified until the next payment month or later, that underpayment must first be subtracted from any overpayment balance before issuing the corrective payment. An underpayment for a current payment month must not be applied against an overpayment balance and payment must be issued within seven calendar days after the underpayment is identified.

Subp. 5. **Prohibition against use of general assistance grant to recover overpayment from other maintenance programs.** Subparts 3 and 4 apply only to overpayments or underpayments of assistance from the general assistance program. A county agency may not recover an overpayment by another maintenance benefit program from a general assistance grant.

9500.1245 APPLICANT AND RECIPIENT RESPONSIBILITIES.

Subpart 1. **Applicant reporting requirements.** An applicant shall provide information about circumstances that affect the applicant's program eligibility or the assistance payment. The applicant shall provide the information on an application form and supplemental forms. An applicant shall report any changes in those circumstances under subpart 5 while the application is pending.

Subp. 2. **Responsibility to inquire.** An applicant or recipient who does not know or who is unsure whether a change in circumstances will affect program eligibility or assistance payments shall contact the county agency for information about

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whether or not to report the change.

Subp. 3. **Household report forms.** An assistance unit with a member who has earned income or a recent work history, and an assistance unit that has income allocated to it from a filing unit member who has earned income or a recent work history, shall complete a monthly household report form. "Recent work history" means the individual received earned income in any one of the three calendar months preceding the current payment month. To be complete, a household report form must be signed and dated no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered and documentation of earned income must be included. A recipient shall submit the household report form by the eighth calendar day of the month following the reporting period covered by the form, or, if the eighth calendar day of the month falls on a weekend or holiday, by the first working day that follows the eighth calendar day. Delays in submitting the completed household report form may delay an assistance payment in the month following the month in which the form is due.

Subp. 4. **Late household report forms.** When a household report form is late or incomplete, items A, B, or C apply.

A. When a complete household report form is not received by a county agency before the last ten days of the month in which the form is due, the county agency shall send notice of proposed termination of assistance. When a recipient submits an incomplete form on or after the date the notice of proposed termination has been sent, the termination is valid unless the recipient submits a complete form before the end of the month.

B. When a recipient submits an incomplete household report form before the last ten days of the month in which it is due, a county agency's ten-day notice of termination of assistance for failure to provide a complete household report form is invalid unless the county agency has returned the incomplete form on or before the ten-day notice deadline.

Approved
by Revisor _____

C. If a complete household report form is received by the county agency within a calendar month after the month in which assistance was received, an assistance unit required to submit a household report form is considered to have continued its application for assistance effective the date the required report is received by the county agency. However, no assistance shall be paid for the period beginning with the first day of the month after the month in which the report was due and ending with the date the report was received by the county agency.

Subp. 5. **Changes which must be reported.** Recipients shall report the changes or anticipated changes specified in items A to K within ten days after the date they occur, within ten days after the date the recipient learns that the change will occur, at the time of the periodic redetermination under subpart 6, or within eight calendar days after a reporting period as in subpart 3, whichever occurs first. A recipient shall report other changes at the time of the periodic redetermination of eligibility under subpart 6 or at the end of a reporting period under subpart 3 as applicable. A recipient shall make these reports in writing or in person to the county agency. Changes in circumstances which must be reported within ten days must also be reported on the household report form for the reporting period in which those changes occurred. Within ten days, a recipient must report changes in:

A. initial employment;

B. the initial receipt of unearned income;

C. a recurring change of more than $50 per month of net earned or unearned income;

D. the receipt of a lump sum;

E. an increase in resources;

F. a change in the physical or mental status of a recipient who is exempt from work readiness registration due to the physical or mental condition;

G. the marriage or divorce of an assistance unit member;

H. a change in the household composition including

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departures from and returns to the home of filing unit members, or the birth or death of a member of the filing unit;

I. a change in the address or living quarters of an assistance unit;

J. the sale, purchase, or other transfer of property; and

K. a change in school attendance of a child over 15 years of age or an adult member of an assistance unit.

Subp. 6. **Redetermination of eligibility.** Except as provided in items A to C, a county agency must redetermine eligibility of a recipient once each year. A recipient must complete forms prescribed by the commissioner and required for redetermination of eligibility.

A. A county agency that has opted to provide assistance on a weekly basis to persons without a verified residence address may redetermine eligibility each week. In redetermining eligibility, the county agency must use the form in part 9500.1237, subpart 4, item D, subitem (2). The form must include a claim of need by the recipient.

B. A county agency must redetermine eligibility when a recipient who has been disqualified from receiving cash assistance due to noncompliance with a program provision requests assistance after the expiration of the disqualification period.

C. A county agency may redetermine the eligibility of a recipient when a change that affects program eligibility is reported to the county agency.

Subp. 7. **Other maintenance benefits.** An applicant or recipient must apply, according to part 9500.1254, for other maintenance benefits that the county agency has determined the applicant or recipient is potentially eligible for. An applicant or recipient who fails or refuses to take the actions specified by the county agency according to part 9500.1254 must be terminated from general assistance and remains ineligible for assistance until the applicant or recipient takes the actions specified by the county agency under this subpart.

Approved
by Revisor _____

Subp. 8. **Work readiness program.** Any applicant or recipient who is not exempt from work readiness under part 9500.1251 must participate in the work readiness program under part 9500.1259, according to items A and B.

A. A mandatory work readiness participant meets the work readiness participation requirements if the mandatory participant:

(1) cooperates with the county agency in all aspects of the work readiness program;

(2) accepts any suitable employment, including employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options;

(3) does not voluntarily quit or refuse suitable employment without good cause; and

(4) participates in work readiness activities assigned by the county agency, including completing the specific tasks or assigned duties that were identified by the county agency in the notice required under part 9500.1259, subpart 1, item E, subitem (1).

B. Mandatory participants who fail, without good cause, to meet the work readiness participation requirements shall be terminated from assistance and disqualified from work readiness according to subitems (1) and (2).

(1) For the first instance of noncompliance, without good cause, in a six-month period beginning with the completion of the work readiness orientation, the county agency shall notify the participant of the particular action or actions that the participant must take, by a date certain, to achieve compliance and avoid termination of assistance. A mandatory participant's failure to take the required actions by the specified date will result in the removal, both prospectively and retrospectively, of that individual's needs from the calculation of a grant for the assistance unit. The period of disqualification for those persons is one month.

(2) For any subsequent instance of noncompliance,

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by Revisor _____

without good cause, in a six-month period beginning with the date of any previous instance, the mandatory participant may not take corrective action to avoid removal from assistance and disqualification. If the effective date of a termination under this subitem is within six months of the end of a previous disqualification, the period of disqualification is two months.

Subp. 9. **Persons exempt from work readiness, voluntary participation.** An applicant or recipient of general assistance who is exempt from mandatory participation in work readiness may volunteer to participate in work readiness.

9500.1248 DETERMINATION OF COUNTY OF FINANCIAL RESPONSIBILITY.

Subpart 1. and 2. [See repealer.]

Subp. 3. **Determination of county of financial responsibility.** The county of financial responsibility shall be determined according to Minnesota Statutes, chapter 256G.

9500.1250 LOCAL AGENCY REPORTS.

The county agencies shall collect and report information necessary to administer, monitor, and evaluate the general assistance program, including work requirements.

9500.1251 WORK READINESS REQUIREMENT AND EXEMPTIONS.

Subpart 1. **Work readiness participation required.** To receive a grant of general assistance, an individual must be a registrant with the work readiness program or must be exempt from registration by the county under subpart 2. A "registrant" is an individual, otherwise eligible for assistance, whose exemption status under subpart 2 has been assessed by the county agency and who does not qualify for an exemption, or who has qualified for an exemption and has voluntarily requested to participate in the work readiness program. ~~Individuals~~ An individual who is otherwise exempt under subpart 2, items F and G, ~~but who have not signed~~ who has been requested by the county agency to sign an interim assistance authorization agreement, and who refuses or fails to sign the agreement, shall not be allowed to register for work readiness and therefore

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by Revisor _____

cannot receive a grant.

Subp. 2. **Exemption from work readiness.** An applicant or recipient is exempt from work readiness requirements if:

A. The applicant or recipient suffers from a permanent or temporary injury, or incapacity that is medically certified and that prevents the applicant or recipient from obtaining or retaining suitable employment for at least 30 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 exempt under this item only for the period of illness, injury, or incapacity.

B. The applicant or recipient is needed at home on a substantially continuous basis because a member of the applicant's or recipient's household requires care due to age, or a medically certified illness, injury, or incapacity. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself. The applicant or recipient must verify that no other household member is able to provide the care.

C. The applicant or recipient is residing in a facility licensed under Minnesota Statutes, chapter 245A, and certified under Minnesota Statutes, chapter 144, for purposes of physical or mental health rehabilitation or a chemical dependency domiciliary facility. Residence in the facility must be due to illness or incapacity and must be based on a plan developed or approved by the director of the county agency.

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

E. The applicant or recipient does not meet the condition in item A or C but is diagnosed by a qualified professional as having mental retardation or mental illness and that condition prevents the applicant or recipient from obtaining or retaining employment.

F. The applicant or recipient has an application pending for the social security disability program or the

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by Revisor _____

supplemental security income program and the applicant or recipient has, upon the request of the county agency, signed an interim assistance authorization agreement. An applicant or recipient whose previous application for social security benefits was based solely on a condition other than chemical dependency or mental illness who does not ~~appeal~~ request a reconsideration of an initial denial by the social security administration is only exempt under this item if the new application is made for social security benefits based on a different disability or a new application is made that alleges new or aggravated symptoms of the original disability.

G. The applicant or recipient has appealed the denial of an application for social security disability or SSI benefits or the termination of social security disability benefits or SSI benefits and the appeal is pending. The applicant or recipient must produce medical evidence in support of ~~an appeal~~ a request for reconsideration of a ~~denied~~ denial of an initial application within 60 days of the initial denial ~~or termination~~. An applicant or recipient of general assistance under this item must sign an interim assistance authorization agreement upon the request of the county agency. A county agency shall not approve a new application for a recipient whose general assistance has been terminated for failure to provide medical evidence in support of the appeal of an application denied by social security until such medical evidence is produced.

H. The applicant or recipient is unable to obtain or retain employment due to advanced age as defined in part 9500.1206, subpart 3.

I. The applicant or recipient is medically certified as being learning disabled. "Learning disabled" means the applicant or recipient has a disorder in one or more of the psychological processes involved in perceiving, understanding, or using concepts through verbal language or nonverbal means. The disability must severely limit the applicant or recipient in obtaining, performing, or maintaining suitable employment. Learning disabled does not include learning problems that are

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primarily the result of visual, hearing, or motor handicaps; mental retardation; emotional disturbance; or due to environmental, cultural, or economic disadvantage.

J. The applicant or recipient is under the age of 19 and is a full-time student in a secondary institution.

K. The applicant or recipient is under the age of 16.

L. The applicant or recipient is in the last trimester of pregnancy.

M. The applicant shows circumstances that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or anticipated income, provided that the applicant has not received general assistance under that condition for at least 60 days.

N. The applicant or recipient is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day.

O. The applicant's or recipient's homestead is more than two hours round-trip from any potential suitable employment, exclusive of time needed to transport the applicant's or recipient's children to and from child care.

P. The recipient or applicant is a parent, who is not otherwise exempt, in an assistance unit which contains a child under the age of six if there is no suitable child care available at no cost to the family which is not reimbursed, or greater than the disregard provided by part 9500.1235, item B. If there are two parents in an assistance unit who are not otherwise exempt under this subpart, the parent who is not the principle wage earner as defined in part 9500.1206, subpart 26a, is exempt. If, in a two-parent assistance unit, there are no earnings, or if the earnings of both parents are the same, the applicant must designate the principal wage earner, and that designation must not change as long as assistance continues without interruption. "Suitable child care at no cost to the family," as described above, can include a parent in the filing unit who is not in the assistance unit so long as that parent is not a current participant in an AFDC work program or is not

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by Revisor _____

otherwise available for child care.

Q. The applicant or recipient, not otherwise exempt under items A to P, has been assessed by a qualified professional or vocational specialist as not being likely to obtain permanent employment and:

(1) the applicant or recipient has been referred to, and ~~is participating~~ has not refused or failed without good cause to participate in, ~~an~~ any available, accredited remedial or skills training program designed to address barriers to the person's employment; or

(2) the applicant or recipient has been referred to~~, and has applied for,~~ another maintenance benefit for which the applicant or recipient is potentially eligible in accordance with the provisions of part 9500.1254.

Subp. 3. **Assessment of exemption status.** The assessment by the qualified professional or vocational specialist must consider the person's age, physical and mental health, education, trainability, prior work experience, and local market.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Subpart 1. **Screening requirement.** The county agency must determine the potential eligibility of each general assistance applicant or recipient for other maintenance benefits as follows:

A. The county agency must determine an applicant's potential eligibility for other maintenance benefits when application for general assistance is made.

B. The county agency must determine a recipient's potential eligibility for other maintenance benefits at the recipient's semiannual redetermination of eligibility for general assistance. The county agency must also determine a recipient's potential eligibility for other maintenance benefits whenever it determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits.

C. If the county agency determines that the applicant or recipient is potentially eligible for other maintenance

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benefits, the county agency must document its determination on forms prescribed by the commissioner and must retain the forms in the county agency case record for the applicant or recipient.

Subp. 2. **Informing and referral requirement.** When the county agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the county agency shall refer the applicant or recipient to the other maintenance benefit program on a form prescribed by the commissioner by informing the applicant or recipient orally and in writing of the following:

A. that the applicant or recipient must apply for the other maintenance benefit program, according to subpart 4, item A;

B. that the applicant or recipient must execute an interim assistance authorization agreement, according to subpart 4, item D;

C. that the applicant or recipient must comply with all procedures necessary to determine eligibility or ineligibility for the other maintenance benefits according to subpart 4, item C;

D. that the applicant or recipient must authorize the county agency and the qualified provider, when one is chosen, to exchange relevant data concerning the applicant's or recipient's eligibility with the other maintenance benefit program office, according to subpart 4, item B;

E. the estimated amount of benefits the applicant or recipient may be eligible to receive under the other maintenance benefit program, if known;

F. the address at which the applicant or recipient shall apply for the other maintenance benefit program;

G. general instructions regarding how to apply for the other maintenance benefit program;

H. that the applicant or recipient may elect to receive special services to assist in applying for SSI benefits, according to part 9500.1256, subpart 1, and that the applicant or recipient has a right to choose to receive special services

Approved
by Revisor _____

from a qualified provider;

I. notice of the actions which the county agency must take, according to subpart 5, if the applicant or recipient fails to comply with the requirements under subpart 4, items A to D; and

J. notice of the applicant's or recipient's right to appeal a determination of ineligibility for general assistance due to noncompliance with subpart 4, items A to D.

Subp. 3. **Special referral provisions.** When the county agency determines that the applicant or recipient is potentially eligible for another maintenance benefit program, the county agency shall refer the applicant or recipient to a chosen qualified provider and the other maintenance benefit program according to items A and B:

A. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the county agency shall:

(1) offer to provide special services to the applicant or recipient according to part 9500.1256, subpart 1, to assist in applying for and obtaining SSI;

(2) furnish the applicant or recipient with a list of qualified providers with whom the county agency has contracted to provide special services to applicants or recipients or who have asked to be included on the list;

(3) notify the Social Security Administration's local office of the applicant's or recipient's potential eligibility for SSI on the date of referral so that the earliest potential date of eligibility for SSI can be established; and

(4) if the applicant or recipient elects at any time to receive the special services specified in part 9500.1256, subpart 1, from a qualified provider other than the county agency, the county agency shall refer the applicant or recipient to the chosen provider. If the county agency has not contracted with the chosen provider, the county agency must enter into a contract with that qualified provider to provide special services to applicants or recipients who apply for SSI

Approved
by Revisor _____

benefits.

B. If the county agency determines that an applicant or recipient is potentially eligible for another maintenance benefit program, and the applicant or recipient has previously applied for and been found ineligible for that other maintenance benefit program, the applicant or recipient shall not be required to appeal from that decision or to reapply for that other maintenance benefit program unless one of the following conditions is met:

(1) the county agency determines that the applicant's or recipient's health or circumstances have changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. **Requirements upon referral for other maintenance benefits.** When the county agency refers an applicant or recipient to another maintenance benefit program as provided under subpart 2, the applicant or recipient shall do the following:

A. The applicant or recipient shall apply for those benefits within 30 days of the date of referral. If the recipient has not provided the county agency with verification of an application for those benefits within 30 days of the date of referral, the county agency must contact the other maintenance benefit program county office to determine if the recipient has applied for benefits. If the county office of the other maintenance benefit program verifies that the recipient has applied for those benefits, the recipient shall be deemed to have met the requirement of applying for other maintenance benefits. If the county office of the other maintenance benefit program verifies that the recipient has not applied for those benefits, the local agency shall mail or give the recipient notice of termination from general assistance according to

Approved
by Revisor _____

subpart 5.

B. The applicant or recipient shall, within 30 days of the date of referral, provide informed written consent and authorization for the county agency or a qualified provider, if one is chosen, to exchange data concerning the applicant or recipient with the other maintenance benefit program county office. The data exchanged must be relevant to a determination of the applicant's or recipient's eligibility or ineligibility for benefits from the other program.

For purposes of exchanging private or confidential data about a person for whom a qualified provider has contracted to provide special services, a qualified provider other than the county agency shall not be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1.

If the county agency determines that the recipient has not given informed written consent and authorization for the county agency or a qualified provider to exchange data concerning eligibility or ineligibility for the other maintenance benefit program within the prescribed 30 days, the county agency shall mail or give the recipient notice of termination from general assistance according to subpart 5.

C. A recipient shall comply with all procedures necessary to determine eligibility or ineligibility for the other maintenance benefit program.

If the county agency determines that the recipient has not complied with the procedures necessary to determine eligibility or ineligibility for other maintenance benefits, the county agency shall mail or give the recipient notice of termination from general assistance according to subpart 5.

D. An applicant or recipient shall execute an interim assistance authorization agreement with the county agency within 30 days of the date of referral.

If the recipient fails to execute an interim assistance authorization agreement within the 30 days prescribed, the county agency shall mail or give the recipient notice of termination from general assistance according to subpart 5.

Approved
by Revisor _____

Subp. 5. **Ineligibility.** This subpart governs termination of general assistance eligibility for a recipient who fails, without good cause, to comply with the requirements of subpart 4.

A. Upon determining that a recipient has failed, without good cause, to comply with the requirements of subpart 4 the county agency shall mail or give the recipient notification of termination from general assistance. The county agency shall hand deliver or mail the written notice to the recipient at least 30 days before reducing, suspending, or terminating the recipient's monthly general assistance payment. The notice must be on a form prescribed by the commissioner and must:

(1) list the requirements with which the county agency believes the recipient has not complied and inform the recipient that the recipient must comply with the requirements to avoid or end a period of ineligibility;

(2) inform the recipient that the recipient will be terminated from general assistance if the recipient fails to comply with the listed requirements, specify the date that the recipient's general assistance will be terminated if the recipient does not comply, and explain the recipient's right to appeal the action according to subpart 6;

(3) offer assistance to resolve the circumstances or concerns which prevent the recipient from complying with the requirements of subpart 4; and

(4) inform the recipient of the continued availability of special services provided under part 9500.1256, subpart 1.

B. If the recipient complies with the requirements specified in the notice in item A before the termination date stated in the notice, a period of ineligibility must not be imposed.

C. A recipient who fails to comply with the requirements specified in the notice in item A before the termination date stated in the notice is ineligible for general assistance. The period of ineligibility begins on the date specified in the notice and continues until the person fulfills

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the requirements of subpart 4. The period of ineligibility always begins on the first day of a calendar month. If the ineligible person subsequently applies for general assistance, the application must be denied unless the requirements of subpart 4 have been met.

D. If the person is determined to be ineligible under item C, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 6. **Appeals.** A recipient to whom the county agency has given or mailed a notice of termination according to subpart 5 may appeal the determination by submitting a written request for a hearing according to Minnesota Statutes, section 256.045. If the recipient files a written request for an appeal on or before the first day of the period of ineligibility under subpart 5, item C, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance.

Subp. 7. **Reimbursement for interim assistance.** A county agency must seek reimbursement for the interim assistance provided to a person who has executed an interim assistance authorization agreement under subpart 4, item D, when the person receives a retroactive payment of other maintenance benefits unless reimbursement is prohibited under federal or state law. Reimbursement for interim assistance and special services provided to an SSI applicant or recipient is governed by part 9500.1256, subpart 2.

The county agency must request reimbursement for interim assistance from the person receiving other retroactive maintenance benefits, except for SSI, or in those instances where the state or county agency has rights of subrogation under Minnesota Statutes, section 256.03. If a request for reimbursement under this subpart is denied, the county agency may institute a civil action to recover the interim assistance based on the interim assistance authorization agreement. The county agency must take no action other than a civil action to

Approved
by Revisor _____

recover the interim assistance.

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Subpart 1. **Special services.** A recipient who is referred to SSI according to part 9500.1254, subparts 2 and 3, item B, may elect to receive special services to assist the recipient in obtaining SSI benefits. Special services for which reimbursement for fees, costs, or disbursements may be claimed under subpart 2 or 3 are limited to the following:

A. explaining to or counseling the applicant or recipient about the application procedures and benefits available through the SSI program;

B. assisting the applicant or recipient in completing the application for SSI and arranging appointments related to application for SSI;

C. assisting the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues that may arise during the SSI eligibility determination process;

D. providing the applicant or recipient with medical or vocational evidence, social history, or expert testimony currently available to substantiate the presence and severity of the applicant's or recipient's blindness or disability;

E. assisting the applicant or recipient in obtaining and using medical or vocational evidence, social history, or expert testimony and in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assisting the applicant or recipient with necessary transportation;

G. preparing for and representing the applicant or recipient at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. the county agency's preparation of a contractual agreement with a qualified provider chosen by the applicant or recipient; and

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by Revisor _____

I. providing other services to assist the applicant or recipient to establish eligibility for SSI benefits.

Subp. 2. **Reimbursement for interim assistance and special services.** A county agency must be reimbursed for providing interim assistance and special services to an SSI applicant or recipient in the following manner:

A. Upon receiving the initial SSI payment for a person who has executed an interim assistance authorization agreement as specified in part 9500.1254, subpart 4, item D, the county agency may recover the amount of interim assistance provided. After recovering the interim assistance from the initial SSI payment, the county agency shall pay the remainder to the person or to a representative payee identified by the Social Security Administration within ten days of receiving the initial SSI payment. From the amount of interim assistance recovered, the county agency:

(1) shall retain the county's share of the interim assistance provided;

(2) may retain, subject to subpart 3, item E, 25 percent as an advocacy incentive for providing the special services specified in subpart 1, items A to D; and

(3) may retain from the remainder, subject to subpart 3, item E, reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 1.

B. The county agency may not seek reimbursement from the applicant or recipient for the fees, costs, or disbursements of providing special services except as provided in item A.

C. The balance of the amount of interim assistance that is not retained by the county agency pursuant to item A or paid to another qualified provider under subpart 3 must be credited to the state as an advance payment to the county agency for the state's share of the next month's general assistance grants.

D. The county agency must document the fees, costs, and disbursements which it incurs in providing the special

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services to claim reimbursement. The county agency shall be reimbursed under item A, subitem (3), only for the direct costs of providing special services.

Subp. 3. **Reimbursement to qualified providers under contract with the county agency to provide special services.** Qualified providers under contract with the county agency to provide special services to general assistance applicants or recipients shall be reimbursed from the amount of interim assistance recovered by the county agency under subpart 2 in the following manner:

A. To receive reimbursement for the fees, costs, and disbursements related to appeals and litigation and the provision of special services as provided in subpart 1, the qualified provider shall enter into a contract with the county and provide one or more of the special services specified in subpart 1.

The contract must be on a form prescribed by the commissioner except that the county agency may add to or modify the form without changing the substance of the contract in order to meet standard contracting procedures established by the county board.

B. The county agency must reimburse a qualified provider under contract with the county agency for the provider's reasonable actual fees, costs, and disbursements, including medical reports and expert testimony related to appeals, litigation, and providing special services to an applicant or recipient according to the following:

(1) a qualified provider shall not be reimbursed by the county agency for any fees, costs, or disbursements unless the applicant or recipient has requested the services, the county agency has referred the applicant or recipient to the qualified provider, and the county agency has received the initial SSI payment for the recipient served;

(2) the qualified provider shall be reimbursed by the county agency for fees related to the provision of special services at the rate determined by the qualified provider, but

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by Revisor _____

not to exceed $75 per hour of service; and

(3) when a qualified provider requests reimbursement from the county agency for fees, costs, or disbursements related to services provided, the qualified provider shall document the total number of hours of services provided to the applicant or recipient and provide a record of its costs and disbursements.

C. A qualified provider under contract to provide special services must comply with the following:

(1) a qualified provider shall not require prepayment of any fees, costs, or disbursements from the applicant or recipient; and

(2) a qualified provider shall not seek reimbursement from the applicant or recipient for fees related to the provision of special services. If a qualified provider intends to seek reimbursement for costs and disbursements from an applicant or recipient in the event the applicant or recipient is determined to be ineligible for SSI and the qualified provider therefore will not be fully reimbursed by the county agency, the qualified provider must so inform the applicant or recipient and obtain the applicant's or recipient's written consent before providing the special services. The qualified provider must also inform the applicant or recipient that he or she may receive the special services from the county agency without cost to the applicant or recipient.

D. The total reimbursement for special services made by the county agency to all qualified providers must not exceed the amount of interim assistance retained by the county agency as specified in subpart 2, item A, subitems (2) and (3), unless the excess is expressly authorized by the county agency and paid for exclusively with county agency funds.

E. If more than one qualified provider provides special services to an applicant or recipient, and the amount of interim assistance retained by the county agency will not fully reimburse all qualified providers, the reimbursement to each qualified provider for fees, costs, and disbursements shall be

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calculated by multiplying the total amount of funds available to the county agency as specified in subpart 2, item A, subitems (2) and (3), including any excess funds authorized by the county agency under item D, by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage shall be determined by dividing the number of hours spent by each qualified provider who provided special services by the total number of hours spent by the county agency and all other qualified providers under contract with the county agency who have provided special services to the applicant or recipient.

F. If the county agency and one or more other qualified providers provide special services to an applicant or recipient, and the amount of interim assistance recovered by the county agency under subpart 2, item A, subitems (2) and (3), exceeds the amount necessary to fully reimburse the qualified providers for fees, costs, and disbursements, the county agency may retain the excess to the extent allowed under subpart 2, item A, subitem (2).

G. The county agency shall reimburse a qualified provider for fees, costs, and disbursements for special services provided during the six-month period before the applicant or recipient was referred to the qualified provider, unless general contracting procedures of the particular county prohibit this payment. The provider's fees, costs, or disbursements for special services provided before the person's application for general assistance may be reimbursed only if funds remain after reimbursement for special services provided to the person after the person made application for general assistance.

H. The county agency and another qualified provider may contract to jointly provide the special services specified in subpart 1.

Subp. 4. **Termination of special services and contracts.** Special services and contracts must be terminated in the following manner:

A. If an applicant or recipient requests in writing that the county agency terminate the special services agreement

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by Revisor _____

with a qualified provider, the special services agreement for that applicant or recipient must be terminated, and the county agency shall mail written notice of the termination to the qualified provider. The notice must include a copy of the applicant's or recipient's written request for termination of the special services agreement. Termination of the agreement is effective three days after the date when the notice is mailed. The qualified provider shall not be reimbursed for fees, costs, or disbursements for special services provided to an applicant or recipient after the effective date of termination.

B. If a qualified provider decides to stop providing special services to an applicant or recipient, the qualified provider shall give or mail the following information to the applicant or recipient and, if the qualified provider is not the county agency, to the county agency:

(1) the status of the applicant's or recipient's application for SSI benefits;

(2) any deadlines that must be met regarding the applicant's or recipient's application for SSI benefits;

(3) the right of the applicant or recipient to choose another qualified provider, and the county agency's obligation to enter into a contract with a new qualified provider to provide the special services specified if the applicant or recipient chooses a qualified provider other than the county agency; and

(4) that a list of qualified providers may be obtained from the county agency.

Termination of the contract is effective three days after the date the provider gives or mails the information required in subitems (1) to (4) to the client.

C. If a qualified provider fails to perform all or part of the terms of the contract with the county agency, the county agency may terminate the contract with the provider. The county agency shall terminate the contract and mail written notice to the qualified provider and to the recipients served by the qualified provider. The notice must specify the county

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agency's grounds for terminating the contract. Termination of the contract is effective three days after the notice is mailed to the qualified provider. The county agency shall also give the recipient a list of other qualified providers who have contracted with the county agency to provide the special services specified in subpart 1 or who have asked to be included on the list. The qualified provider shall not be reimbursed for fees, costs, or disbursements related to special services provided after the effective date of termination.

9500.1259 COUNTY AGENCY RESPONSIBILITIES.

Subpart 1. **Work readiness program.** The county agency must provide a work readiness program for mandatory and voluntary participants according to items A to F.

A. The county agency's work readiness program must include an orientation to the work readiness program which must be offered at least monthly.

B. The county agency must assess each participant's literacy; ability to communicate in the English language; eligibility for displaced homemaker services under Minnesota Statutes, section 268.96; educational history; occupational assets; barriers to employment; and exemption status from work readiness participation. When assessing a participant's literacy, the county agency must determine whether the participant is functionally illiterate. For the purpose of this item, "functionally illiterate" means the participant is unable to read at or above the eighth grade level. A county agency shall determine if the participant is functionally illiterate according to subitems (1) and (2).

(1) The county agency may determine that the participant is functionally illiterate based on personal observations or information in the participant's case file.

(2) If the participant is not determined to be functionally illiterate as provided in subitem (1), but the county agency believes that the participant may be functionally illiterate, or if the participant asserts or presents evidence

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by Revisor _____

that the participant may be functionally illiterate, the county agency shall offer the participant an opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the participant. The county agency shall either administer the test or make arrangements for the test. If the participant attains a score lower than the eighth grade, the participant shall be considered functionally illiterate.

C. The county agency must prepare an employability development plan for each participant in work readiness. The employability development plan must address the participant's barriers to employment; estimate the length of time it will take for the participant to obtain employment; and specify steps necessary for the participant to overcome any barriers to employment identified in item B. Barriers to employment shall be addressed in the following order:

(1) A participant who is assessed by an English as a second language specialist, vocational specialist, or the county agency as being unable to communicate in the English language must participate in an English language program, if available.

(2) A participant who is determined to be functionally illiterate under item B must participate in an occupational or vocational literacy program, if available.

(3) A participant who has not completed secondary education must participate in a secondary school program or GED program, if available and appropriate.

(4) A participant who has none of the barriers specified in subitems (1) to (3) but who has no work experience must participate in job seeking skills training and a job search program.

(5) A participant who has none of the barriers specified in subitems (1) to (3) and who has a work history must participate in a job search program.

The employability development plan may include referral to available training programs and work experience programs

Approved
by Revisor _____

designed to prepare the participant for permanent employment or to education and training activities. A participant in a work experience program shall not perform work ordinarily performed by a regular public employee. The employability development plan must address the participant's barriers to employment, and may, in addition, require the participant to engage in job search or other work readiness activities so long as the combination of requirements does not exceed 32 hours per week or place any requirement upon a participant that interferes with employment which the county agency has determined can lead to self-sufficiency.

D. For those participants who are considered to be functionally illiterate under item B, the county agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of the participant;

(2) assign suitable participants to openings in occupational and vocational literacy programs;

(3) if no openings are available in occupational or vocational literacy programs, assign suitable participants to openings in literacy training programs;

(4) reassign to another literacy program any participant who does not complete an assigned program and who wishes to try another program;

(5) within the limits of funds available, contract with technical institutes or other groups who have literacy instructors trained in occupational literacy methods to provide literacy training sessions so that eligible participants will have the opportunity to attend training;

(6) provide transportation to enable participants to participate in literacy training. The state shall reimburse the county agency for the costs of providing this transportation; and

(7) make every effort to ensure that child care is available as needed by participants who are pursuing literacy training; however, no participant shall be disqualified for

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noncompliance with the literacy training requirement of work readiness if child care is not made available.

E. The county agency shall provide notices to work readiness participants as provided in subitems (1) to (6).

(1) The county agency shall provide, at the time of registration and each 30 days after that, in advance, a clear written description of the specified tasks and assigned duties the participant must complete to receive work readiness pay. The county agency shall provide notice that the participant will be terminated from the work readiness program unless the participant completes the specified tasks and assigned duties, or shows good cause for failure to do so. The county agency shall provide notice of the disqualification that will be imposed on the participant for failure to comply with part 9500.1245, subpart 8, item B.

(2) The county agency shall provide notice to a participant within three days of determination that the participant has failed to comply with work readiness requirements as specified in part 9500.1245, subpart 8, item A.

(3) For the first instance of noncompliance in a six-month period, beginning on the date of the participant's orientation or the end of the previous disqualification, whichever is later, the county agency's notice:

(a) must allow at least five working days, after the mailing or hand delivery of the notice, for the participant to take specific corrective action which can realistically be done before the date assistance is scheduled to be paid;

(b) must advise the participant that the participant may request and have a conference with the county agency to discuss the notice; and

(c) must advise the participant that failure to take corrective action by the effective date of the termination notice in subitem (5) will result in termination of assistance and disqualification from program eligibility for one month.

Approved by Revisor _____

(4) For a second or subsequent instance of noncompliance within a six-month period, beginning on the date of the participant's orientation or the end of the previous disqualification, whichever is later, the county agency's notice of its determination of noncompliance:

(a) must be mailed or hand delivered to the participant before the date assistance is scheduled to be paid; and

(b) must advise the participant that the participant may request and have a conference with the county agency to discuss the notice. The applicable period of disqualification under this subitem is two months.

(5) The county agency shall mail or hand deliver notice of termination concurrently with the notice of noncompliance specified in subitems (3) and (4) only after assessing the participant's exemption status from work readiness participation under part 9500.1251, subpart 2, items A to Q, using the information contained in the recipient's case file. The notice of termination must state that the recipient is not exempt from registration and must indicate the applicable period of disqualification. The advance notice requirements of this item are the same as those of subitems (3) and (4).

(6) The county agency shall assign a schedule by which a participant who has failed to provide the agency with a mailing address must visit the county agency to pick up any notices. Those notices must be deemed delivered on the date of the participant's next scheduled visit to the county agency.

F. The county agency may subcontract any or all of the duties prescribed in items A to D and E, subitem (1). The contract does not relieve the county agency of its primary responsibility in the instance of a default of any provision by a subcontractor.

Subp. 2. **Appeals.** The participant may appeal a proposed termination of benefits until five days after the effective date specified in the notice and continue benefits otherwise due, pending the outcome of the appeal. Appeals from proposed

Approved by Revisor _____

terminations of benefits of participants must be heard within 30 days from the date that the appeal was filed.

Subp. 3. **Information about other programs.** A county agency must inform an applicant or recipient about other programs administered by the county agency for which, from the county agency's knowledge of the person's situation, the person may be eligible.

Subp. 4. **Notices.** The county agency shall mail or hand deliver a notice to a recipient no later than ten days before the effective date of the action except as provided in items A to C. A recipient who has failed to provide the county agency with a mailing address must be assigned a schedule by which the recipient is to visit the agency to pick up any notices. Notices will be deemed to have been delivered on the date of the recipient's next scheduled visit to the county agency.

A. A county agency shall mail a notice to a recipient no later than five days before the effective date of the action when the county agency has factual information which requires an action to reduce, suspend, or terminate assistance based on probable fraud.

B. A county agency must mail or hand deliver a notice to a recipient no later than the effective date of the action when:

(1) the county agency receives a recipient's household report form which includes facts that require payment reduction, suspension, or termination and which contains the recipient's signed acknowledgment that this information will be used to determine program eligibility or the assistance payment amount;

(2) the county agency verifies the death of a recipient or the payee;

(3) the county agency receives a signed statement from a recipient that assistance is no longer wanted;

(4) the county agency receives a signed statement from a recipient that provides information which requires the termination or reduction of assistance, and the recipient shows

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by Revisor _____

in that statement that the recipient understands the consequences of providing that information;

(5) the county agency verifies that a member of an assistance unit has been approved to receive assistance by another county or state; or

(6) the county agency cannot locate a payee's whereabouts and mail from the local agency has been returned by the post office showing that the post office has no forwarding address.

C. Whenever any provision of this subpart conflicts with any special notice requirements of another part, those special notice provisions shall prevail.

9500.1261 EMERGENCY ASSISTANCE.

Subpart 1. **Emergency assistance.** A county agency shall make grants of general assistance for emergency situations to eligible individuals, married couples, or families whether residents or nonresidents of the state. The emergency assistance grant may be in excess of the standard amounts for eligible individuals, married couples, or families under part 9500.1231.

Subp. 2. **Emergency situation.** An emergency situation is a situation in which an assistance unit is without, or will lose within 30 days after application, a basic need item as defined in part 9500.1206, subpart 7a.

A. The emergency situation must require immediate financial assistance.

B. The financial assistance required by the emergency must be temporary and must not exceed 30 days subsequent to the date of application. Assistance must be paid for needs that accrue before the 30-day period when it is necessary to resolve emergencies arising or continuing during the 30-day period subject to subpart 4.

Subp. 3. **Eligible persons.** Eligible individuals, married couples, or families are those:

A. who are not current recipients of AFDC, other than

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a one-person assistance unit consisting of a pregnant woman;

B. who are not recipients under or eligible for the program of emergency assistance under AFDC in the month of application for emergency general assistance;

C. whose resources are not adequate to resolve the emergency situation. For the purpose of this part, "resources" means any funds or services which can actually be available to the applicant or recipient or any member of the filing unit before the loss of a basic need item. Resources include available income without exclusion or disregard, and any resource otherwise excluded under part 9500.1221, subpart 2, which could be liquidated before the loss of a basic need item, so long as the terms of any borrowing cannot be reasonably expected to place the borrower in another emergency situation within three months including the month of application;

D. who have not, without good cause, used more than 50 percent of available income and liquid resources for purposes other than basic needs during the 60 days before application. This item does not apply to individuals who are chemically dependent, mentally ill, or mentally retarded; or

E. who are not in a period of disqualification from work readiness if that disqualification has caused the emergency situation unless the emergency situation directly affects other assistance unit members who are not in a period of disqualification.

Subp. 4. **Payment provisions.** When the county agency has determined that an applicant has an emergency situation and is eligible for emergency general assistance, the county agency must resolve the emergency in the most cost-effective manner. Resolution of the emergency situation in a cost-effective manner shall be governed by items A to H.

A. An emergency general assistance payment is not cost-effective if the applicant's anticipated income together with the grant of emergency general assistance will not be sufficient to cover the applicant's basic needs for the three-month period beginning with the month of application, and

Approved
by Revisor _____

another emergency situation can reasonably be anticipated within the two months after the month of the grant of emergency general assistance.

B. When alternative solutions to the emergency situation are available, the most cost-effective solution is the solution which will require an expenditure of emergency general assistance funds which is at least 25 percent less than the emergency general assistance expenditure required to maintain the applicant or recipient in his or her current situation. The county agency has no duty to provide alternative solutions, but must have a reasonable basis to believe that alternative solutions exist. A county agency must not deny assistance because of the determination that the applicant's anticipated income will not cover continued payment of shelter and utility costs when no alternative solution is identified by either the applicant or the county agency.

C. In determining the cost-effectiveness of an emergency general assistance payment, the county agency must not consider a period of time greater than three months including the month of application for emergency general assistance.

D. When the county agency has determined that the emergency situation has resulted from the applicant's mismanagement of money, the county agency may include vendor payment of future needs as part of a cost-effective solution subject to review at each redetermination of eligibility.

E. Emergency grants for food must not exceed the amount the assistance unit would receive under the United States Department of Agriculture's Thrifty Food Plan.

F. Emergency grants for clothing must not exceed the cost of necessary clothing for assistance unit members considering the season of application.

G. Emergency grants for shelter, exclusive of moving expenses or deposits, must not exceed an amount equal to four times the assistance unit's monthly assistance standard. <u>For the purposes of this item, the amount of a single individual's monthly assistance standard is the amount specified in part</u>

Approved by Revisor _____

9500.1231, subpart 1. A county agency may receive state participation for payments in excess of the limits of this item if the county agency has documented that no shelter is available within the limits of this item which is cost effective as governed by items A to C.

H. Grants for emergency general assistance must be in the form of vouchers or vendor payments unless the county agency determines that a cash grant will better meet the need of the emergency situation.

Subp. 5. **Assistance for transportation.** Notwithstanding subpart 2, grants may be issued under the emergency general assistance program for an applicant's immediate need for transportation in the following situations:

A. the need for assistance will not exceed 30 days and the transportation is required to accept a bona fide offer of suitable employment; or

B. the transportation is requested by the applicant to return to a residence maintained by or for the applicant.

Subp. 6. **Excess grants, county agency payment responsibility.** A county agency may issue emergency assistance grants that exceed the limitations in subpart 4 if the county agency does not include the additional costs on its claim for state aid reimbursement.

9500.1272 ASSIGNMENT OF REPRESENTATIVE PAYEE FOR RECIPIENTS WHO ARE DRUG DEPENDENT.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Form of payment pending completion of assessment.** A county agency shall provide only emergency general assistance (EGA) or general assistance vendor payments to a client who has been referred for a chemical use assessment under subpart 2. EGA may be provided to clients only in emergency situations as provided in part 9500.1261. All other payments made under this subpart must be general assistance vendor payments.

[For text of subps 5 to 19, see M.R.]

Approved by Revisor _____

REPEALER. Minnesota Rules, parts 9500.1205; 9500.1206, subparts 19 and 31; 9500.1209; 9500.1210; 9500.1212; 9500.1214; 9500.1216; 9500.1217; 9500.1218; 9500.1220; 9500.1222; 9500.1224; 9500.1226, subparts 2, 3, and 4; 9500.1227; 9500.1228; 9500.1229; 9500.1230; 9500.1232, subparts 1, 2, and 3; 9500.1238; 9500.1240; 9500.1242; 9500.1246; 9500.1248, subparts 1 and 2; 9500.1252; 9500.1257; 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 are repealed.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

January 31 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassidy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 31 1991
Joan Anderson Growe
Secretary of State
3:50 P.M.

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38___

TO: Patricia Nolte, Legal Assistant
Public Finance Division
525 Park Street, Suite 500

FROM: Jim Schmidt, Rulemaker
Department of Human Services

SUBJECT: Review of a Rule Adopted Without a Public Hearing; Proposed permanent rules relating to General Assistance, Minnesota Rules, chapter 9500

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of a rule adopted without a public hearing for the above entitled matter.

Official documents in this submitted material include:

1. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt a rule without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

5. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.

6. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

RECEIVED

JAN 17 1991

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

Submission to Attorney General for Administration
Review of Rule Adopted Without a Public Hearing
General Assistance Rule, chapter 9500

7. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the revisor of statutes.

8. The findings of fact, conclusions, and order adopting the rule.

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

10. The declaration of the attorney in the attorney general's office who represents the agency.

11. No requests were received to be notified of submittal of the rule to the Attorney General.

If you have any questions on this submitted material, please call me at 296-7815.

RECEIVED

JAN 17 1991

Office of the Attorney General
Government Services Section
Capitol Office Bldg. - Suite 500
525 Park Street
St. Paul, MN 55103

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, Minnesota Rules, Part 9500.1200 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

(1) 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, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5.

(2) 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. (3) 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. (4) 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 unless a sufficient number withdraw their request in writing. (6) 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. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 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 October 30, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

(5) Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on October 17, 1990.

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

(11) A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

(11) A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

(11) The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement Minnesota Statutes, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

(12) 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 upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816 or by calling (612) 296-7454.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services.

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 Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

State of Minnesota

Dated: Aug 29, 1990

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing General Assistance, Minnesota Rules, Part 9500.1200 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 Room 500 South, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on October 30, 1990, 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 CANCELED 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

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 Allan W. Klein, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7609, 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, sections 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.

The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement Minnesota Statutes, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5. Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7454. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

NOTICE: Any person may request notification of the date on which the Administrative 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 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, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: Aug 29, 1990

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing General Assistance	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on September 17, 1990 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on September 12, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The agency received two (2) requests for a public hearing. (5) One request was subsequently withdrawn after the close of the comment period. Therefore the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

(6) Based on the comments and evidence in the record before the agency, I find the following:

1. 9500.1206, Subp. 3. Advanced Age. Legal Services Advocacy Project (LSAP) -- "This definition now precludes consideration of advanced age as a condition that substantially affects the ability to seek or engage in substantial work if the person is under age 55 except insofar as that person is determined by a qualified professional to be unlikely to obtain permanent employment due to age and other factors under 9500.1251, subpart 2 (Q). There are two problems with this approach. First, in Minn. Stat. section 256D.05, subd. 1(a)(7) the legislature did not establish a specific year at which a person is considered to be of advanced age. This doesn't seem to be unintentional and sets up a different and separate category of eligibility than that in subd. 1(a)(8), the statutory basis for the provision in 9500.1251, subp. 2(Q). The proposed definition of advanced aged, however, basically precludes eligibility for anyone under age 55 due to advanced age unless the person can establish eligibility under 9500.1251, subp. 2(Q). This is not a reasonable construction of the differences between subdivision 1(a)(7) and (8). Second, the language in 9500.1251, subp. 2(Q) is itself problematic for reasons that are specified below (LSAP's Comment #18B -- See Findings #30). Nevertheless, even if that provision is approved for those who can establish eligibility only under subd. 1(a)(8), it is not appropriate to require those who are under 55, and eligible due to advanced age alone, to comply with the

same requirements as those whose eligibility rests, at least in part, on non-age based factors."

LSAP recommended that the Department reinstate the current rule definition.

FINDINGS: Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (7) provides general assistance eligibility for "a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work."

The current rule provided a definition of "advanced age" which included persons under the age of 55, so long as those persons had been evaluated by a vocational specialist and found to have significantly limited ability to obtain or retain suitable employment due to the person's age. When the current rule was drafted, a person who was not categorically eligible for general assistance could only receive a maximum of six months of concurrent work readiness benefits and services. Since the benefits and services did not permit major rehabilitative services to be performed, the rule permitted the broadest possible definition of "advanced age" and therefore categorical eligibility for general assistance. Categorical eligibility for general assistance exempts an individual from any requirement to seek self sufficiency through employment.

In 1989 the legislature amended Minnesota Statutes, section 256D.01, subdivision 1, to include as an objective of the general assistance program a provision for work readiness services to "help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work". To accomplish this objective, the legislature made work readiness services and benefits available on a continuous basis. As a result, there is no difference in financial benefits for persons who are categorically eligible for general assistance from those who receive work readiness services. The only difference between the two groups is that persons who are not categorically eligible for general assistance must participate in work readiness services in an effort to attain self-sufficiency.

It is difficult to conceive of a situation where an individual who is under the age of 55 is unable to obtain suitable employment due to the individual's age alone. If under the age of 55 and unable to obtain employment due to other conditions, a person could be categorically eligible for general assistance in a number of other categories including section 256D.05, subdivision 1, paragraph (a), clause (8), which entitles general assistance eligibility to a person who has been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market.

The Department declines to accept the recommendation of LSAP because retention of the current definition would be contrary to the objectives of the general assistance program stated under section 256D.01, subdivision 1, "... to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work."

2. 9500.1206, Subp. 12a. Documentation. LSAP -- "It is not evident why there is a distinction made between different types of documentation. There appears to be no implementation of this distinction in the rule itself. See 9500.1215, Subp. 2. (Page 21, lines 3-7). The distinction is not maintained in the Combined Manual."

FINDINGS: Minnesota Statutes, section 256D. 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program. As indicated in the Statement of Need and Reasonableness, the proposed rule borrowed heavily from the AFDC rule to comply with statute and to ensure consistency among the public assistance programs. The language in the proposed rule which makes a distinction between "primary documentation" and "alternative documentation" is an instance where that borrowing serves no useful purpose.

The Department accepts LSAP's recommendation to delete the distinction between primary and alternative documentation and to delete the reference to that distinction in part 9500.1215, subpart 2 where the terms are used.

On page 4 of the proposed rule, delete lines 7 to 14. On page 21, line 4, delete the words "primary or" on line 5, delete the word "alternate".

The change is based on views submitted to the Department and does not result in a substantial change.

3. 9500.1206, Subp. 12d. Emancipated minor. James Wilkinson, Legal Aid Society of Minneapolis, objected to the definition of emancipated minor. The Department met with Mr. Wilkinson and representatives from Project Offstreets to discuss emancipated minor issues.

FINDINGS: The current administrative rule for general assistance and work readiness was adopted in 1986. In 1987, the legislature created a general assistance category for minor applicants which used the term "legally emancipated". Because that term does not have a common meaning, the Department issued Instructional Bulletin (87-4A) to provide a definition of "legally emancipated". Several problems with that definition have recently come to light which were not adequately addressed by the rule advisory committee. Subsequent to Mr. Wilkinson's request for a hearing, the Department contacted him to discuss the "emancipated minor" issue. There are acknowledged problems

with the proposed definition and neither DHS nor Legal Aid was convinced that the issues would be adequately addressed by amending the General Assistance rule. As a result, the Department and Legal Aid agreed to continue to pursue a resolution of the emancipated minors issue outside of the context of the proposed administrative rule.

Concerns identified by the Department or Legal Aid included the following: Does the declaration of emancipation affect entitlement under other government assistance programs? Is an individual who is declared an "emancipated minor" for purposes of general assistance ineligible for social services for minors? Can an individual be "emancipated" for the purpose of one program and not for another? Who should make the determination of "emancipation"? The courts? A financial worker? A social worker? What impact does emancipation have on parental responsibilities?

Due to the possibility of unforeseen consequences and because the current rule has operated without a definition of "emancipated minor" since 1987, the Department is willing to delete the proposed definition. Until the issue is resolved, determination of whether a minor is emancipated will continue to be done on a case-by-case basis. On October 23, 1990, the Department met with Legal Aid, Project Offstreets, and representatives from county agencies to discuss this issue further in order to develop a possible resolution of issues to recommend for DHS approval. Additional meetings are scheduled. Ultimately, this issue may even require new legislation.

The Department accepts the recommendation of Legal Aid to delete the proposed definition. On page 4, delete lines 32 to 36. On page 5, delete line 1. Reletter the subsequent subparts 12e to 12l as 12d to 12k.

The change to the rule is necessary to preclude unforeseen consequences regarding eligibility and entitlement for minors under social services programs. The change is supported by views submitted to the Department and does not result in a substantial change.

4. 9500.1206, Subp. 15, Good cause. LSAP -- "Because inability to pay for child care is frequently the reason a person is unable to meet program requirements, this factor should be listed specifically."

FINDINGS: The definition of "good cause" in the current rule provides a general framework in which good cause for taking an action or for failing to take an action can be determined. Within that framework certain specific situations are cited which are prima facia evidence of good cause. The proposed rule adds another specific example to the general framework for situations involving conflicting obligations. LSAP recommended that another specific example be added to cover situations where the person is unable to obtain adequate child care. The

Department agrees that an individual who is unable to obtain adequate child care would have "good cause" for not participating in an activity under the current rule.

LSAP's suggestion to include the phrase "to pay for" would apply to transportation as well as child care. The Department opposes that change and believes the phrase "to pay for" is a substantial change. Child care or transportation may be obtainable but the client could state he or she is unable "to pay for" child care or transportation because the client lost his or her money, no longer had any money because he or she inappropriately spent the money elsewhere, or there may be child care or transportation available to the client at no cost. The addition of the phrase "to pay for" would substantially alter the definition of good cause as it relates to transportation and child care, and is therefore a substantial change.

Except for the phrase "or pay for", the Department accepts LSAP's recommendation. On page 6, line 35, after the word "transportation" insert "or adequate child care". Specifically citing circumstances that constitute "good cause" is not a substantial change.

5. 9500.1206, Subp. 16a. In-kind income. LSAP -- "Minnesota Statutes, section 256D.02, subdivision 8 provides that in-kind income, to be considered available, must be of a type which the recipient: "could legally require to be paid in cash to himself or herself." The rule should be amended to reflect the statute."

FINDINGS: The Department accepts LSAP's recommendation. On page 7, lines 26 to 31 are amended to read:

Subp. 16a. **In-kind income.** "In-kind income" income means income, benefits, or payments that are provided in a form other than money or liquid assets, and which the applicant or recipient cannot ~~be made available to the individual in those forms~~ legally require to be paid in cash to the applicant or recipient, including goods, produce, services, privileges, or third-party payments made on behalf of a person for whom the income is intended.

The change is consistent with Minnesota Statutes, section 256D.02, subdivision 8. It is not a substantial change.

6. 9500.1206, Subp. 17. Interim assistance. LSAP -- "There appears to be two substantive changes from current policy in this definition. One concerns an increase in the period of time, and therefore, the amount of general assistance which can be recovered, to include the period before an interim assistance agreement is signed. The proposed rule would require applicants to agree to the retroactive collection of benefits. This is clearly a substantial change in the rule made without any change whatsoever in the authorizing statute, section 256D.06, subdivision 5. This time period is now expanded, not because Minnesota law has changed, but because, according to the Statement of Need and Reasonableness (hereafter SNR), there has been

a change in a policy by the Social Security Administration which permits a state to expand this time period. However, such a significant change in the rule, in the absence of a change in underlying Minnesota law is not reasonable. Furthermore, the reliance on simply a letter from the Social Security Administration is unreasonable. The change in policy on the federal level has not occurred through proper administrative procedures act rulemaking nor through a statutory change. The new policy, therefore, should not be given any force or effect.

The second change from current policy is in the definition of the amount of interim assistance which can be recovered. This changes (sic) appears likely, depending on the nature of the other benefit received, to permit recovery of general assistance paid to assistance unit members other than the recipient of the other maintenance benefits. This is to be both unreasonable and unsupported in applicable Minnesota law."

FINDINGS: The current administrative rule begins the interim assistance period with the month of application for general assistance, the first month of eligibility for another maintenance benefit, or the date that an interim assistance agreement is signed, whichever is latest. The inclusion of the date of signing an interim assistance agreement was based on the Department's understanding of SSI policy at the time. The Department's understanding of SSI policy was in error. Subsequent to the drafting and adoption of the current rule, the Social Security Administration advised the Department that the Department's restriction of the interim assistance period was not required by federal law. The Social Security Administration confirmed this statement by letter. It should be clearly understood that there has <u>not</u> been a "change" in federal policy as suggested by LSAP.

Minnesota Statutes, section 256D.06, subdivision 5 states, "Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits within 30 days of the general assistance application; and (b) execute an interim assistance authorization agreement on a form as directed by the commissioner. If found eligible for benefits from other sources, and a payment received from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the local agency for the interim assistance paid. Reimbursement shall not exceed the amount of general assistance paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period...." Clearly, a statutory change is not necessary in order to amend the rule. However, since the rule change will affect some general assistance applicants and recipients, rulemaking under Chapter 14 is both necessary and appropriate to effectuate this change. The proposed change is consistent with Minnesota Statutes, section 256D.06, subdivision 5 ..."If found eligible for benefits from other sources, and a payment received

from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the local agency for the interim assistance paid."

With respect to LSAP'S comment regarding recovery, Minnesota Statutes, section 256D.02, subdivision 8, includes as income such things as retirement benefits, disability benefits, unemployment benefits, supplemental security income, and other benefits which are considered under the definition of "other maintenance benefits". The statute then specifically allows that those forms of income be allowed to meet the needs of persons other than those for whom the benefit was intended: "Such payments may not be considered as available to meet the needs of any person other than the person for whose benefit they are received, unless that person is a family member or a spouse and the income is not excluded under section 256D.01, subdivision 1a." (emphasis ours). The proposed rule represents a change supported by specific statute.

The specific effect of the statute is to allow recovery of amounts of general assistance paid to members of the beneficiary's family from a retroactive payment of another maintenance benefit. Since some other maintenance benefits, such as RSDI, would be deemed available to members of the family of a beneficiary in any case, this rule provision is both reasonable and specifically supported in Minnesota law.

The Department declines to make the changes recommended by LSAP.

7. 9500.1206, Subpart 20. Medical certification. LSAP -- "Since a physician could certify a spinal subluxation condition as well as a chiropractor, it is appropriate to include a physician in this part of the definition and unreasonable to limit certification to chiropractors."

FINDINGS: The text of the proposed rule implies that diagnosis of an incapacity involving a spinal subluxation condition can only be certified by a licensed chiropractor. That implication was unintended. The Department accepts the recommendation of LSAP. The rule is being amended to include diagnosis by a licensed physician. On page 9, line 29, delete the word "means" and insert in lieu thereof the word "includes". On page 9, line 29, after the word "licensed" insert "physician or a licensed".

The change is supported by views submitted to the Department and does not result in a substantial change.

8. 9500.1206, Subpart 20a. Medical Evidence. [New] M. Francesca Chervenak, Legal Aid, stated the rule does not provide a definition of medical evidence and recommended defining that term.

FINDINGS: Minnesota Statutes, section 256D.05, subdivision 1a(6), uses the phrase "medical evidence" without further definition. Legal Aid Society suggested that one be provided to avoid

confusion and to provide for uniform administration of the general assistance program. The Department accepts Legal Aid's recommendation to define "Medical Evidence." On page 9, after line 31, insert the following:

"Subp. 20a. **Medical evidence.** "Medical evidence" means records, reports, treatment notes or other written documentation about a person's illness, injury or impairment from a hospital, clinic, treatment facility, detoxification facility, physician, psychologist, nurse, therapist, or other mental health professional. It may also include evidence listed in a copy of the Disability Determination Rationale provided by the Social Security Administration."

The definition provides clarity to the rule. The change is supported by views submitted to the Department and does not result in a substantial change.

9. 9500.1206, Subpart 26d. Qualified professional. Legal Aid -- "The definition is too narrow to serve most clients. Often these claimants don't have a doctor or social worker, but rather see a therapist or counselor, or have been evaluated by a vocational specialist. I understand that you are concerned about having this definition broadened. However, it is not reasonable to allow a county social worker or MSW to determine a person's mental illness or retardation prevents them from working without including even more appropriate professionals like therapists or chemical dependency counselors."

FINDINGS: Prior to legislative changes in 1989, the definition of "qualified professional" was used to determine whether a recipient was eligible for four additional months of work readiness assistance beyond the initial two. On January 1, 1988, all work readiness recipients were eligible for six months of work readiness assistance and, as a result, the definition of qualified professional was unnecessary since it no longer served a function.

In 1989, Minnesota Statutes used the term "qualified professional" for the first time with regard to the categories of general assistance. As a result, qualified professionals can now determine whether a person is exempt from participation in the work readiness program. The change proposed by Legal Aid would greatly broaden the group of persons who could determine exemptions from work readiness. The rule advisory committee engaged in lengthy discussions on whether the current definition of "qualified professional" should be retained with its broadened function, or whether the definition should be modified. The consensus of the committee was to retain the current definition without change.

Specifically, to allow persons such as chemical dependency counselors to exempt persons from participation in the work readiness program is contrary to the legislative intent that the General Assistance program must "provide work readiness services

to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work" [M.S. 256D.01, subd. 1]. At this time there is no state licensing procedure for chemical dependency counselors, nor uniform guidelines for qualifications. The same can be said for the general group "therapists" with the result that adopting the suggested change to include these persons within the definition of "qualified professional" could result in the exemption of large numbers of employable and potentially employable persons from participation in work readiness services which is contrary to the statute.

The Department declines to accept the recommendation from Legal Aid.

10. 9500.1206, Subpart 32. Suitable employment. LSAP -- "This definition should be changed to ensure that the gross income total corresponds to the amount received for 40 hours of work at minimum wage and that the correct minimum wage is being used."

FINDINGS: The Department accepts LSAP's recommendation. On page 14, lines 31 to 35 are amended to read:

"C. provides a gross <u>weekly</u> income equal to the federal or state minimum wage <u>applicable to the job</u> for 40 hours per week, or ~~an~~ <u>a monthly</u> income which, after allowable exclusions, deductions, and disregards would exceed the standard of assistance for the assistance unit, whichever is less; and"

This change is supported by views submitted to the Department and does not represent a substantial change.

11. 9500.1211, Subpart 2. Right to apply. LSAP -- "This provision should be modified so that a person would not have to specifically indicate a desire to apply for public assistance benefits. Anyone indicating a need for financial assistance should be offered an application."

FINDINGS: The Statement of Need and Reasonableness for the proposed rule stressed consistency among assistance programs and made reference to the Department's single, combined application form for all public assistance programs without the necessity of a person applying for a specific program. Since an applicant need only request cash assistance, it is not necessary for the applicant to inquire about specific programs such as general assistance, AFDC, MSA, etc. The Department accepts the LSAP's recommendation to change the phrase "inquires about general assistance" to "inquires about financial assistance".

On page 16, line 12 delete the word "general" and insert in lieu thereof the word "<u>financial</u>". The change is supported by views submitted to the Department and does not result in a substantial change.

The Department declines to accept LSAP's suggestion to change the phrase "inquires about" to "indicating a need for financial or other assistance". While inquiring about financial assistance has a clear, commonly understood meaning, "indicating a need for financial or other assistance" is ambiguous. Would a person's appearance be the standard for "indicating a need for financial assistance or other assistance"? What other standard would be used in absence of a specific request? The Department believes it is reasonable to require persons seeking financial assistance to inquire about assistance.

12. 9500.1211, Subp. 3. Authorized representative. LSAP -- "County staff should be required to assist an applicant or recipient who has been identified as needing assistance." LSAP recommended that on page 16, line 28, the word "may" be changed to "shall". LSAP also stated the inability of many applicants and recipients to communicate with county staff is a major barrier in obtaining general assistance benefits. LSAP recommended specific language to deal with communication barriers.

FINDINGS: The Statement of Need and Reasonableness for this subpart makes clear reference to the county's responsibility to provide assistance to applicants or recipients who need help in completing the application process. However, county staff are only required to provide assistance to an applicant or recipient to take the actions necessary to submit an application: "When a county agency determines that it is necessary for a person to assist an applicant or recipient, the county agency shall designate a staff member to assist the applicant or recipient." (Part 9500.1211, subp. 3) To require county agencies to appoint staff members to assist applicants who are capable of submitting an application would be an unreasonable burden on county agencies and a substantial change from the proposed rule.

The Department believes that the requirement to assist persons who are hearing impaired or unable to communicate sufficiently in the English language is already implicit in the proposed rule, and declines to accept the recommendation from LSAP.

13. 9500.1211, Subp. 5. Rights pending hearing. LSAP -- "There are several rights which applicants and recipients have respecting hearings which they should be informed of in order for them to effectively take advantage of their rights. Unless applicants and recipients are informed of their rights, the existence of the rights are not particularly helpful. There is no rule provision setting forth what information should be given to a person when they are sent a notice affecting their eligibility for assistance or the amount of a grant. The new certification manual addresses this issue, but since the manual does not have the force and effect of law, these provisions should be set forth in the rule."

FINDINGS: As LSAP noted, the Department's certification manual addresses the issue of what information must be included in notices of adverse action consistent with Minnesota Statutes.

The omission of those requirements from the rule is unintentional.

The Department accepts LSAP's recommendation. On page 18, after line 24, insert a new subpart to read:

"Subp. 7. **Right to notice.** When a county agency notifies an applicant or recipient of its intention to deny an application or reduce, suspend, or terminate payment, the county agency shall specify in its notice the action it has taken or intends to take, the reason and legal authority for the action, and the right to appeal and request a fair hearing. The notice shall also inform the applicant or recipient of the conditions under which assistance will continue pending the appeal outcome, the responsibility to repay assistance if the appeal is unsuccessful, the right to be reimbursed for reasonable and necessary expenses of attending an appeal hearing, and the right to review county agency records in accordance with subpart 6."

The change is supported by views submitted to the Department and does not result in a substantial change.

14. 9500.1211, Subp. 6. Right to review records. LSAP -- "This subpart should be modified to specifically provide for the right to review county agency records in advance of an appeal even if this is done with less than 5 days notice. This modification is supported by Minnesota Statutes, section 256.045, subd. 4."

FINDINGS: The proposed rule requires that certain records be made "available to an applicant or recipient as soon as possible but in no event later than the fifth business day following the date of the request." LSAP's suggested language would require the availability of records in advance of a hearing regardless of the time the records were requested. This language could impose considerable hardship on county agencies. As a practical matter, the Department is not aware of any instance in which an appeals hearing has gone against an applicant or recipient because a county agency has failed or refused to provide records to the applicant or recipient. On the other hand, there are instances in which an appeals hearing has been continued and the record left open to enable the petitioner additional time to obtain required information. The scheduling of contested case hearings offers applicants and recipients ample time to obtain records prior to the hearing. Moreover, the rule provides that records be made available as soon as possible but in no event later than the fifth business day following the date of the request. (Emphasis added) The timeliness set forth in the rule is reasonable. LSAP's recommendation that the right to review records include "before or during a fair hearing" places a time restriction on the agency which is not reasonable and which, in most cases, would be administratively difficult to comply with, costly, and disruptive of services to other clients.

The Department declines to make the changes recommended by LSAP.

15. 9500.1213, Subpart 1. Application for general assistance, county of residence. Hennepin County urged that the second and third sentences of this subpart be deleted. "An applicant should be required to apply in his or her county of residence without exception.... To require property taxpayers in a county to pay staff to take applications for non-residents is not reasonable. A county that adjoins another which has only a remote intake site would be placed in a position where they would be forced to subsidize the staffing costs of the one with remote intake sites."

FINDINGS: The Statement of Need and Reasonableness for the proposed rule emphasizes the need for consistency among the various public assistance programs, and assures access to those programs. While the Department recognizes the potential for some abuse by residents of one county making application in another for convenience, a greater harm would be created by requiring applicants in need to delay application and travel to another site to make application. The thrust of the rule provision is that persons would be advised to make application in the person's county of residence but a county could not refuse to take the application if the applicant desires to submit it. The administrative burden placed on a county to promptly forward the completed application to the county of residence is minor when compared to the alternative burden placed on applicants.

The Department declines to accept the recommendation of Hennepin County.

16. 9500.1213, Subp. 2. County agency requirements. LSAP -- "Paragraph F as proposed would unreasonably permit a county agency to make no decision on a request for emergency assistance by deciding that the emergency could be resolved through other sources. It is unreasonable for a rule to permit requests for assistance to go unprocessed. By deciding that an emergency can be resolved through other sources, the county agency is actually denying emergency assistance, but the rule permits the agency to act (or not act) without giving the applicant or recipient notice of the action and an opportunity to appeal. Such a situation violates basic tenets of due process."

FINDINGS: The proposed rule uses language from the AFDC program governing AFDC emergency assistance. However, in this instance the AFDC provision is in conflict with the General Assistance Act. The AFDC program limits the number of times an applicant or recipient can receive emergency assistance to once per year, with the result that it is in the applicant's or recipient's interest to have emergencies met by the prompt issuance of a monthly grant rather than use the limited resource of emergency assistance. Emergency general assistance has no such limitation, and has the further ability to reduce the first months grant by the amount of emergency assistance issued (M.S. 256D.07). As a result, use of the AFDC policy is inappropriate to the general assistance program and is contrary to Minnesota Statutes, section 256D.07 which also states, "... A person in

need of emergency assistance shall be granted emergency assistance immediately...."

The Department accepts the recommendation of LSAP. On page 19, lines 20 to 25, item F is amended to read.

"F. inquire and determine at the time of initial application if the applicant has an emergency as defined in part 9500.1206, subpart ~~12e~~ 12d, and if so, determine the person's eligibility for emergency assistance under part 9500.1261~~, unless the emergency can be resolved through other sources or by promptly processing an application for monthly assistance~~.

The change from subpart 12e to 12d is necessary due to the relettering change in findings #3. The change is consistent with Minnesota Statutes, section 256D.07 and is not a substantial change. The thrust of this item is to require county agencies to determine emergency needs at the time of application.

17. 9500.1213, Subp. 7. Processing application. LSAP -- "This subpart will require denial of an application whenever eligibility cannot be determined for any reason within the second 30 day period. In instances where additional necessary information cannot be obtained through no fault or lack of effort by the applicant, this is not equitable. The statute requires only a "determination", not a denial, in 30 days. Under these circumstances a determination can reasonably include a decision to await further information before denying or approving the application."

FINDINGS: A basic principle of public assistance is that counties must verify the eligibility of clients and that clients must demonstrate their eligibility by providing documentation. The suggested change to the proposed rule by LSAP tends to limit the county agency's ability to deny assistance to persons who have failed to demonstrate their eligibility and denies the applicant a prompt determination of eligibility. The Department disagrees with LSAP's interpretation of what is meant by a determination of eligibility. That is, after receipt of required documentation, or the expiration of 60 days after application, whichever is earlier, the county agency must act immediately to either issue or deny general assistance. A line must be drawn somewhere as to how long a county agency must pend an application. Since general assistance does not require a basis of eligibility, as does AFDC, and verification is less burdensome and more readily obtainable, it is reasonable to have a defined period during which an application may be pended. In fact, the statute requires that processing be done within 30 days but the rule advisory committee urged and the Department agreed to a liberal interpretation of that statute in the interest of the applicant. Regardless of the interpretation, it is clear that the legislature did intend to place some limitation on the time allowed for processing, and 60 days is a reasonable restriction.

The Department declines to accept LSAP's recommendation.

18. 9500.1215, Subp. 2. Sufficiency of documentation. LSAP -- "This subpart should be revised to provide that an affidavit shall be accepted when other forms of documentation are unavailable."

Hennepin County stated that it strongly support this section exactly as written. Hennepin County noted that subparts 1 and 2 appropriately place on the applicant or recipient the responsibility for providing the information needed to determine eligibility, while providing for agency assistance when the person is actually unable to provide it. To require the agency to obtain any information to which the applicant has access would be an unreasonable burden on the agency.

FINDINGS: This section has been amended to delete references to "primary and alternate" documentation in conformance with part 9500.1206, subpart 12a. (See Findings #2).

LSAP recommends that county agencies accept an affidavit as sufficient documentation of eligibility factors when the county agency and the client are unable to obtain other documentation. When this provision was discussed by the rule advisory committee, the Department suggested that counties be required to accept an affidavit as sufficient documentation since a similar provision is in the AFDC program. The county agencies uniformly and overwhelmingly opposed adopting the AFDC provision for general assistance due to the single, mobile population served.

The primary concern of the counties was the acceptance of an affidavit in lieu of identity documents. The counties report that the AFDC program deals with families with dependent children who have relatively current birth information, and further requires the provision of social security numbers as a condition of eligibility. In other words, that program has a variety of federally sanctioned means to verify an individual's identity.

On the other hand, the majority of general assistance applicants and recipients are single adults who are highly mobile and whose identity is a crucial issue. The general assistance program does not require the provision of social security numbers or other collateral means to verify identity. It was decided that documentation could and should be obtained for the identity of each general assistance applicant and recipient in order to maintain program integrity and to prevent fraud and abuse. At the same time, the rule requires the agency to assist the client to obtain the necessary documentation.

The Department declines to make the change recommended by LSAP.

19. 9500.1219, Subp. 4, item A. The change in this item is an editorial change which is necessary because the definition of emancipated minor was deleted under Finding #3.

FINDINGS: The definition of emancipated minor under part 9500.1206, Subp. 12d has been deleted. Therefore, it is necessary to delete the reference to the definition in item A. On page 25, Item A on lines 35 and 36 is amended to read:

"A. the child is legally emancipated ~~as defined in part 9500.1206, subpart 12d~~;"

This change is consistent with the deletion of the definition under Findings #3. This item is consistent with Minnesota Statutes, section 256D.05, paragraph (a), clause (10). The change is not a substantial change.

20. 9500.1219, Subp. 5. Refusal of suitable employment. The change in this subpart is necessary to conform to statutory language. Minnesota Statutes cites "two months" rather than "60 days".

FINDINGS: The Department is amending this subpart to conform to Minnesota Statutes, section 256D.051, subdivision 8 which uses the term two months rather than "60 days" i.e., "A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving work readiness payments or services shall be terminated from the work readiness program and disqualified for <u>two months</u> according to rules adopted by the commissioner." (Emphasis added) The Department is also clarifying this subpart to make it explicit that the provision does not apply to persons not required to participate in work readiness. On page 26, lines 12 to 20 is amended to read:

"Subp. 5. **Refusal of suitable employment.** A person is not eligible for general assistance if, without good cause, the applicant refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving general assistance shall be terminated from the general assistance program and disqualified from general assistance for ~~60 days~~ <u>two months</u>. <u>This subpart applies only to those applicants or recipients who are not exempt from work readiness participation requirements under part 9500.1251.</u>

The change is consistent with Minnesota Statutes and is not a substantial change.

21. 9500.1225, Subp 2. Item D. Earned income from self-employment. LSAP -- "The 20-hour per week requirement is unreasonably high. It is reasonable to provide some guidelines for the amount of effort that must be expended in order for the income to be considered earned income. Due to the resource limitations of the program, in most cases, the rental property is likely to involve a very small number of units, most frequently a duplex. With a limited number of units, it would be extremely difficult for even the most conscientious landlord to spend 20 hours per week on maintenance or management of the property. A more reasonable guide for whether the income should

be treated as earned income is the recently enacted law governing Minnesota Supplemental Aid Program. Minn. Stat. section 256D.435, Subd. 9, requires an average of only 10 hours per week of work for income from rental property to be considered earned income."

FINDINGS: The issue in this section is whether an applicant or recipient should have income from rental property treated as earned income or as unearned income. The difference in the treatment of the income is that part of income which is earned is disregarded as an incentive for employment. The current rule simply requires that effort be expended to obtain the disregard without defining what degree of effort is required. That degree has been defined in all other cash assistance programs, and it was determined necessary and reasonable to define it for general assistance. The measure of effort in AFDC, Medical Assistance and Food Stamps is 20 hours per week, and that is a reasonable measure for the general assistance program. As LSAP noted, the measure in the Minnesota Supplemental Aid program is 10 hours per week, but applicants and recipients of MSA are, by definition, aged, blind or disabled individuals and it is reasonable to require fewer hours from these individuals as a measure of effort necessary to qualify for the earned income disregards.

The Department declines to accept LSAP's recommendation.

22. 9500.1237, Subp. 4. Item B. Persons without a verified residence address. Legal Aid Society recommended adding the phrase "or related condition" after the word "retardation".

FINDINGS: Legal Aid's recommendation is consistent with Minnesota Statutes which uses the term "mental retardation or related condition". (See Minnesota Statutes, chapter 252). This item is being changed to reflect statutory language regarding a "related condition". On page 49, line 17, after the word "retardation" insert "<u>or related condition</u>".

The change is consistent with Minnesota Statutes and is not a substantial change.

23. 9500.1237, Subp. 4. Item D, subitem (4). Legal Aid Society stated that it believes there needs to be clarification of subitem (4). "Does this mean weekly determinations of eligibility as well as weekly provisions of assistance cannot continue beyond the first month subsequent to the month of application? Also, what is meant by lines 6-7 of page 50? Does "as specified by item C" refer to item C on page 49 regarding how assistance may be issued or does it refer to item C of 9500.1219, subp. 3 regarding determination of state residency?"

Hennepin County stated that it strongly urges deletion of subitem (4) under item D. "This restriction on the length of time for which a county may issue weekly with weekly determination of eligibility is not authorized by statute. The statute gives counties the option of using this issuance method without restriction as to length of time.

The DHS Statement of Need and Reasonableness errs in assuming that the only purpose of this method of issuance is to deter transients from obtaining GA. Weekly eligibility determination is also a safeguard against persons who are residents of other states coming to Minnesota to apply for GA and then coming back once per month to pick up a check for $203. Hennepin County experienced a problem with unemployed persons from nearly states without a GA program coming to Hennepin County to apply for GA and then returning each month to pick up a monthly check. Residence verification procedures and exemptions from WR participation are not stringent enough to completely prevent this type of program abuse. Since an application may be filed at the end of one month and may require up to another month to process, a person may be exempt from weekly eligibility determination under the proposed rule as soon as he or she is approved for GA. Counties are in the best position to determine how long is an appropriate length of time to apply weekly issuance. Requiring a verified residence address in order to issue a monthly grant has proven to be an effective deterrent to welfare fraud in Hennepin County and Rule 55 should not place on it restrictions not authorized by statute."

FINDINGS: This subitem is being amended to clarify the limitation on weekly determinations of eligibility for persons without a verified residence address. The rule should specify that county agencies may not continue to redetermine the eligibility of a recipient each week beyond the first full month of eligibility after the month of application. At that point, the county agency must determine eligibility and benefits on a monthly basis although those monthly benefits may continue to be issued in weekly installments.

Weekly redetermination implies that the recipient's standard and therefore the grant amount can be changed each week without notice and, if a recipient fails to appear at the county agency on a given week, eligibility will also end without further notice. To continue this burden on the recipient beyond two months simply because the recipient is homeless is unreasonable.

Hennepin County points out that there is no specific statutory restriction governing the length of time during which the county may redetermine the weekly eligibility of a recipient. The Department relies on its general authority granted under Minnesota Statutes, section 256D.04, to uniformly administer the general assistance program for the benefit of clients under the General Assistance Act. The statute which authorizes the weekly redetermination of eligibility and the weekly issuance of assistance resulted from a demonstration project authorized for Hennepin County which had the time restrictions cited in the rule.

As to the functions served by the statutory provisions for persons without a verified residence address, we recognize that the rule provisions will not absolutely prevent an individual from another state committing fraud by picking up a monthly or weekly check in Minnesota but the requirements of demonstrating state residency under 9500.1219, subpart 3, which must be met in

order to receive general assistance should substantially reduce that risk. The unlimited availability of weekly installment payments of a monthly grant as specified by item C should provide a sufficient safeguard against the factors which concern Hennepin County.

An additional subitem is necessary to prevent an individual who has monthly countable income in excess of general assistance standards from receiving assistance during the weeks which don't contain a payday. This is an unlikely occurrence but it was brought to the Department's attention that this would be technically possible under a system of weekly determination of eligibility. The department feels that it is prudent to clarify that this provision may not be used for persons who anticipate or receive income.

The Department is amending subitem (4) to provide greater clarity. The department is also adding a new subitem (5) for clarity. On page 50, lines 1 to 7, subitem (4) is amended to read:

(4) ~~Assistance issued~~ Weekly determination of eligibility under this item must not continue beyond the first full calendar month subsequent to the month of application. Beginning with the second full calendar month, assistance may be issued as specified in item C to a recipient who has not verified a residence address but who is a resident of the state as determined by part 9500.1219, subpart 3~~, as specified by item C~~.

(5) The provisions of this item must not be applied to any assistance unit which receives, or is expected to receive countable income within the month of application or the following month.

The changes in this subitem are necessary to provide greater clarity. The changes are not substantial changes.

24. 9500.1237, Subp. 5. Initial payments for mandatory participation in the work readiness program. Hennepin County stated it supported this subpart as written with a slight modification. Item A (2) as proposed states that an initial certification period may not exceed 30 days, but in fact an application may pend up to 30 days or more before WR is approved if an applicant has not provided verification of all eligibility factors. That makes it impossible to ensure that all applicants can be scheduled to attend an orientation within 30 days. The sentence "This initial certification period may not exceed 30 days" should be deleted. Substitute the sentence "Counties must schedule an orientation within 30 days of application, or the date all eligibility factors are verified, whichever is later." This is a reasonable interpretation of legislative intent.

A new subitem, A. (3) should be added to Subp. 5. A county agency that elects to issue under subitem (2) to individuals and couples without children should nevertheless be able to issue under subitem (1) to family assistance units. New subitem (3) should read: "County

agencies may use different methods of issuing the initial payments for family and non-family assistance units."

FINDINGS: Hennepin county's concern over the 30 day restriction for an initial certification period when an applicant may have delayed the submission of verifications is unfounded. This subpart provides that the initial certification period does not begin until all eligibility factors have been met. It is assumed that only then will a county agency schedule an orientation which must be within 30 days. In other words, the rule already provides what Hennepin County has requested and no change is necessary.

With regard to the situation in which the applicant has met all eligibility factors but verification has not been received, it is reasonable to expect that the county agency will schedule the client orientation at the time the applicant is interviewed, and this scheduled orientation must be within 30 days of the date of application. Minnesota Statutes, section 256D.051, subdivision 1b, states: "This initial certification period may not cover a period in excess of 30 calendar days." It would then follow that any county agency which is unable to process applications within this time restriction must not use this optional special payment provision.

Hennepin County also recommended a new subitem be added which would allow a county agency to use a different initial certification period for families and couples than the agency uses for individual applicants or recipients. Minnesota Statutes, section 256D.051, subdivision 1b, states: "A county which utilizes the provisions in this subdivision must implement the provisions consistently for all applicants or recipients in the county." However, Minnesota Statutes, section 256D.01, subdivision 1a (f) states: "An assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program." The statute appears to be inconsistent on this point but the Department believes that the most reasonable interpretation of the intent of section 256D.051, subdivision 1b, is that counties must not discriminate between individuals within a group. Families, on the other hand, receive different treatment under several sections of the General Assistance Act in recognition of the differing needs and situations experienced by families as opposed to single individuals. Moreover, exempting families and couples from an initial certification period which ends in mid-month is more compatible with the state-wide automation system of which a primary purpose is consistent application of state policy.

The Department is amending part 9500.1237, subpart 5, item A, to provide greater clarity. On page 50, item A is amended to read:

A. The county agency ~~may:~~ must choose one of the methods described in subitems (1) and (2) to make initial payments. The county agency must use the method it chooses for all applicants,

except that for family assistance units or assistance units of more than one person, the county agency must use the method described in subitem (1).

25. 9500.1243, Subp. 3. Recoupment of overpayments. Hennepin County stated that it strongly opposes the recoupment of overpayments to non-family assistance units. "This is not required or specifically authorized by law and will be, in effect, a reduction of the assistance standard to thousands of GA recipients. Many overpayments occur that the recipient and the agency cannot avoid. Should an overpayment of one month's full grant occur, even though the client was not at fault, recoupment of that $203 will reduce the grant to that client for almost 3 years. While the rule puts a 3% limit per month on the recoupment, even that amount is significant given the woefully inadequate individual grant standards in the GA program. The $6.00 per month reduction in assistance will directly reduce the client's ability to obtain the necessities of life.

The need for recoupment from non-family assistance units to reduce state and county expenditures is minimal, given that the new rule would also implement retrospective budgeting. There is also no incentive for counties to expend the administrative expenses involved in sending notices, setting up recoupment and tracking amounts repaid. The proposed rule does not specify that counties may retain from amounts recouped their share of the grant costs; even if it did, the 25% county share of $6.00 per month would not cover administrative costs, and when the state takes over 100% of grant costs the counties will simply become a cost-free collection agency for the state.

Recoupment of overpayments to non-family assistance units was almost unanimously opposed by the GA Rule Advisory Panel, of which Hennepin County was a part. The panel felt that retrospective budgeting would be sufficient to reduce overpayments, and recoupment was dropped from all subsequent drafts of the rule until the proposed rule was published. Hennepin County strongly urges the Department of Human Services to accept the recommendation of the Advisory Panel and delete recoupment of non-family GA overpayments."

LSAP stated there is no statutory authority for recoupment of overpayment in the general assistance program. "The rationale provided in the SNR, p.61, states only that the proposed rule is consistent with the AFDC program. The AFDC program, however, does have a specific statutory mandate for recoupment of overpayment. See Minn. Stat. section 256.73, subd. 8. Absent specific statutory authority, the rule must not reduce a recipient's benefits."

FINDINGS: As comments from LSAP and Hennepin County suggest, the recoupment of overpayments from general assistance grants was discussed at length by the rule advisory committee. As suggested by Hennepin County, the primary objection to recoupment from non-family assistance units was the administrative burden of processing an amount of money which is regarded as minimal by county agencies but which is significant to the individual recipient.

With respect to statutory authority, statute permits the reduction of an assistance grant due to the receipt of income. Most, if not all, overpayments are the result of a recipient receiving income which was not immediately used to reduce a grant due to reporting or notice delays, or the receipt of income in the form of a grant to which the recipient was not entitled. The theory of recoupment is to simply budget a portion of that income against the grant standard at a time other than receipt of the income. Under current rule and law, the county agency is within its rights to ask for the entire amount of an overpayment at one time and use civil procedures to collect the full amount. In fact, many counties do exactly that while other counties have no uniform procedure for the recovery of overpayments. The problem as viewed by the Department is one of equal treatment, and the reduction of a general assistance grant by a maximum of three percent of the grant standard for all recipients is a reasonable way to provide state-wide consistency for the recovery of overpayments.

The Department is sensitive to administrative problems which county agencies may experience as a result of implementing this provision for individuals. The state is in the process of implementing an automated system under which the state would assume those administrative burdens. Therefore the Department recommends that implementation of this provision be deferred until state-wide implementation of the automated system is completed. This would also better fulfill the Department's objectives of program consistency.

On page 58, after line 21, add a new item to read:

"D. The provisions of this subpart shall not be applied to non-family assistance units until the MAXIS automated eligibility system is implemented on a state-wide basis."

The change to the proposed rule which exempts individuals and married couples without children from the recoupment procedure until the automated eligibility system is in place statewide is necessary to relieve counties of the administrative burden to recoup overpayments. The change is not a substantial change but delays implementation of recoupment until a mechanism is in place to permit the state to recover overpayments in an equitable and cost effective manner.

26. 9500.1245, Subp. 4. Item B. Applicant and recipient responsibilities. Hennepin County stated it supports this section as proposed, except subpart 4, item B. "When a recipient has failed to submit a completed HRF and the local agency has sent a termination notice for that reason, submitting an incomplete HRF should not void the notice. The recipient has the responsibility for submitting a complete HRF and if the HRF submitted is not complete the county has the responsibility for returning it within a reasonable time, but unless the termination notice remains in effect there will probably be an incorrect payment for the following month, since the agency has incomplete information on which to base the grant amount. This will

needlessly increase both overpayments and client injury due to underpayments."

FINDINGS: This provision specifies that if a recipient submits a late, incomplete HRF before the last 10 days of the month, and the county agency does not return the incomplete HRF to the recipient for completion, a notice of termination based on the incomplete HRF is invalid. If the incomplete HRF is not returned to the recipient, the recipient has no way to cure the defect - namely, completing the incomplete HRF. Hennepin County apparently is under the impression that the rule provision would allow a recipient to void a notice of termination by submitting an incomplete HRF during the last 10 days of the month. The rule does not permit that result. If the county agency has returned the incomplete HRF to the recipient before the last ten days of the month, or if the recipient submits an incomplete HRF within the last ten days of the month, the termination notice remains in effect until a completed HRF is received by the county agency. No change is necessary to this subpart.

27. 9500.1251, Subpart 1. Work readiness participation required. LSAP -- "The point of the last sentence of this subpart appears to be to prohibit an applicant who is exempt from work readiness from registering for work readiness to avoid the interim assistance agreement. The last sentence as written is broader than intended because applicants who have not been offered an interim assistance agreement to sign would be denied assistance. This is unreasonable."

FINDINGS: It is inconceivable that a county agency would deny the application of an individual on the grounds that the applicant had failed to sign a document which the applicant had not been offered. However, to provide clarity, the Department accepts the basic recommendation of LSAP. On page 64, lines 23 to 27, are amended to read:

"~~Individuals~~ An individual who is otherwise exempt under subpart 2, items F and G, ~~but who have not signed~~ who has been requested by the county agency to sign an interim assistance authorization agreement, and who refuses or fails to sign the agreement, shall not be allowed to register for work readiness and therefore cannot receive a grant."

The change is supported by views submitted to the Department and does not result in a substantial change.

28. 9500.1251, Subp. 2. Item F. LSAP -- "This subpart assumes that the recipient or applicant will be offered an interim assistance agreement to sign and proposes to take adverse action against the recipient or applicant if the agreement is not signed without an inquiry into whether the agreement has been offered."

Legal Aid stated subpart F discusses those who had applied for disability benefits in the past and who had not appealed, but are now making another disability application. "There are a number of levels of appeal available to a disability applicant --reconsideration, hearing, Appeals Council, U.S. District Court, Eighth Circuit Court

of Appeals, etc. Therefore, a clarification is needed for one "who does not appeal a denial." Does the person need to pursue only the first level of appeal (reconsideration) or appeal further?"

Hennepin County stated item F must be clarified so that it is clear that this exemption applies to persons who have an application, and not an appeal, pending at the time the exemption is asserted, regardless of whether the person appealed a previous SSI/RSDI denial. The proposed language in this item would seem to mean that if a person appeals an SSI denial, loses the appeal and then reapplies for SSI they would not have to assert new or aggravated symptoms in the new application in order to qualify for this exemption. This meaning would be contrary to legislative intent which was that an applicant or recipient of GA who does not currently have an appeal of the SSI/RSDI denial pending must assert new or aggravated symptoms as the basis for the new claim unless mental illness or chemical dependency is the basis. The fact that a person may have appealed the previous denial and then lost that appeal should not remove the requirement that the new application be based on new or aggravated symptoms.

FINDINGS: Minnesota Statutes, section 256D.05, subd. 1a (6), states that a person is categorically eligible for general assistance if the person has an application pending for social security benefits, "provided that within 60 days of the initial denial of the application by the social security administration, the person produces medical evidence in support of the persons application..." (Emphasis added). As Legal Aid Society points out, the first "appeal" process of a denial by the Social Security Administration is a request for reconsideration. There are several levels of appeals which may be brought at a later point in the proceedings, but the process must start with a request for reconsideration. By inserting the words "of the initial application" the legislature expressed the intent that medical evidence was only required at the request for reconsideration level of the process in order to maintain general assistance eligibility. It is assumed that a person who is pursuing an appeal at the Administrative Law hearing stage or above will be a serious appellant and not simply extending general assistance eligibility by means of a frivolous legal procedure.

The proposed rule divides the provisions of Minnesota Statutes, section 256D.05, subd. 1a (6) into two separate categories of general assistance eligibility. The first category, item F, is for persons who have an application pending for social security benefits. The second category, item G, is for persons who are appealing an adverse action by the Social Security Administration. Hennepin County's concerns about item F that an individual who is not chemically dependent or mentally ill and whose previous application for federal benefits had been denied would not have to allege a new disability or aggravated symptoms of the original disability in a new application are unwarranted. The rule is clear that if such individuals do not appeal the initial denial, that a claim for categorical general assistance eligibility based on a new application would have to conform to

the requirement. If the individual does appeal the initial denial, the individual is then eligible under item G.

In other words, as amended, the rule provides that a person who has applied for social security benefits and has signed an interim assistance agreement is exempt from mandatory work readiness participation by the terms of item F. If that person's initial application for social security benefits is denied and the person does not request reconsideration of the denial, the person is no longer exempt from mandatory work readiness participation. If, on the other hand, the person does request reconsideration of the denial and provides the county agency with medical evidence in support of the application for social security benefits within 60 days of the initial denial by social security, that person remains exempt from mandatory work readiness participation. In the alternative, if the person's initial application for benefits is denied by social security and the person does not request a reconsideration but files a new social security application instead, that person is only exempt from mandatory work readiness participation if the new application for social security benefits concerns a different disability or alleges new or aggravated symptoms of the old.

All persons who are appealing a denial of social security benefits at a more advanced stage than a request for reconsideration, or who are appealing a termination of social security benefits, are exempt from mandatory work readiness participation by the terms of item G.

The Department accepts the recommendations of LSAP and Legal Aid since they provide rule clarity and do not change the substance of the rule. Item F on page 65, lines 26 to 36, and page 66, line 1, is amended to read:

"F. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program and the applicant or recipient has, upon the request of the county agency, signed an interim assistance authorization agreement. An applicant or recipient whose previous application for social security benefits was based solely on a condition other than chemical dependency or mental illness who does not ~~appeal a~~ request a reconsideration of an initial denial by the social security administration is only exempt under this item if the new application is made for social security benefits based on a different disability or a new application is made that alleges new or aggravated symptoms of the original disability."

The change is supported by views submitted to the Department and does not result in a substantial change.

29. 9500.1251, Subp. 2. Item G. Legal Aid -- "Subpart G is to refer to those who have to supply medical evidence after receiving an initial denial of disability benefits. That it should not be applied to those at later stages of appealing their disability is supported

in the SNR at p.66. The Statute is clear that the need to provide medical evidence only applies to those whose disability applications have been denied, not those appealing a termination of those benefits. Legal Aid suggested language to comply with Minn. Stat. 256D.05, Subd.1(a)(6)."

Hennepin County stated Item G is incorrect to the extent that it requires a person who is appealing an SSI/RSDI termination to provide medical evidence of the disability in order to qualify for exemption under this part. The statute treats SSI/RSDI appellants differently depending on whether they are appealing a denial or a termination. In the statute the medical evidence requirement is attached to those appealing a denial. That part of the sentence in the statute is separated from the part dealing with termination appellants by a semi-colon, indicating that the medical evidence requirement does not apply to termination appellants. This is reasonable in that a person who has been terminated from SSI or RSDI has proven disability in the past and should be given the benefit of the doubt while appealing. A person appealing a denial has never proven disability and should be required to provide some evidence in order to qualify for a work exemption.

Item G is also ambiguous on the time frame for supplying medical evidence if the appeal of the SSI/RSDI denial was filed prior to the application for GA. The appeal may have been pending more than 60 days before the person applies for GA. If so, the person should have to provide the medical evidence before eligibility for this exemption can be granted. Add to this item the sentence "An applicant for general assistance must provide such medical evidence in order to qualify under this exemption if the applicant's initial claim was denied more than 60 days prior to the date on which the applicant verifies all other eligibility factors."

FINDINGS: As Legal Aid pointed out with regard to item F (See Findings #28), the appeals process of the Social Security Administration occurs on many levels. We agree that the statute requires allegation of a new disability or aggravated symptoms of an old disability for a new application if the applicant has not requested reconsideration of an initial denial of a previous application. However, to only allow general assistance eligibility to persons who are at the first stage of the appeals process is an unreasonable restriction of the statutory language.

The intent of the legislature was to require medical evidence in support of a request for reconsideration of an initial denial but surely intended to allow general assistance eligibility for persons at a higher level of the appeals process without the necessity of medical evidence. We agree that a person who, for example, was going to district court with an appeal of a denied application would not have to provide medical evidence to the county agency in support of that appeal but the language change suggested by Legal Aid on line 2 would prohibit eligibility for that person.

The Department accepts the recommendations of Legal Aid and Hennepin County and proposes changes to the rule to satisfy legislative intent and the concerns expressed by Legal Aid and Hennepin County. Item G on page 66, lines 2 to 14 is amended to read:

"G. The applicant or recipient has appealed the denial of an application for social security disability or SSI benefits or the termination of social security disability benefits or SSI benefits and the appeal is pending. The applicant or recipient must produce medical evidence in support of ~~an appeal~~ a request for reconsideration of a ~~denied~~ denial of an initial application within 60 days of the initial denial ~~or termination~~. An applicant or recipient of general assistance under this item must sign an interim assistance authorization agreement upon the request of the county agency. A county agency shall not approve a new application for a recipient whose general assistance has been terminated for failure to provide medical evidence in support of the appeal of an application denied by social security until such medical evidence is produced."

The change is supported by views submitted to the Department and does not result in a substantial change.

30. 9500.1254, Subp. 2. Item Q. Legal Aid -- "Subp. 2.Q. addresses this category and requires under (1) that the person not only be referred to, but be participating in, a remedial or skills program. This requirement to "be participating in" did not appear in any previous drafts of the rule, there is no authority in the statute, and no justification in the SNR for including this phrase. This language is unduly restrictive as there are often limits on the availability of these remedial or skills programs. A person could easily be referred to, but not be able to access such a program. Especially because many eligibility categories have been deleted (inability to communicate in English, functional illiteracy, etc.), this would be the catch-all category for those with substantial barriers to overcome who may not realistically benefit from a training program -- i.e., a man in his early 50's who is essentially totally illiterate or who cannot speak or understand English; a person who has been homeless for a long period and who is very socially dysfunctional, etc." Legal Aid recommended deleting the words "and is participating in" on page 69, line 32.

LSAP -- "The provisions in item Q (page 67, lines 27-36) are primarily based on section 256D.05, subd. 1(a)(8), a category of eligibility for general assistance. However, the additional requirement in subitem (1) is not found in the statute and imposes an eligibility criteria which has no basis elsewhere in the law. The SNR bases the requirement in subitem (1) on the general language in section 256D.01, assistance program. However, this language clearly states that the work readiness program is "to help employable and potentially employable persons" (emphasis added) and provides no indication that this "help" must be accepted if the individual otherwise meets the criteria for general assistance. In fact, in the very next sentence of section 256D.01, subd. 1 the legislature

specifically provides that persons who meet the eligibility criteria for general assistance "are entitled to receive grants of general assistance".

There is no clear reason why the referral in subitem (1) cannot be made so long as it is voluntary. The further difficulty with making this referral a mandatory requirement is that it does not provide for those situations in which the person actually completes the program but remains unemployable. The language of subitem (1) apparently requires the person to be "participating in" the program on an indefinite basis.

Lastly, there is no clear indication of who designated the program the person is referred to. There needs to be a nexus between the training program and the factors which make the person referred unemployable. This referral should be made by the same professional or vocational specialist who makes the initial employability assessment.

The requirement in subitem (2) of item Q is, like the similar provisions in items F and G, redundant and potentially inconsistent with 9500.1254."

Hennepin County -- "Item Q in this subpart must also be modified. The inclusion, in the proposed rule as opposed to the drafts seen by the Rule Advisory Panel, of the words "and is participating in" in subitem (1) and "and has applied for" in subitem (2) significantly change the meaning of this exemption and is not consistent with legislative intent or the recommendations of the Advisory Panel. This category was meant to be a safety net for persons with barriers to employment that cannot be overcome....

The requirement in subitem (2) that the person apply for another maintenance benefit under this category would have an unintended result. Many persons with un-diagnosed mental illness or chronic chemical dependency may qualify for SSI but are afraid or unable to apply for it, with good cause. The county agency needs to work with these people over a period of time, developing communication and trust, before we can expect the person will cooperate in efforts to get him or her onto SSI. If the client cannot get on GA under this category because they have not filed for the other benefit, the agency will not have the opportunity to work towards getting the person on SSI slowly over a period of time while the person receives GA, as is often necessary in our experience....

These defects in the proposed rule language can be cured by removing the words "and is participating" from subitem (1), and by removing from subitem (2) the words "and has applied for"."

FINDINGS: Minnesota Statutes, Section 256D.01, subd. 1, states as an objective of the general assistance program the provision of "work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work." (Emphasis added)

Section 256D.06, subd. 6, states: "Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits within 30 days of the general assistance application...."

The apparent intent of these two provisions is to not only provide assistance for persons who are currently unable to provide for themselves but also to address barriers to self-sufficiency which may be remedied, or if the person has barriers to self-sufficiency which cannot be remedied, to refer that person to federally funded programs designed to provide for persons with long-term disabilities. Implicit in these provisions is the policy that general assistance is not intended to be a long-term program of first resort.

Minnesota Statutes 256D.05, subd. 1a (8) provides categorical eligibility for general assistance for persons who have "been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market;..."

We agree with the comment from Hennepin County that the "category was meant to be a safety net for persons with barriers to employment that cannot be overcome." However, to apply the statutory language without qualification in rule would not fulfill the duty of the commissioner to "promulgate uniform rules consistent with law for carrying out and enforcing the provisions of 256D.01 to 256D.021 to the end that general assistance may be administered as uniformly as possible throughout the state." [M.S., section 256D.04, (2)] The point is that rules must enforce all the provisions of the General Assistance Act and not some to the exclusion of others, particularly when one provision is vague or ambiguous. A legitimate function of the rulemaking process and authority is to resolve statutory ambiguity in a manner which is consistent with the Act as a whole.

It is in this light that the Department approached the phrase "unlikely to obtain permanent employment". Does it mean unlikely at this time? If so, should eligibility be time limited? Does it mean that the person has a temporary disability which will heal? If so, there is a category specifically for that purpose. Does it mean unlikely at any time? If so, shouldn't the person be on a federal program for the permanently disabled? Does it mean that the person is unlikely to obtain employment due to illiteracy? If so, doesn't the Department have a statutory requirement to refer this person to literacy training if available? The point is that the rule must provide guidelines to county agencies and their providers of services as to when various categories are to be used. This category has the potential to be a catch-all in which recipients can be placed without any requirement that they attempt to

achieve self-sufficiency and without any responsibility on the part of county agencies and their providers to provide the services and referrals otherwise required by statute.

The comments from Hennepin County, LSAP, and Legal Aid are correct that the phrase "and are participating in" was absent from initial drafts of part 9500.1251, subp. 2, item (Q) of the rule. The Department does not agree with LSAP that a referral to an accredited remedial or skills training program designed to address barriers to the person's employment should be voluntary. To make participation in programs to which the recipient has been referred voluntary would allow the recipient a choice as to whether or not to remain unemployable. This is contrary to the purposes of the general assistance program as set forth in Minnesota Statutes, section 256D.01, subdivision 1. The department is not opposed to amending the language in a manner that does not change the substance of the rule.

With respect to the requirement of referral to another maintenance benefit, this is a clear statutory requirement. Referrals must be made in cases where a recipient is potentially eligible for another maintenance benefit and the point at which a qualified professional or vocational specialist assesses the individual as being unlikely to obtain permanent work is an ideal time to make such a referral. Since the current rule already has provisions for those referrals, as suggested by LSAP, the proposed rule will be changed to make reference to that procedure.

The Department accepts the recommendation to amend Item Q. Item Q on page 67, lines 27 to 36 and page 68, line 1 is amended as follows:

"Q. The applicant or recipient, not otherwise exempt under items A to P, has been assessed by a qualified professional or vocational specialist as not being likely to obtain permanent employment and:

(1) the applicant or recipient has been referred to, and ~~is participating~~ has not refused nor failed without good cause to participate in, ~~an~~ any available, accredited remedial or skills training program designed to address barriers to the person's employment; or

(2) the applicant or recipient has been referred to~~, and has applied for,~~ another maintenance benefit for which the applicant or recipient is potentially eligible in accordance with the provisions of part 9500.1254.

These changes are not substantial changes. To change the rule in a manner which would not require an assessment of the recipient's eligibility for other general assistance categories, or referral to appropriate remedial programs, or referral for other maintenance benefits prior to placement in this category, would be a substantial change.

31. 9500.1259, Subpart 1. Work readiness program. Tom Beer, AFSCME Council 6, suggested to the rulemaker that language be included in the work readiness section that work readiness registrants shall not perform work ordinarily performed by a regular public employee as set forth under Minnesota Statutes, section 256D.051, subdivision 7.

FINDINGS: The Department accepts Mr. Beer's recommendation. On page 83, line 16, after the period insert "A participant in a work experience program shall not perform work ordinarily performed by a regular public employee."

The change is consistent with Minnesota Statutes, section 256D.051, subdivision 7 and is supported by views submitted to the Department. The change does not result in a substantial change.

32. 9500.1259, Subp. 4. Notices. LSAP -- "The provision of subitem (1) of item B provides for essentially no advance notice of a grant reduction, suspension, or termination when such action is required by information contained in a household report form. Essentially, this provision, has no basis in law and on its face is inconsistent with section 256D.10 which requires "notice and ... an opportunity to be heard prior to any action by the local agency".

There are exceptions to this general provision in the work readiness sections of the general assistance statutes but, as specified in section 256D.101, none provide authority for the broad exception to the requirement of advance notice for all general assistance recipients proposed in subitem (1) of item B."

FINDINGS: There is widespread support for the retrospective budgeting process for general assistance. The use of monthly Household Report Forms (HRF's) is an integral part of this system for persons with earned income or a recent work history and a program has been developed and is in use in the AFDC and Food Stamp programs regarding the use of the HRF forms. Approximately 80 percent of general assistance recipients are also recipients of food stamps and with the proposed rule provisions will be subject to the same procedures with resulting simplification and understandability. As indicated in the Statement of Need and Reasonableness, one goal of this rulemaking effort is to provide program consistency where possible among the assistance programs in order to reduce confusion for clients and counties alike. As a result, the AFDC provisions with regard to HRF's have been adopted in their entirety. To deviate at this point would be a substantial change and contrary to statute. For example, if part of the assistance unit were recipients of AFDC and part were recipients of general assistance and both reported on the same HRF, and the AFDC grant and Food Stamps were reduced but the GA was not reduced with a resulting overpayment, the result would be confusing for the family and inequitable on its face. Moreover, Minnesota Statutes, section 256D.01, subdivision 1a, paragraph (f) requires that an assistance unit consisting of one or more members of a family must have its grant determined using the

policies and procedures of the aid to families with dependent children program.

As to LSAP's specific comment and suggested language, to delete subitem (1) and place HRF's under subitem (4) could still result in a reduction of benefits without 10 days advance notice which seems to be their principal concern.

The Department declines to accept LSAP's recommendation.

33. 9500.1261, Subp. 3, item E. LSAP -- "The consequences of being disqualified from work readiness are fairly severe since such persons are also disqualified from the receipt of EGA under most circumstances. It is reasonable to give applicants notice of the serious repercussions for failure to comply with work readiness requirements at as early a date as possible. Providing notice will obviously not help a disqualified person who is homeless and/or without food but may induce compliance by some persons so that homelessness and starvation can be avoided."

FINDINGS: LSAP's recommended change to part 9500.1237, subpart 5D, is consistent with the policy of the Department and other rule provisions. It provides a reasonable notice to applicants and recipients. The Department accepts the recommendation of LSAP.

Item B, on page 51, lines 4 to 12, is amended to read:

"B. The county agency must inform all mandatory participants in the assistance unit that:

(1) each mandatory participant must attend an orientation within 30 days after application; ~~and~~

(2) a mandatory participant who fails, without good cause, to attend the required orientation will lose eligibility for assistance without further notice due to noncompliance with work readiness requirements subject to reinstatement upon a showing of good cause; and

(3) a mandatory participant who has been disqualified from work readiness may not be eligible for emergency general assistance during the period of disqualification.

The change is supported by views submitted to the Department and does not result in a substantial change.

34. 9500.1261, Subp. 4. Item B. LSAP -- "Item B proposes language concerning "alternative solutions" that would alleviate the need for issuance of EGA to maintain the person in the current situation. What constitutes an acceptable alternative solution is not defined and is clearly subject to dispute by reasonable people. Therefore, this term should be defined. LSAP recommended "Alternative solutions means a course of action which will both resolve the problem or problems which constitute an emergency situation and will not require the applicant or recipient to accept new or different living conditions which, under all the circumstances, are not reasonable."

Item B also specifies that a county agency "must have a reasonable basis to believe that alternative solutions exist". A "basis to believe" that some solution exist is a very thin reed upon which to place a determination that an emergency need can be met. The agency should have concrete information that such a solution exists and be able to specify what and where it exists. The AFDC program requires that the agency document that one or more habitable shelter units are available in order to deny assistance to maintain the applicant in his or her current situation. See Minn. Rules Part 9500.2820, Subp. 12.G.(1)."

FINDINGS: With regard to LSAP's comments on the term "Alternative solutions" in the context of alternatives to emergency payments to maintain the applicant in the applicant's current living arrangement, the Department received substantial public input on this issue and notably from the LSAP. The intention is to adopt a rule which will preserve fiscal integrity in the emergency general assistance program while safeguarding the applicant from capricious or disruptive changes in living arrangements for the sake of minor cost savings. Therefore, the rule favors maintaining the applicant in the applicant's current situation unless there are reasonable alternatives available at a substantially reduced cost. Substantially reduced was defined as 25 percent less at the suggestion of the LSAP. The Department believes that this is a reasonable definition and achieves the purposes of the program. The Department agrees with LSAP that reasonable persons may disagree about what is an acceptable alternative solution and it is for those situations that we have a mechanism for fair hearings. To adopt the proposal from LSAP to define "alternative solutions" as a solution utilizing the term "reasonable" would leave us with the same dilemma regarding disputes over what is reasonable and probably result in the same issues at a fair hearing.

In reviewing the LSAP's comments regarding documentation of affordable alternatives, we note that the AFDC provision referred to by LSAP requires the county agency to document affordable alternative shelter only after the applicant has documented that the applicant is unable to locate such shelter. The Department is sensitive to the issue raised by the comment. The issue of alternative housing was given close scrutiny by the advisory committee which agreed that the proposed rule provides protection for the applicant against capricious denials by a county agency. To follow the suggestion from LSAP that county agencies be required to have "concrete information that such a solution exists and be able to specify what and where it exists" would be to put the county agency in the position of a housing agency which is unreasonable. The proposed rule would require that a county agency have a reasonable basis to believe that alternative solutions exist and that basis would come under close scrutiny in any appeal hearing. To require the county agency to prove to applicants that specific housing exists unreasonably shifts the burden of locating housing from the client to the county.

The Department declines to make the changes recommended by LSAP.

35. 9500.1261, Subp. 4. Item G. LSAP -- "Our preference would be that no cap be placed on EGA benefits for shelter costs. Unlike the AFDC program, the legislature has not directed the state agency to try to limit the amount of EGA that is issued. The cap that is proposed, will not in most cases prevent someone from receiving needed shelter, however the application of a cap may in some situations be unreasonable. The cap should take into consideration the cost effectiveness concept in earlier provision of this part.

The most obvious example of the cap conflicting with cost effectiveness involves a case where the individual's rent or house payment is low and within the ability of an applicant or recipient to pay on an ongoing basis but which has not been paid for several months (due to illness, unemployment, etc.). However, no action to evict or foreclose, or cancel a contract for deed is taken until after the amount needed to meet that debt is in excess of the cap. There also may be circumstances where the emergency involves needed repairs to a home and rent or payments for the home are similarly within the ability of the person to pay. Refusing to meet the emergency needs of individuals or families in these situations could force many into shelters or otherwise completely inadequate, unsafe housing because alternate housing within their ability to pay is not available.

The proposed rule appears to cap shelter at 4 times the amount of assistance the person is receiving. In certain cases in an assistance unit is receiving as little as $73 per month. A cap of four times that amount is unreasonable. The minimum cap should be four times the standard of assistance for a single adult."

Hennepin County indicated that it supports item G as written with one addition. Persons in negotiated rate facilities have a grant standard of only $49. Four times this grant standard will not be sufficient to obtain housing when they are ready to be released from the facility. The proposed wording of this item would mean that they would have to be released from the facility and become homeless, and thus have their standard raised to $203, before they could qualify for enough EGA to obtain housing. Another problem is that some residents of treatment facilities owe payments to the facilities for periods prior to application for GA, and the facility threatens to evict or discharge the person if the back due amounts are not paid. If the person has a medical need for the treatment offered by that facility it is appropriate to use EGA to pay the back due amounts, yet this item as proposed would prevent it.

Hennepin County recommends the addition of the following sentence to Item G in order to cure this defect: "For purposes of this subpart, a person in a negotiated rate facility is deemed to have an assistance standard equal to the amount of the negotiated rate for that facility."

For all other purposes, Hennepin County supports the proposed wording of this item as a reasonable protection against extraordinary high and unnecessary EGA grant expenditures. For example, if the applicant's home mortgage is being foreclosed and he or she faces homelessness, the emergency could be averted by either paying the balance due on the mortgage, or paying a damage deposit and first month's rent on an affordable apartment. Because of the amount due on the mortgage could be tens of thousands of dollars, it would be imprudent for the county to pay it when the alternative of putting the applicant in an apartment would cost only a few hundred. It is absolutely imperative that the county have the authority to choose the less expensive solution."

FINDINGS: The intention of the proposed rule at 9500.1261, subp. 4, item G, is to provide some reasonable safeguard against uncontrolled costs in the emergency general assistance program. The use of a "cap" of four times the assistance unit's monthly standard is consistent with the AFDC program and it is reasonable to apply it to the general assistance program. However, as pointed out by comments from both LSAP and Hennepin County, the standard for a single individual may be substantially reduced due to residence in a negotiated rate facility or having a spouse who for one reason or another is not a member of the assistance unit. To allow exceptions in those cases does not change the substance of the provision to limit payments and should be adopted.

To further allow an exception to the cap in cases where the only cost effective housing available exceeds the limit, or where there is no alternative housing within the limit, is also not substantially different from the intention of the provision to limit payments. To deny payments to such persons as a result of a payment cap would effectively deny emergency assistance persons in a crisis with no alternative to homelessness. This is contrary to public policy and the change should be adopted. The Department accepts the recommendations of LSAP and Hennepin County.

Item G on page 90, lines 8 to 10 is amended to read:

"G. Emergency grants for shelter, exclusive of moving expenses or deposits, must not exceed an amount equal to four times the assistance unit's monthly assistance standard. <u>For the purposes of this item, the amount of a single individual's monthly assistance standard is the amount specified in part 9500.1231, subpart 1. A county agency may receive state participation for payments in excess of the limits of this item if the county agency has documented that no shelter is available within the limits of this item which is cost effective as governed by items A to C.</u>

The change in this item in necessary to ensure a reasonable alternative for individuals with grants that are less than $203 per month. Since the change is an expansion of the cap for individuals with grants less than $203 per month and is

necessary to ensure equity among single applicants and recipients, the change is not a substantial change. The change is supported by views supported to the Department and does not result in a substantial change.

CONCLUSIONS

I hereby conclude that:

1. The Commissioner has statutory authority to promulgate these rules.

2. Proper notice of the Department's intent to adopt the proposed above-captioned 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 rule are not substantial changes.

4. The rules, as modified, are necessary and reasonable. (8)

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.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED (8) that the rule identified as the General Assistance Rule, as modified, is adopted this 4 day of January, 1991, pursuant to authority vested in me by Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5.

STATE OF MINNESOTA (9)

ANN WYNIA
Commissioner

GENERAL ASSISTANCE RULE

MEMORANDUM FOR THE RECORD

I. RESPONSE TO NOTICE OF SOLICITATION

Val Baertlein, Executive Director, Minnesota Coalition for the Homeless, Inc.

II. REQUESTS FOR HEARING ON RULE 55 GENERAL ASSISTANCE

1. James E. Wilkinson, Legal Aid Society of Minneapolis, letter dated September 27, 1990. (Letter withdrawing request dated October 16, 1990 - Received after the close of the comment period. Also included a copy of a letter dated September 26, 1990 from Susan Gillham (? spelling) requesting a hearing).

2. Mary L. Vait, MYDP - Project Offstreet, letter dated September 26, 1990

III. PUBLIC COMMENTS RECEIVED ON PROPOSED RULE

1. M. Francesca Chervenak, Legal Aid Society of Minneapolis, letter dated October 16, 1990.

2. Herbert Frey, Alliance of the Streets, letter dated October 16, 1990.

3. Paul Onkka & Tonja M. Orr, Legal Services Advocacy Project, letter dated October 17, 1990.

4. Kevin P. Kenney, Hennepin County, letter dated October 17, 1990.

5. Tom Beer, AFSCME Council 6, (telephone) [October 16, 1990]. Mr. Beer expressed a concern about work readiness displacing public employees. He cited Minnesota Statutes, section 256D.051, subdivision 7, "A registrant under this section is not an employee for the purposes of workers' compensation, unemployment insurance compensation, retirement, or civil service laws, and shall not perform work ordinarily performed by a regular public employee." Mr. Beer requested that work readiness include a reference to to Minnesota Statutes, section 256.051 governing the prohibition against displacement of public employees.

Minnesota Coalition for the Homeless, Inc.
668 Broadway Street N.E. • Minneapolis, Minnesota 55413 • (612) 379-8520/379-2779

May 9, 1990

Jim Schmidt
Department of Human Services
Rules and Bulletins Division
St. Paul, MN 55155-3816

Dear Mr. Schmidt:

I strongly oppose statutory changes that would include any additional residency requirements for emergency general assistance.

The uniform and effective administration of emergency general assistance is a worthwhile and supportable objective but only if it is also equitable and non discriminatory. Additional residency requirements would unfairly discriminate against certain categories of people in need, including low-income individuals and families, minorities, and particularly migrant workers, who contribute much to the economy of Minnesota.

There is no compelling evidence that our emergency general assistance program would attract those who would not otherwise come to Minnesota. In addition, any use of assistance standards of other states as a basis for assistance to our new residents would be arbitrary and not uniform.

Those working with homelessness in Minnesota know that emergency assistance provides the flexibility to resolve many situations before they become more acute. The resources available for ending homelessness in Minnesota are very limited and further restrictions on these resources will lead only to more expensive solutions. Our response to homelessness will not be helped by refining the definition of those in need.

Please keep Minnesota's emergency general assistance program equitable and cost-effective in the long run. Please do not add any additional state residency requirements to the Emergency assistance program.

Sincerely,

Val Baertlein

Val Baertlein
Executive Director

cc: Ann Wynia

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3816

October 18, 1990

Judge Allan W. Klein
Administrative Law Judge
Office of Administrative Hearings
500 Flour Exchange Building
310 Fourth Avenue South
Minneapolis, MN 55415

RE: Rule 55; General Assistance

Dear Judge Klein:

On September 17, 1990, the Department of Human Services published a dual notice in the State Register governing proposed rules relating to General Assistance Minnesota Rules, parts 9500.1200 to 9500.1318.

The dual notice included a 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 a 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.

The comment period for this rule closed at 4:30 p.m. on October 17, 1990. Two (2) requests for a hearing were received. Individuals requesting a hearing were: James E. Wilkinson, Legal Aid Society of Minneapolis, Inc.; and Mary L. Vait, MYDP - Project Offstreets.

Since the Department did not receive 25 requests for a hearing, please close the record on the rule. The Department will proceed with noncontroversial rulemaking and will submit the rule with the necessary supporting documentation to the Attorney General for Administration.

Sincerely,

Jim Schmidt

Jim Schmidt, DHS
Rulemaker

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

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Irene M. Opsahl

LEGAL ASSISTANT
Patricia J. Bellanger

September 27, 1990

Jim Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3816

Dear Mr. Schmidt:

This letter is my request that a hearing be held pertaining to the proposed adoption of changes to the General Assistance rules by the State Department of Human Services.

Thank you very much.

Sincerely,

LEGAL AID SOCIETY OF MINNEAPOLIS

James E. Wilkinson
Attorney at Law

jew:gac

A United Way Agency

Jim Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3816

September 26, 1990

Dear Mr. Schmidt,

I am sending you this letter in regards to proposed changes in a ruling for General Assistance for persons under 18. I would like to request a public hearing on the proposal to adopt an amended General Assistance rule. Thank you.

Be sure to let us know as its very imparlant to us all. ——

Sincerely,

Mary L. Vait
1637 Henn. Ave.
Mpls. Mn. 55403

PRESIDENT
Jerry W. Snider

VICE PRESIDENTS
Deanne M. Greco
Michael Sullivan

TREASURER
Felino de la Pena

EXECUTIVE DIRECTOR
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10-16=90

Barbara Anderson
Mn Dept of Human Services
Program Development Section
444 Lafayette Rd
St. Paul, MN 55155-38xx

Dear Ms. Anderson:

This letter confirms this morning's conversation when I agreed to withdraw my request for a hearing on the GA Rule changes. I have enclosed a copy of a letter from a staffperson from Project Offstreets, sent after I alerted them to the issue. I am sure that she and the others who may have requested a hearing after I alerted them to the problems will agree with me that we have found a more effective method of addressing our concerns than the APA process.

As I understand our conversations the Dept. has withdrawn the definition of emancipated minor from the Rule. You, I and other interested parties will meet, beginning on Oct. 23, 1990, to discuss how, through legislation or otherwise, the G.A. program will define emancipated minors and how young G.A. applicants with social service needs will have their social service and subsistence needs addressed.

I look forward to talking with you at that time.

Sincerely yours,
The Legal Aid Society of Minneapolis, Inc.

James E. Wilkinson

c.c.
Tonja Orr
Craig Anderson

A United Way Agency

Jim Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3816

September 26, 1990

Dear Mr. Schmidt,

I am sending you this letter in regards to proposed changes in a ruling for General Assistance for persons under 18. I would like to request a public hearing on the proposal to adopt an amended General Assistance rule. Thank you.

Sincerely,

Jean Gilham

PRESIDENT
Jerry W. Snider

VICE PRESIDENTS
Deanne M. Greco
Michael Sullivan

TREASURER
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Tonja M. Orr
Patricia M. Siebert
Katie Trotzky
Dorinda L. Wider

LEGAL ASSISTANTS
Matilda Madden
Doris Slaughter

October 16, 1990

James Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

RE: Proposed General Assistance Rules

Dear Mr. Schmidt:

I have been working with Paul Onkka and join in his comments on the above rules. In addition, I have these additional comments and suggestions to propose.

1. Definition of "medical evidence".

Under 9500.1251, Subp. 2.G. discusses the need for an SSI applicant to supply "medical evidence" to the county, but supplies no definition of medical evidence. Therefore, I propose the following change:

P. 9, between Subp. 20 and 21 add:

Medical evidence. "Medical evidence" means records, reports, treatment notes or other written documentation about a person's illness, injury or impairment from a hospital, clinic, treatment facility, detoxification facility, physician, psychologist, nurse, therapist or other mental health professional. It can also include a copy of the Disability Determination Rational in which Social Security lists the evidence it relied on to make a decision.

I have attached a copy of the Rational an SSI claimant receives as an example. It is important that the definition be as broad as possible as clients often cannot easily obtain hospital records, but could more easily access detox records. In addition, many GA claimants do not have treating physicians, but more often may have seen, for example, a therapist at the Hennepin County Mental Health Center. Under Minn. Stat. 256D.05, Subd. 1(a)(6) the person needs to submit medical evidence to support their application for disability benefits, and not their appeal of a denial.

A United Way Agency

2. Definition of "qualified professional".

This definition is used, for example, in 9500.1251, Subp. 2.E. where a qualified professional can supply a statement indicating a person with a mental illness or mental retardation is prevented from obtaining or retaining employment. The definition is too narrow to serve most clients. Often these claimants don't have a doctor or a social worker, but rather see a therapist or counselor, or have been evaluated by a vocational specialist. I understand that you are concerned about having this definition broadened. However, it is not reasonable to allow a county social worker or MSW to determine a person's mental illness or retardation prevents them from working without including even more appropriate professionals like therapists or chemical dependency counselors. Therefore, I propose the following change:

P. 13, line 1:

After "master's degree in social work," add "a therapist with a master's degree in counseling, social work or nursing, a chemical dependency counselor, a vocational counselor, a licensed consulting psychologist, etc.

3. Payments to persons without a residence address.

I propose the following change:

Page 49, line 17:

After "retardation", add "or a related condition, or a family assistance unit, etc."

I believe there needs to be clarification of 9500.1237, Subp. 4.D.(4). Does this mean weekly determinations of eligibility as well as weekly provisions of assistance cannot continue beyond the first month subsequent to the month of application?

Also what is meant by lines 6-7 of P. 50? Does "as specified by item C" refer to item C on P. 49 regarding how assistance may be issued or does it refer to item C of 9500.1219, Subp. 3 regarding determination of state residency?

4. Work readiness exemptions for those with SSI applications or appeals pending. [9500.1251, Subp. 2.F. and G.]

Subp. F. discusses those who had applied for disability benefits in the past and who had not appealed, but are now making another disability application. There are a number of levels of appeal available to a disability applicant -- reconsideration, hearing, Appeals Council, U. S. District Court, Eighth Circuit Court of Appeals, etc. Therefore, a clarification is needed

for one "who does not appeal a denial". Does the person need to pursue only the first level of appeal (reconsideration) or appeal further? I propose the following changes:

P. 65, line 29:

After "recipient has" add the words not refused to sign and then continue "an interim authorization agreement, ..." etc.

P. 65, line 33 should read:

"request a reconsideration of an initial denial, by the social security administration, etc.

Subp. G. is to refer to those who have to supply medical evidence after receiving an initial denial of disability benefits. That it should not be applied to those at later stages of appealing their disability is supported in the SNR at P. 66. The Statute is clear that the need to provide medical evidence only applies to those whose disability applications have been denied, not those appealing a termination of those benefits. Therefore, I propose the following changes to comply with Minn. Stat. 256D.05, Subd. 1(a)(6):

P. 66, change line 2 to read:

"has appealed the initial denial, etc."

Change line 5 to read:

"benefits and a reconsideration is pending."

Change lines 6-8 to delete the words "or termination" and to read:

"must produce medical evidence in support of their application for disability benefits within 60 days of the initial denial by Social Security. An applicant or recipient of general assistance under this item must not have refused to sign an interim assistance authorization", etc.

5. Work readiness exemption for those unlikely to obtain employment.

Subp. 2.Q. addresses this category and requires under (1) that the person not only be referred to, but be participating in, a remedial or skills program. This requirement to "be participating in" did not appear in any previous drafts of the rule, there is no authority in the statute, and no justification in the SNR for including this phrase. This language is unduly restrictive as there are often limits on the availability of these remedial or skills programs. A person could easily be referred to, but not be able to access such a program.

Especially because many eligibility categories have been deleted (inability to communicate in English, functional illiteracy, etc.), this would be the catch-all category for those with substantial barriers to overcome who may not realistically benefit from a training program -- i.e., a man in his early 50's who is essentially totally illiterate or who cannot speak or understand English; a person who has been homeless for a long period and who is very socially dysfunctional, etc.

Therefore, I propose the following change:

Page 69, line 32:

Delete the words "and is participating in,"

Thank you for your attention to these comments.

Sincerely,

LEGAL AID SOCIETY OF MINNEAPOLIS, INC.

Francesca Chervenak

M. Francesca Chervenak
Attorney at Law

MFC:cms

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration

OMB #0960-0438

DISABILITY DETERMINATION RATIONALE

Name of Claimant	W/E's Name (If CDB or DWB)	SSN	TYPE OF CLAIM
			DIB

The following reports were used to decide your claim. Additional reports were not obtainable; however, the ones shown below had enough information to evaluate your condition.

Metropolitan Medical Center - report received 07/29/88
Houston Veterans Administration Hospital - report received 07/19/88
Audie Murphy Veterans Administration Medical Center - report received 07/25/88
Hines Veterans Administration Medical Center - report received 07/25/88
Nuway Halfway House, Inc. - report received 08/15/88
Information from other people who know about your health

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

You said you are unable to work because alcoholism has prevented you from holding a job. The medical evidence shows you have completed many treatment programs because of this disease. You are able to associate well with other people. You are attending Alcoholics Annonymous. You are able to maintain a variety of daily activities and interests. The medical evidence also shows you were recently hospitalized because of a leg fracture. While this impairment is severe at this time, you are expected to be fully recovered within 12 months from the date of the fracture. Based on your description of the job you performed as a laborer for about four years, we have concluded that you have the ability to return to this job. If your condition gets worse and keeps you from working, write, call, or visit any Social Security office about filing another application.

CLAIMS REP (DO-SGA DETERM)	Date	(Initial and Date)					
Disability Examiner DDS	Date	Review Physician DDS	Date	Disability Examiner SSA	Date	Disability Examiner SSA	Date
BH	9/23/88						

Form SSA-4268-U4 (1-85)

1. FOLDER COPY

ALLIANCE OF THE STREETS

A UNION OF POOR AND HOMELESS PEOPLE

October 16, 1990

Jim Schmidt
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Dear Mr. Schmidt,

I work with poor and homeless people in Minneapolis. I am very concerned about the change in rule 9500.1261, Part 3E, which will deny emergency General Assistance to individuals disqualified from Work Readiness.

For the past several months, I have talked to many people who can no longer be sheltered in the county-funded shelters because they are Work Readiness disqualified. During the summer, they didn't make a fuss and slept in abandoned buildings or tried to get into the free (church) shelters in Minneapolis which are almost always full. Some, of course, couldn't find spots for the night in the free shelters. Often they just rode the bus or walked the streets all night long.

These are the people who will be adversely affected by this rule change. In many cases, they are disabled or mentally ill, unable basically to make their Work Readiness meetings, but eminently qualified for SSI or SSDI. I don't think it right that they be so easily disqualified from Work Readiness or denied EGA which they really need.

I think there needs to be provision for these people in the new rule. It is not decent public policy to slough them off on the free shelters or expect them to survive outisde on really cold nights.

Sincerely,

Herbert Frey

Herbert Frey
Community Organizer

1321 First Avenue South, Minneapolis, MN 55403 (612) 870-0529

LEGAL SERVICES ADVOCACY PROJECT

300 MINNESOTA BUILDING ST. PAUL, MINNESOTA 55101

(612) 222-3749

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Tonja M. Orr
Harold Turner

October 17, 1990

Jim Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

RE: Comments on Proposed General Assistance Rule

Dear Mr. Schmidt:

The following comments are submitted on behalf of the Legal Services Advocacy Project in conjunction with the civil legal services programs in Minnesota. Please note that page and line references are to the 8/21/90 revisor's draft of the proposed rule.

1) 9500.1206 Program Definitions. Subpart 3. Advanced Age (Page 1, lines 29-35, Page 2, lines 1-3).

This definition now precludes consideration of advanced age as a condition that substantially affects the ability to seek or engage in substantial work if the person is under age 55 except insofar as that person is determined by a qualified professional to be unlikely to obtain permanent employment due to age and other factors under 9500.1251, subpart 2(Q).

There are two problems with this approach. First, in § 256D.05, subd. 1(a)(17) the legislature did not establish a specific year at which a person is considered to be of advanced age. This doesn't seem to be unintentional and sets up a different and separate category of eligibility than that in subd. 1(a)(8), the statutory basis for the provision in 9500.1251, subp. 2(Q). The proposed definition of advanced aged, however, basically precludes eligibility for anyone under age 55 due to advanced age unless the person can establish eligibility under 9500.1251, subp. 2(Q). This is not a reasonable construction of the differences between subdivision 1(a)(7) and (8).

Second, the language in 9500.1251, subp. 2(Q) is itself problematic for reasons that are specified below (see Comment #18B). Nevertheless, even if that provision is approved for

those who can establish eligibility only under subd. 1(a)(8), it is not appropriate to require those who are under 55, and eligible due to advanced age alone, to comply with the same requirements as those whose eligibility rests, at least in part, on non-age based factors.

Recommendation: Reinstate current rule.

2) 9500.1206, Subpart 12a. Documentation. (Page 4, lines 3-14).

It is not evident why there is a distinction made between different types of documentation. There appears to be no implementation of this distinction in the rule itself. *See* 9500.1215, Subp. 2. (Page 21, lines 3-7). The distinction is not maintained in the Combined Manual.

3) 9500.1206, Subp. 15. Good cause. (Page 6, lines 29-36).

Because inability to obtain or pay for child care is frequently the reason a person is unable to meet program requirements, this factor should be listed specifically.

Recommendation: Page 6, line 35, before "transportation" insert "or pay for adequate child care or".

4) 9500.1206, Subpart 16A. In-kind income.

The applicable statute, § 256D.02, subd. 8, provides that in-kind income, to be considered available, must be of a type which the recipient :"could legally require to be paid in cash to himself or herself." This is a substantially more limited definition of availability than contained in the proposed definition. The rule should be amended to reflect the statute.

Recommendation: Page 7, line 28, after "which" insert "the applicant or recipient"
Page 7, line 28 delete everything after "cannot" and insert "legally require be paid in cash,".
Page 7, line 29, delete everything before the comma

5) 9500.1206, Subpart 17. Interim assistance. (Page 7, lines 32-36, Page 8, lines 1-26).

There appears to be two substantive changes from current policy in this definition. One concerns an increase in the period of time, and therefore, the amount of general assistance which can be recovered, to include the period before an interim assistance agreement is signed. The proposed rule would require applicants to agree to the retroactive collection of benefits. This is clearly a substantial change in the rule made without any change whatsoever in the authorizing statute, § 256D.06, subd. 5. This time period is now expanded, not because Minnesota law has changed, but because, according to the Statement of Need and Reasonableness (hereafter SNR), there has been a change in a policy by the Social Security Administration which permits a state to expand this time period. However, such a significant change in the rule, in the absence of a change in underlying Minnesota law is not reasonable. Furthermore, the reliance on simply a letter from the Social Security Administration is unreasonable. The change in policy on the federal level has not occurred through proper administrative procedures act rulemaking nor through a statutory change. The new policy, therefore, should not be given any force or effect.

The second change from current policy is in the definition of the amount of interim assistance which can be recovered. This changes appears likely, depending on the nature of the other benefit received, to permit recovery of general assistance paid to assistance unit members other than the recipient of the other maintenance benefits. This is to be both unreasonable and unsupported in applicable Minnesota law.

Recommendation: Reinstate former definition.

6) 9500.1206, Subpart 20. Medical Certification. (Page 9, lines 22-31).

Since a physician could certify a spinal subluxation condition as well as a chiropractor, it is appropriate to include a physician in this part of the definition and unreasonable to limit certification to chiropractors.

Recommendation: Page 9, line 29, delete "means" and insert "includes"
Page 9, line 29, after "by" insert "a licensed physician or"

7) 9500.1206, Subpart 32. Suitable employment. (Page 14, lines 23-36, Page 15, lines 1-3).

We were quite pleased to see that the proposed rule recognizes that employment is not suitable unless the recipient's net pay exceeds the standard of assistance and include a small work incentive. Any employment that provides less income is clearly not suitable and will not lead to long term self-sufficiency. The rule would be clearer if it cross-referenced the allowable exclusion, deductions, and disregards, e.g. Part 9500.1223, Subp. 5.

This definition should be changed to ensure that the gross income total corresponds to the amount received for 40 hours of work at the minimum wage and that the correct minimum wage is being used.

Recommendation: Page 14, line 31 after "gross" insert "weekly"
Page 14, line 32 after "wage" insert "applicable to the job",
Page 14, line 32, before "income" insert "monthly".

8) 9500.1211, Subpart 2. Right to apply. Authorized representative. (Page 16, lines 10-17).

This provision should be modified so that a person would not have to specifically indicate a desire to apply for public assistance benefits. Anyone indicating a need for financial assistance should be offered an application.

Recommendation: Page 16, line 12, delete "inquiries about general" and insert "indicating a need for financial"

Page 16, line 14, delete "and" and insert "any"
Page 16, line 15 delete everything before the period and insert "inquiring about or indicating a need for financial or other assistance"

9) 9500.1211, Subpart 3. Authorized representative. (Page 16, lines 18-34).

A. The county agency staff member should be required to assist an applicant or recipient who has bee identified as needing assistance.

Recommendation: Page 16, line 28, delete "may" and insert "shall"

B. The inability of many applicants and recipients to communicate with county agency staff is a major barrier in obtaining general assistance benefits. This problem should be addressed in this part of the rule by the addition of the following paragraph:

Page 16, after line 34 insert:

"The county agency shall provide an interpreter for an applicant or recipient who has substantial difficulty in communicating with staff members due to being hearing impaired or unable to effectively speak or write in English."

10) 9511.1211, Subpart 5. Rights pending hearing. (Page 17, lines 29-36, Page 18, lines 1-12).

There are several rights which applicants and recipients have respecting appeal hearings which they should be informed of in order for them to effectively take advantage of their rights. Unless applicants and recipients are informed of their rights, the existence of the rights are not particularly helpful. There is no rule provision setting forth what information should be given to a person when they are sent a notice affecting their eligibility for assistance or the amount of a grant. The new certification manual addresses this issue, but since the manual does not have the force and effect of law, these provisions should be set forth in the rule.

Recommendation: Page 18, after line 12, insert:

"At the time the county agency notifies an applicant or recipient of its intention to deny an application or reduce, suspend, or terminate payment, the county shall specify in its notice the action is has taken or intends to take, the reason and legal authority for the action, and the right to appeal and request a fair hearing. The notice shall also inform the applicant or recipient of the conditions under which assistance will continue pending the appeal outcome, the responsibility to repay assistance if the appeal is unsuccessful, the right to be reim-

bursed for reasonable and necessary expenses of attending an appeal hearing, and the right to review county agency records in advance of the hearing in accordance with this Part."

11) 9500.1211, Subpart 6. Right to review records. (Page 18, lines 13-24).

This subpart should be modified to specifically provide for the right to review county agency records in advance of an appeal hearing even if this is done with less than 5 days notice. This modification is supported by Minn. Stat. § 256.045, subd. 4.

Recommendation: Page 18, line 21, before the period, insert "or at any reasonable time before and during a fair hearing requested pursuant to 9500.1211, subp. 4."

12) 9500.1213, Subpart 2, paragraph F. County agency requirements. (Page 19, lines 21-25).

Paragraph F as proposed would unreasonably permit a county agency to make no decision on a request for emergency assistance by deciding that the emergency could be resolved through other sources. It is unreasonable for a rule to permit requests for assistance to go unprocessed. By deciding that an emergency can be resolved through other sources, the county agency is actually denying emergency assistance, but the rule permits the agency to act (or not act) without giving the applicant or recipient notice of the action and an opportunity to appeal. Such a situation violates basic tenets of due process.

Recommendation: Page 19, line 23, delete the comma and insert a period.
Page 19, delete lines 24 and 25

13) 9500.1213, Subpart 7. Processing applications. (Page 20, lines 12-22).

This subpart will require denial of an application whenever eligibility cannot be determined for any reason within the second 30 day period. In instances where additional necessary information cannot be obtained through no fault or lack of effort by the applicant, this is not equitable. The statute requires only a "determination", not a denial, in 30 days. Under these circumstances a determination can reasonably include a decision to await further information before denying or approving the application.
Recommendation: Page 20, line 21, after "If" insert "the applicant fails or refuses to cooperate in obtaining required verifications so that"

14) 9500.1215, Subpart 2. Sufficiency of documentation. (Page 20, lines 31-35).

This subpart should be revised to provide that an affidavit shall be accepted when other forms of documentation are unavailable.

Recommendation: Page 21, line 6, delete "may" and insert "shall".

15) 9500.1225, Subpart 2. D. Earned income from self-employment. (Page 38, lines 20-36).

In item D, the 20-hour per week requirement is unreasonably high. It is reasonable to provide some guidelines for the amount of effort that must be expended in order for the income to be considered earned income. Due to the resource limitations of the program, in most cases, the rental property is likely to involve a very small number of units, most frequently a duplex. With a limited number of units, it would be extremely difficult for even the most conscientious landlord to spend 20 hours per week on maintenance or management of the property. A more reasonable guide for whether the income should be treated as earned income is the recently enacted law governing the Minnesota Supplemental Aid program. Minn. Stat. § 256D.435, Subd. 9, requires an average of only 10 hours per week of work for income from rental property to be considered earned income.

Recommendation: Page 38, line 22, delete "20" and insert "10"
Page 38, line 35, delete "20" and insert "10"

16) 9500.1243, Subpart 3. Recoupment of overpayments. (Page 57, lines 34-36, Page 58, lines 1-21).

There is no statutory authority for recoupment of overpayment in the general assistance program. The rationale provided in the SNR, p. 61, states only that the proposed rule is consistent with the AFDC program. The AFDC program, however, does have a specific statutory mandate for recoupment of overpayment. *See* Minn. Stat. § 256.73, subd. 8. Absent specific statutory authority, the rule must not reduce a recipients' benefits.

Recommendation: Delete all of Subparts 3 and 5.

17) 9500.1251, subpart 1. Work readiness participation required. (Page 64, lines 15-27).

The point of the last sentence of this subpart appears to be to prohibit an applicant who is exempt from work readiness from registering for work readiness to avoid the interim assistance agreement. The last sentence as written is broader than intended because applicants who have not been offered an interim assistance agreement to sign would be denied assistance. This result is unreasonable.

Recommendation: Page 64, line 25, delete "not signed" and insert "refused to sign".

18) Page 65, lines 26-30. Again this subpart assumes that the recipient or applicant will be offered a interim assistance agreement to sign and proposes to take adverse action

against the recipient or applicant if the agreement is not signed without an inquiry into whether the agreement has been offered.

Recommendation: Page 65, line 29, after "recipient" insert "upon the request of the county agency".

B. The provisions in item Q (Page 67, lines 27-36) are primarily based on § 256D.05, subd. 1(a)(8), a category of eligibility for general assistance. However, the additional requirement in subitem (1) is not found in the statute and imposes an eligibility criteria which has no basis elsewhere in the law. The SNR bases the requirement in subitem (1) on the general language in § 256D.01, assistance program. However, this language clearly states that the work readiness program is "to help employable and potentially employable persons" (emphasis added) and provides no indication that this "help" must be accepted if the individual otherwise meets the criteria for general assistance. In fact, in the very next sentence of § 256D.01, subd. 1 the legislature specifically provides that persons who meet the eligibility criteria for general assistance "are entitled to receive grants of general assistance."

There is clearly no reason why the referral in subitem (1) cannot be made so long as it is voluntary. The further difficulty with making this referral a mandatory requirement is that it does not provide for those situations in which the person actually completes the program by remains unemployable. The language of subitem (1) apparently requires the person to be "participating in" the program on an indefinite basis.

Lastly, there is no clear indication of who designates the program the person is referred to. There needs to be a nexus between the training program and the factors which make the person referred unemployable. This referral should be made by the same professional of vocational specialist who makes the initial employability assessment.

The requirement in subitem (2) of item Q is, like the similar provisions in items F and G, redundant and potentially inconsistent with 9500.1254.

Recommendation: Delete both subitems (1) and (2) of Item Q.
Alternatively, amend subitem (1) to read:

> "(1) the applicant or recipient has been referred to an accredited remedial or skills training program which has been determined by the qualified professional or vocational specialist as likely to successfully address that person's identified barriers to employment";

and amend subitem (2) by adding at the end "in accordance with the provisions in 9500.1254."

19) 9500.1259, Subpart 4. Notices. (Page 86, lines 20-36, Page 87, lines 1-24).

The provision in subitem (1) of item B provides for essentially no advance notice of a grant reduction, suspension, or termination when such action is required by information contained in a household report form. Essentially, this provision, has no basis in law and on its face is inconsistent with § 256D.10 which requires "notice and ... an opportunity to be heard prior to any action by the local agency" (emphasis added).

There are exceptions to this general provision in the work readiness sections of the general assistance statutes but, as specified in § 256D.101, none provide authority for the broad exception to the requirement of advance notice for all general assistance recipients proposed in subitem (1) of item B.

Recommendation: Page 86, delete line 36, Page 87, delete lines 1-5.
Page 87, line 10, after "statement" insert "or household report form"
Page 87, line 13, after "statement" insert "or household report form"

20) 9500.1261 Emergency Assistance. Subp. 3. E. (Page 88, lines 33-36). (Page 89, lines 2-36).

The consequences of being disqualified from work readiness are fairly severe since such persons are also disqualified from the receipt of EGA under most circumstances. It is reasonable to give applicants notice of the serious repercussions for failure to comply with work readiness requirements at as early a date as possible. Providing notice with obviously not help a disqualified person who is homeless and/or without food but may induce compliance by some persons so that homelessness or starvation can be avoided.

Recommendation: Amend part 9500.1237, subp. 5.D. as follows: Page 51, line 7, delete "and"
Page 51, line 12, delete the period and insert "; and

(3) a mandatory participant who has been disqualified from work readiness is not eligible for emergency general assistance during the period of disqualification."

21) 9500.1261, subpart 4. Payment provisions.

A. Item B proposes language concerning "alternative solution" that would alleviate the need for issuance of EGA to maintain the person in the current situation. What constitutes an acceptable alternative solution is not defined and is clearly subject to dispute by reasonable people. Therefore, this term should be defined.

Recommendation: Define "alternative solution" to mean "a course of action which will both resolve the problem or problems which constitute an emergency situation and will not require the applicant or recipient to accept new or different living conditions which, under all the circumstances, are not reasonable."

B. Item B also specifies that a county agency "must have a reasonable basis to believe that alternative solutions exist." A "basis to believe" that some solution exist is a very thin reed upon which to place a determination that an emergency need can be met. The agency should have concrete information that such a solution exists and be able to specify what and where it exists. The AFDC program requires that the agency document that one or more habitable shelter units are available in order to deny assistance to maintain the applicant in this or her current situation. See Minn. Rules Part 9500.2820, Subp. 12. G.(1).

Recommendation: Page 89, line 23 delete everything after "must" and insert "identify what those solutions are"

Page 89, line 24, delete everything before "A"

C. Our preference would be that no cap be placed on EGA benefits for shelter costs. Unlike the AFDC program, the legislature has not directed the state agency to try to limit the amount of EGA that is issued. The cap that is proposed, will not in most cases prevent someone from receiving needed shelter, however the application of a cap may in some situations be unreasonable. The cap should take into consideration the cost effectiveness concept in earlier provision of this Part.

The most obvious example of the cap conflicting with cost effectiveness involves a case where the individuals's rent or house payment is low and within the ability of an applicant or recipient to pay on an ongoing basis but which has not been paid for several months (due to illness, unemployment etc.). However, no action to evict or foreclose, or cancel a contract for deed is taken until after the amount needed to meet that debt is in excess of the cap. There also may be circumstances where the emergency involves needed repairs to a home and rent or payments for the home are similarly within the ability of the person to pay. Refusing to meet the emergency needs of individuals or families in these situations could force many into shelters or otherwise completely inadequate, unsafe housing because alternate housing within their ability to pay is not available.

Recommendation: Page 90, line 10 after the period insert "In those circumstances where the county agency determines that the emergency situation is not likely to recur and the assistance unit's shelter cost is such that it is more reasonable to maintain the unit in its current shelter through in the issuance of emergency general assistance than to deny such issuance, assistance shall be issued in excess of the limits of this clause."

D. The proposed rule appears to cap shelter at 4 times the amount of assistance the person is receiving. In certain cases an assistance unit is receiving as little as $73 per month. A cap of four times that amount is unreasonable. The minimum cap should be four times the standard of assistance for a single adult.

Recommendation: Page 90, line 10, before the period insert ", or four times the standard of assistance under part 9500.1231, subp. 1, whichever is more".

Thank you for your responsiveness to our comments and suggestions in the past. If you have any questions, please feel free to call me.

Sincerely,

LEGAL SERVICES ADVOCACY PROJECT

Paul Onkka by tmo
Paul Onkka
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BUREAU OF SOCIAL SERVICES
A-2303 Government Center
Minneapolis, Minnesota 55487-0232

October 17, 1990

Jim Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Dear Mr. Schmidt:

Attached are the comments of the Hennepin County Bureau of Social Services regarding the proposed rules governing General Assistance. They reflect input from the Economic Assistance Department, which administers General Assistance, the Training and Employment Assistance Department, which administers Work Readiness, and also from the Community Services Department.

I appreciate the opportunity to comment on the proposal. You'll note that we agree with many of the items in the proposed rule. However, I ask that you consider the changes proposed. Thank you for your interest.

Sincerely,

Kevin P. Kenney
Associate County Administrator

lh

Attachments

COMMENTS ON PROPOSED RULE 55
Hennepin County Bureau of Social Services
October 16, 1990

9500.1206 PROGRAM DEFINITIONS

Hennepin County supports all parts of section 9500.1206 as written with emphasis on the subparts noted below.

Subp. 5. **Applicant.** Hennepin County supports this definition because it defines a person as an applicant until the county agency has made a final disposition of the application for assistance. It allows the issuance of Emergency GA and start-work grants to those in need even when it is questionable whether the person will ultimately qualify for on-going assistance.

Subp. 18b. **Legal Custodian.** Hennepin County supports this definition because legal custodian has been undefined up to now. This will make assistance unit determination under Family GA similar to AFDC, reducing inequity and program confusion.

Subp. 32 **Suitable Employment.** Hennepin County strongly supports paragraph C. as written because it defines "suitable employment" such that a person is required to accept a job that would, after expenses and disregards, provide as much income as the public assistance grant for single individuals and married couples . Defining the term as providing more income than that would create a dis-incentive for people to accept or continue employment. It is good public policy to encourage those who are able, to provide for themselves.

9500.1211 APPLICANT AND RECIPIENT RIGHTS.

Hennepin County supports this section as written without modification.

9500.1213 APPLICATION REQUIREMENTS

Hennepin County supports this section as written except for:

Subp. 1. **Application for general assistance, county of residence.** Hennepin County urges that the second and third sentences of this subpart be deleted. An applicant should be required to apply in his or her county of residence without exception. Since, as is stated in the Statement of Need and Reasonableness, the county of residence must provide the assistance it should take the application. To require property taxpayers in a county to pay staff to take applications for non-residents is not reasonable. A county that adjoins another which has only a remote intake site would be placed in a position where they would be forced to subsidize the

staffing costs of the one with remote intake sites.

9500.1215 DOCUMENTING, VERIFYING AND REVIEWING ELIGIBILITY.

Hennepin County strongly supports this section exactly as written. Subparts 1 and 2 appropriately place on the applicant or recipient the responsibility for providing the information needed to determine eligibility, while providing for agency assistance when the person is actually unable to provide it. To require the agency to obtain any information to which the applicant has access would be an unreasonable burden on the agency. Hennepin County strongly supports as written subpart 4, which requires that the applicant or recipient verify reasonable eligibility factors, especially: identity, state residence and the basis of exemption from WR participation. These requirements are absolutely necessary to ensure the integrity of the program and prevent fraud or abuse.

9500.1219 ASSISTANCE UNIT ELIGIBILITY

Hennepin County strongly supports this section exactly as written with special emphasis on and support for subpart 3 in its entirety. This is needed exactly as written to support Minn. Stat. 256D.02 subd 12a. As proposed this section at Item C imposes reasonable standards for demonstrating intent to make a home in Minnesota on the part of an applicant. Item D is reasonable in that a person who has only out-of-state identification may not be a resident of Minnesota and should be required to demonstrate abandonment of previous residence. Hennepin County supports Item E because persons leaving the state are not those intended to be helped by GA.

9500.1221 PROPERTY LIMITATIONS

Hennepin County supports this section exactly as written.

9500.1223 EXCLUDED INCOME

Hennepin County supports this section exactly as written.

9500.1225 EARNED INCOME

Hennepin County supports this section exactly as written.

9500.1226 UNEARNED INCOME

Hennepin County supports this section exactly as written, with strong support for subpart 7. This allows the agency to calculate student financial aid for GA as it does for Food Stamps, but also requires that such income not be counted until it is actually received, so that clients are not unfairly deemed to have income before it is available to provide support.

9500.1231 ASSISTANCE STANDARDS

Hennepin County supports this section as written with the following emphasis.

Subp. 6. **Standard, assistance unit composed of part or all members of a family.** Hennepin County supports this subpart as written because it is necessary to define standards for minor parents and to provide for more than two adults in an assistance unit in unusual circumstances.

Subp. 7. **Standard applies to full month.** Hennepin County strongly supports this subpart because it reduces unnecessary paperwork in processing overpayments when changed circumstances require a reduction in the assistance standard and provides the recipient a reasonable amount of certainty as to his or her budget planning. It also provides for appropriate increases in the standard when the person leaves a facility and needs money for an apartment.

9500.1233 FINANCIAL ELIGIBILITY TESTS

As it relates to non-family cases, Hennepin County supports this section as written with the understanding that when retrospective budgeting results in an emergency situation in the payment month, Emergency GA continues to remain available to prevent undue hardship. Without that safeguard retrospective budgeting is an unfair burden because it requires that a recipient be able to save money from one month's income to pay expenses two months later. With the maximum net income set at only $253 for a single person (including earned income disregard) it is unreasonable to expect that he or she will be able to budget such a small amount so carefully. The need for a winter coat, a pair of shoes or even the regular need to pay a utility bill can easily consume money meant to be saved for the payment month. Hennepin County supports subpart 2 in that it avoids unnecessary paperwork by providing for a one month suspension instead of termination when an assistance unit will be prospectively ineligible for only one month.

9500.1235 EMPLOYMENT DISREGARDS FOR EMPLOYED MEMBERS OF A FAMILY ASSISTANCE UNIT

Hennepin County supports this section as written.

9500.1237 AMOUNT OF ASSISTANCE PAYMENT

Hennepin County supports this section as written with exceptions and emphasis as noted below.

Subp.4. **Persons without a verified residence address.** Hennepin County strongly urges deletion of subitem (4) under item D. This restriction on the length of time for which a county may issue weekly with weekly determination of eligibility is not authorized by statute. The statute gives counties the option of using this

issuance method without restriction as to length of time.

The DHS Statement of Need and Reasonableness errs in assuming that the only purpose of this method of issuance is to deter transients from obtaining GA. Weekly eligibility determination is also a safeguard against persons who are residents of other states coming to Minnesota to apply for GA and then coming back once per month to pick up a check for $203. Hennepin County experienced a problem with unemployed persons from nearby states without a GA program coming to Hennepin County to apply for GA and then returning each month to pick up a monthly check. Residence verification procedures and exemptions from WR participation are not stringent enough to completely prevent this type of program abuse. Since an application may be filed at the end of one month and may require up to another month to process, a person may be exempt from weekly eligibility determination under the proposed rule as soon as he or she is approved for GA. Counties are in the best position to determine how long is an appropriate length of time to apply weekly issuance. Requiring a verified residence address in order to issue a monthly grant has proven to be an effective deterrent to welfare fraud in Hennepin County and Rule 55 should not place on it restrictions not authorized by statute.

Subp.5. **Initial payments for mandatory participants in the work readiness program.** Hennepin County supports this subpart as written with slight modification. Item A (2) as proposed states that an initial certification period may not exceed 30 days, but in fact an application may pend up to 30 days or more before WR is approved if an applicant has not provided verification of all eligibility factors. That makes it impossible to ensure that all applicants can be scheduled to attend an orientation within 30 days. The sentence "This initial certification period must not exceed 30 days" should be deleted. Substitute the sentence "Counties must schedule an orientation within 30 days of application, or the date all eligibility factors are verified, whichever is later." This is a reasonable interpretation of legislative intent.

A new subitem, A. (3) should be added to Subp. 5. A county agency that elects to issue under subitem (2) to individuals and couples without children should nevertheless be able to issue under subitem (1) to family assistance units. New subitem (3) should read: "County agencies may use different methods of issuing the initial payments for family and non-family assistance units."

Subp. 6. **Assistance payment when need will not exceed 30 days.** Hennepin County strongly supports this subpart for the reasons outlined in the DHS Statement of Need and Reasonableness.

9500.1239 PAYMENT PROVISIONS.

Hennepin County supports this section as written, with emphasis on

Subpart 3, item F. This item is needed to clearly define money mismanagement. Using the number of EGA issuances over a period of time as the indicator of money mismanagement gives the county agency an objective measure in making the determination to put a recipient on vendor payments.

9500.1243 BUDGETING.

Hennepin County supports this section as written, with the exception of Subpart 3. Changing to a system of retrospective budgeting will make the GA program more in line with other programs, most importantly the Food Stamp program, and will therefore reduce client and staff confusion.

However, Hennepin County strongly opposes the recoupment of overpayments to non-family assistance units. This is not required or specifically authorized by law and will be, in effect, a reduction of the assistance standard to thousands of GA recipients. Many overpayments occur that the recipient and the agency cannot avoid. Should an overpayment of one month's full grant occur, even though the client was not at fault, recoupment of that $203 will reduce the grant to that client for almost 3 years. While the rule puts a 3% limit per month on the recoupment, even that amount is significant given the woefully inadequate individual grant standards in the GA program. The $6.00 per month reduction in assistance will directly reduce the client's ability to obtain the necessities of life.

The need for recoupment from non-family assistance units to reduce state and county expenditures is minimal, given that the new rule would also implement retrospective budgeting. There is also no incentive for counties to expend the administrative expenses involved in sending notices, setting up recoupment and tracking amounts repaid. The proposed rule does not specify that counties may retain from amounts recouped their share of the grant costs; even if it did, the 25% county share of $6.00 per month would not cover administrative costs, and when the state takes over 100% of grant costs the counties will simply become a cost-free collection agency for the state.

Recoupment of overpayments to non-family assistance units was almost unanimously opposed by the GA Rule Advisory Panel, of which Hennepin County was a part. The panel felt that retrospective budgeting would be sufficient to reduce overpayments, and recoupment was dropped from all subsequent drafts of the rule until the proposed rule was published. Hennepin County strongly urges the Department of Human Services to accept the recommendation of the Advisory Panel and delete recoupment of non-family GA overpayments.

9500.1245 APPLICANT AND RECIPIENT RESPONSIBILITIES

Hennepin County supports this section as proposed, except Subpart 4, item B. When a recipient has failed to submit a completed HRF and the local agency has sent a termination notice for that reason, submitting an incomplete HRF should not void the notice. The recipient has the responsibility for submitting a complete HRF and if the HRF submitted is not complete the county has the responsibility for returning it within a reasonable time, but unless the termination notice remains in effect there will probably be an incorrect payment for the following month, since the agency has incomplete information on which to base the grant amount. This will needlessly increase both overpayments and client injury due to underpayments.

Subp. 5. **Changes which must be reported.** Hennepin County strongly supports this subpart because it is needed to clarify exactly what clients are responsible for reporting to the agency, and the time frame within which the changes must be reported.

9500.1251 WORK READINESS REQUIREMENT AND EXEMPTIONS

Subp. 2. **Exemption from work readiness.** Item F must be clarified so that it is clear that this exemption applies to persons who have an application, and not an appeal, pending at the time the exemption is asserted, regardless of whether the person appealed a previous SSI/RSDI denial. The proposed language in this item would seem to mean that if a person appeals an SSI denial, loses the appeal and then reapplies for SSI they would not have to assert new or aggravated symptoms in the new application in order to qualify for this exemption. This meaning would be contrary to legislative intent, which was that an applicant for or recipient of GA who does not currently have an appeal of the SSI/RSDI denial pending must assert new or aggravated symptoms as the basis for the new claim, unless mental illness or chemical dependency is the basis. The fact that a person may have appealed the previous denial, and then lost that appeal, should not remove the requirement that the new application be based on new or aggravated symptoms.

Item G is incorrect to the extent that it requires a person who is appealing an SSI/RSDI termination to provide medical evidence of the disability in order to qualify for exemption under this part. The statute treats SSI/RSDI appellants differently depending on whether they are appealing a denial or a termination. In the statute the medical evidence requirement is attached to those appealing a denial. That part of the sentence in the statute is separated from the part dealing with termination appellants by a semi-colon, indicating that the medical evidence requirement does not apply to termination appellants. This is reasonable in that a person who has been terminated from SSI or RSDI has proven disability in the past and should be given the benefit of the doubt while appealing. A person appealing a denial has never proven

disability and should be required to provide some evidence in order to qualify for a work exemption.

Item G is also ambiguous on the time frame for supplying medical evidence if the appeal of the SSI/RSDI denial was filed prior to the application for GA. The appeal may have been pending more than 60 days before the person applies for GA. If so, the person should have to provide the medical evidence before eligibility for this exemption can be granted. Add to this item the sentence "An applicant for general assistance must provide such medical evidence in order to qualify under this exemption if the applicant's initial claim was denied more than 60 days prior to the date on which the applicant verifies all other eligibility factors."

Item Q in this subpart must also be modified. The inclusion, in the proposed rule as opposed to the drafts seen by the Rule Advisory Panel, of the words "and is participating in" in subitem (1) and "and has applied for" in subitem (2) significantly change the meaning of this exemption and is not consistent with legislative intent or the recommendations of the Advisory Panel. This category was meant to be a safety net for persons with barriers to employment that cannot be overcome. People with serious, persistent and chronic problems with chemical dependency or mental illness may not cooperate with medical certification of disability, or with diagnosis by a qualified professional, and may therefore not qualify under another exemption even though it may be clear to a vocational specialist that the person cannot obtain employment.

Under current Rule 55 a person with "severely diminished social functioning" is exempt from WR. A qualified professional may not be able to make a specific diagnosis of mental illness in this type of client, but exhibited behaviors, such as talking to oneself, staring blankly into the distance or having exhibited long term inability to abstain from constant drinking are not uncommon in many of our marginal clients and these people should qualify for exemption under the new item Q even though there will be no appropriate remedial programs for many of them. Also, the proposed wording of this item does not recognize that a person may have already participated in a remedial program that simply did not work, or that there may be no program appropriate for that person's particular problem.

The requirement in subitem (2) that the person apply for another maintenance benefit under this category would have an unintended result. Many persons with un-diagnosed mental illness or chronic chemical dependency may qualify for SSI but are afraid or unable to apply for it, with good cause. The county agency needs to work with these people over a period of time, developing communication and trust, before we can expect the person will cooperate in efforts to get him or her onto SSI. If the client cannot get on GA under this category because they have not filed for the other benefit, the agency will not have the opportunity to work towards

getting the person on SSI slowly over a period of time while the person receives GA, as is often necessary in our experience.

Finally, the statute mandates that the assessment for this category take into account the person's physical and mental health, and trainability. Clearly the legislature envisioned that people with mental problems may need this exemption category as opposed to other categories which require a formal medical certification, or diagnosis. And clearly it was assumed that some people would not be trainable, and therefore remedial training would not be practical. In fact, people who are capable of participating in remedial programs or who are trainable are precisely those who were moved from GA under the old statute to WR under the new one, e.g. people who are illiterate, don't speak English or lack a high school diploma. Those who are <u>not</u> capable of participating are the ones for whom this category was meant, but they would be excluded by the very terms of the category as proposed.

These defects in the proposed rule language can be cured by removing the words "and is participating" from subitem (1), and by removing from subitem (2) the words "and has applied for". This will make the proposed rule consistent with the letter and intent of the statute, and the recommendations of the Advisory Panel. To have a blanket requirement that all people under this category, even those who cannot cooperate with or benefit from remedial training is not what the legislature or Advisory Panel envisioned. It is certainly appropriate to require the county agency to search out and refer to appropriate training programs and other maintenance benefit programs, but it is not practical or within the intent of the legislature that clients should be left without assistance if they are incapable of taking advantage of those resources.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Hennepin County supports this section as written.

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Hennepin County supports this section as written.

9500.1261 COUNTY AGENCY RESPONSIBILITIES.

Hennepin County supports this section exactly as written.

9500.1261 EMERGENCY ASSISTANCE.

While Hennepin County opposes the statutory lack of an income limit as an eligibility criteria for EGA, it does essentially support the provisions of the proposed rule because they set forth reasonable safeguards to prevent abuse of EGA by persons with income sufficient to meet their own needs.

Subp. 2. **Emergency situation.** Hennepin County supports this definition of emergency for the reasons outlined in the Statement of Need and Reasonableness.

Subp. 3. **Eligible persons.** Hennepin County strongly supports this subpart in its entirety. Subitem B is important to specify that if AFDC-EA is available, that must be used instead of EGA to resolve the emergency. It also means that non-AFDC families can qualify for EGA in months when EA is not available, even if they have qualified for EA in previous months. Minn. Stat. 256D. includes families as eligible for EGA, when EA is "not available," in every reference to EGA. It would be unreasonable say that EA is "available" in a month in which a family cannot receive it due to having used it within the past 12 months.
Subitem C is important because it clarifies that a person must use his or her own available resources to meet part or all of the emergency need before EGA becomes available. EGA is intended only to meet needs that the applicant cannot meet.

Hennepin County strongly supports subitem D because it is an important safeguard against applicants using their own income and resources for non-essential purposes, then using EGA to meet basic needs that they could have met without help. Since there is no annual limit on the number of times EGA can be used, this kind of abuse is always a potential problem and this subitem is essential to prevent it.

Subitem E is important to prevent persons who are disqualified from WR from simply using EGA to meet their needs while in a period of disqualification. If such persons could get EGA the legislative purpose in requiring WR participation and disqualification would be defeated.

Subp. 4. **Payment provisions.** Hennepin County strongly supports this subpart as written, with a minor modification to item G. The provisions in subpart 4 are extremely important to control costs in the EGA program. The county agency must have the authority to decide which method of resolving an emergency is the least costly, and to use that method where appropriate.

Item A is important because it establishes that an EGA payment can only be used to put an applicant into a situation that the applicant will be able to afford in the future. Without this limitation EGA would become an on-going need for the applicant, and that is clearly not what the statute authorizes.

Item B is important to control grant costs and maintain a rational administrative structure for deciding how to resolve emergencies. The agency should not be put in a position of having to expend any more public money than necessary to resolve the emergency. If an applicant owes a large amount on a gas heating bill for example,

it may be more fiscally responsible for the county to move that person into an apartment where heat is included in the rent, rather than to pay the gas bill for the applicant's current address.

Item D is consistent with statute and is important to assist clients with managing their resources when they have demonstrated an inability to do so themselves.

Hennepin County supports Item G as written with one addition. Persons in negotiated rate facilities have a grant standard of only $49. Four times this grant standard will not be sufficient to obtain housing when they are ready to be released from the facility. The proposed wording of this item would mean that they would have to be released from the facility and become homeless, and thus have their standard raised to $203, before they could qualify for enough EGA to obtain housing. Another problem is that some residents of treatment facilities owe payments to the facilities for periods prior to application for GA, and the facility threatens to evict or discharge the person if the back due amounts are not paid. If the person has a medical need for the treatment offered by that facility it is appropriate to use EGA to pay the back due amounts, yet this item as proposed would prevent it.

Hennepin County recommends the addition of the following sentence to Item G in order to cure this defect: "For purposes of this subpart, a person in a negotiated rate facility is deemed to have an assistance standard equal to the amount of the negotiated rate for that facility."

For all other purposes, Hennepin county supports the proposed wording of this item as a reasonable protection against extraordinarily high and unnecessary EGA grant expenditures.
For example, if the applicant's home mortgage is being foreclosed and he or she faces homelessness, the emergency could be averted by either paying the balance due on the mortgage, or paying a damage deposit and first month's rent on an affordable apartment. Because the amount due on the mortgage could be tens of thousands of dollars, it would be imprudent for the county to pay it when the alternative of putting the applicant in an apartment would cost only a few hundred. It is absolutely imperative that the county have the authority to choose the less expensive solution.

9500.1272 **ASSIGNMENT OF REPRESENTATIVE PAYEE FOR RECIPIENTS WHO ARE DRUG DEPENDENT.**

Hennepin County strongly supports the proposed section as written.

In the Matter of the Adoption
of the Rule of the State Department
of Human Services Governing
General Assistance, Minnesota Rules,
Parts 9500.1200 to 9500.1318

DECLARATION OF
COUNSEL

I, Craig R. Anderson, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0852.

Craig R. Anderson

Special Assistant
Attorney General

Dated: 1-3-1991

Stat. Authority

1b The commissioner may adopt rules emergency rules and shall adopt permanent rules to set standards of assistance . . .

1c. In order to maximize the use of federal funds, the commissioner shall adopt rules

256D.051

In consultation with county agencies, the commissioner may adopt permanent and emergency rules

256D.06 subd 5

Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source

256D.08 subd 2

Notwithstanding any other provision of sections ~~256D~~ 256D.01 to 256D.21, the commissioner shall provide by rule for the exclusion of property from the determination . . .

256 D.09 subd 2

... the commissioner shall provide by rule, and may adopt emergency rules

256 D. 111 subd 5.

The commissioner shall adopt rules and is authorized to adopt emergency rules

End of comment period - October 17, 1990

Department of Human Services

Assistance Payments Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing General Assistance and Work Readiness

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rule governing general assistance and work readiness. The adoption of the rule is authorized by *Minnesota Statutes*, sections 256D.01, subdivision 1b; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.08, subdivision 2; and 256D.111, subdivision 5 which permit the agency to promulgate rules so general assistance is administered uniformly throughout the state; to set standards of general assistance and methods of calculating payments; and to adopt rules governing work readiness.

The proposed amendments will establish procedures governing the administration of emergency general assistance, will implement statutory changes governing general assistance and work readiness to include provisions governing state residency, persons without a verified address, and persons exempt from work readiness participation; will clarify resource exclusions, income exclusions, deductions, and disregards; will establish reporting responsibilities for applicants and recipients; will establish additional budgeting procedures for calculating and determining general assistance grants; and will clarify payment provisions. The proposed amendments will also delete obsolete rule parts and will reorganize portions of the rule to facilitate readability.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Jim Schmidt, Department of Human Services, Rules and Bulletins Division, St. Paul, Minnesota 55155-3816. Oral statements will be received during regular business hours over the telephone at (612) 296-7815 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 17 April 1990

Jim Schmidt
Rulemaker

Department of Human Services

Divisions of Licensing and Children's Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Licensure and Operation of Private Agencies That Place Children for Foster Care or Adoption

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of new rules to replace parts 9545.0750 to 9545.0850 as the rules governing licensure and operation of private child-placing agencies.

Requirements of the proposed rule parts will focus on such areas as agency governance, finances, service standards, and personnel. The department has chosen to repeal and replace (rather than amend) parts 9545.0750 to 9545.0850 because organizational revisions as well as changes in content are needed to bring the rule up to date.

The adoption of the rule is authorized by *Minnesota Statutes*, section 245A.09 which permits the agency to adopt rules to govern the operation, maintenance, and licensure of programs subject to licensure under sections 245A.01 to 245A.16.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Alice Week, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816. Oral statements will be received during regular business hours over the telephone at (612) 296-0626 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Rules of the Department of Human Services Relating to General Assistance Parts 9500.1200 to 9500.1318

FISCAL NOTE

I. **ESTIMATED SUMMARY OF COSTS/(SAVINGS)**

	STATE	COUNTY
First Year	($ 593,000)	($ 143,000)
Second Year	($ 593,000)	($ 143,000)
TOTAL	($1,186,000)	($ 286,000)

II. **BACKGROUND INFORMATION ON THE RULE**

1. PURPOSE OF THE RULE

The General Assistance Program is a state program which provides public assistance to persons who are unable to provide for themselves and who are ineligible for assistance under federal programs.

The proposed rule amends Minnesota Rules, parts 9500.1200 to 9500.1318. The purpose of the amendments is to provide for uniform administration of the General Assistance/Work Readiness Program throughout the state; to promote greater consistency among public assistance programs; and to implement recent statutory changes to the General Assistance Program.

2. STATUTORY AUTHORITY FOR THE RULE

The General Assistance and Work Readiness Program is governed by Minnesota Statutes, sections 256D.01 to 256D.21. Rulemaking authority for General Assistance and Work Readiness is authorized under Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5.

3. REASONS FOR ADOPTION OF THE RULE

The proposed rule amendments are necessary to address legislative changes enacted since the last rule revision. The rule amendments also address specific rule areas that have been identified by the

counties or the Department as problematical due to a lack of specificity in the existing rule. The rule also makes explicit certain Department procedures for public assistance programs.

III. METHODOLOGY USED IN DETERMINING COSTS/(SAVINGS) UNDER RULE

Program Overview

In 1989, expenditures for the general assistance/work readiness program were $67.6 million. This figure includes $52.7 million for general assistance and $14.9 million for work readiness. Included in the general assistance figure of $52.7 million is $3.4 million for emergency general assistance.

The average number of monthly cases in 1989 were as follows:

18,900 cases under regular general assistance;
1,767 cases under Emergency General Assistance; and
7,076 cases under Work Readiness.

Since assistance units may be composed of a single individual, a married couple without children, or a family, data on the number of assistance units served is not an adequate basis for estimating program costs or savings. This is particularly true when a rule amendments only affects a small subgroup of the general assistance population. Estimates have been developed based on the percentage of the general assistance population that may be affected by a particular rule change. Since costs and savings are based on estimates, the annual savings are estimates.

The ratio of state costs/savings to county costs/savings is 75 percent state and 25 percent county except for "interim agreement" where the ratios are reversed (75 percent county and 25 percent state) and for administrative expenses for processing EGA applications where the cost ratio is 100 percent county.

In developing cost and saving estimates for the fiscal note, the Department solicited county input on administrative costs associated with implementation of the rule from 21 counties. These counties had representatives on the County General Assistance Panel or the Rule 55 Advisory Committee. Their input was solicited because of their familiarity with the proposed rule.

Three counties expressed a concern that there could be increases in administrative expenses under Emergency General Assistance (EGA) due to expanded EGA eligibility. While the department acknowledges that there will be some increases in administrative costs under EGA, when the general assistance rule is viewed in its entirety, the county agencies will realize modest savings.

Rule 55 Fiscal Note

1. Emergency General Assistance — Overall Savings $ 35,000

A. Expanded EGA Eligibility — Costs $ 405,000

Due to a statutory change in 1990, the proposed rule does not restrict eligibility for emergency general assistance to those individuals whose countable income is less than their standard of assistance for a monthly grant. The existing rule requires "income eligibility" for on-going general assistance as a prerequisite for emergency general assistance (EGA). The absence of a provision restricting eligibility based on income expands the number of persons eligible and will increase program costs. These costs will be offset to some degree by savings from EGA payment provisions.

The cost estimates for EGA are based on experience from the AFDC program. Eligibility for on-going eligibility for AFDC is not a requirement for AFDC-EA, so there is a basis for estimating increases in EGA. Approximately 40 percent of all AFDC-EA recipients are not AFDC recipients. It is estimated that half of the AFDC-EA recipients who are not AFDC recipients (20 percent of all AFDC-EA recipients) are ineligible for AFDC due to excess income (the other 20 percent are ineligible due to other factors). It is reasonable to assume that a similar proportion of EGA recipients would not be eligible for general assistance due to excess income. Evidence also suggests that a portion of EGA recipients currently are not income eligible for general assistance. Therefore, we can make the assumption that half of the growth that would be expected under the proposed rule has already occurred. That is, approximately 10 percent of EGA recipients are not GA eligible.

In 1989 the monthly average of EGA recipients was 1,767. Of those, 10 percent are assumed to be ineligible for GA, leaving a base of 1,590 EGA recipients who are GA eligible. Based on AFDC-EA experience, it is anticipated that this base of 1,590 EGA cases would increase by 10 percent or 159 cases per month. Since 1989 EGA payments were $3.4 million or $160 per case per month, this change in the EGA rule will increase costs approximately $300,000 (159 cases X $160 average per case X 12 months equals $305,280). The cost ratio for the $300,000 is 75 percent state, 25 percent county.

Assuming one-half of the new cases (80) would be in counties in greater Minnesota, the Department estimates the additional administrative expense per county in greater Minnesota would be minor, one case per month (159 new cases per month divided by 2 divided by 80 counties). The administrative expense for the seven Metropolitan counties would be more significant (80 cases per month divided by 7 counties equals 12 new cases per county per month). If 12 new cases per month represents a one-fourth time full time equivalent employee at $30,000 per year, the increased costs would equal $52,500 per year for the metropolitan counties (7 counties times 1/4 FTE times $30,000). Since the figure for the metropolitan counties represent the cost of one-half of the new cases, the statewide costs are estimated to be approximately $105,000. These costs are 100 percent county costs.

There could also be administrative costs to counties who screen out persons who wish to apply for EGA based on an income test. County agencies were instructed not to predict eligibility based on this type of screening procedure by means of Instructional Bulletin 90-8A which implemented the Combined Application Form (CAF). The CAF bulletin stated that eligibility is very difficult to predict and that only after completion and review of the combined application form part II and an interview can a determination of eligibility be made. Completion of the application is necessary to assure a client of the right to a full eligibility determination or to a fair hearing. Administrative costs due to processing applications for EGA rather than screening should not be attributed to this rule.

B. Available Resources Savings $170,000

Under the proposed rule, an available resource is any resource that can be liquidated by the applicant prior to the onset of the emergency. In addition to the sale of assets, the term "liquidate" now includes borrowing using the assets as collateral for a loan. Since the change will only effect a small number of cases, the Department estimates that the savings will not be large. The Department anticipates that 5 percent of the EGA population may be affected by this provision with a savings of approximately $170,000 (1,767 cases per month times .05 times $160 (average payment) times 12 months equals $169,632).

C. Use of Resources Savings $100,000

The proposed rule specifies that an applicant is not eligible for EGA if he or she has "used more than half of his or her available income and liquid resources for purposes other than basic needs during the 60 days prior to application." This provision is intended to reduce or eliminate EGA payments for emergencies that are "planned". A review of appeals during a one year period indicates that this problem is not isolated and that a many of the individual EGA payments are substantial. To the extent that the provision prevents the planning of emergencies, savings will be recognized. If the provision prevents one percent of the EGA population from planning an emergency, and the average payment is $500 (larger than program average), program savings would be approximately $100,000 (1767 cases per month, times .01 times 12 months times $500 equals $106,020).

D. EGA Payment Provisions Savings $170,000

The proposed EGA rule restricts payments of EGA to those which are "cost effective". Current rule has no restriction on the amount, or effectiveness of an EGA payment. The current rule simply requires that the applicant be in "jeopardy", be without the resources to resolve the situation, and that the situation requires immediate cash assistance. The concept of "cost effectiveness" is set forth in the proposed rule as follows:

Rule 55 Fiscal Note

1. The EGA payment must not leave the recipient in a situation from which another emergency can reasonably be foreseen within two months subsequent to the month of application.

2. The county agency shall restrict an EGA payment to the lesser amount in situations where alternative solutions exist.

3. Vendor payment of future needs are authorized for EGA applicants who are in emergency situations due to the applicant's mismanagement of money. Where this provision is used, the likelihood of future emergencies is substantially reduced.

4. A limit is placed on the amount of an EGA payment for shelter (4 times the assistance unit's standard, which would be $812 for an individual or $2,420 for a family of four). Upper limits on the amount of the grant provide necessary assistance while reducing potentially very large expenditures.

All the payment provisions identified in items 1 through 4 above will result in savings. Since these items are new rule provisions, precise data are unavailable. However, it appears reasonable to estimate annual savings of five percent of the total EGA program or approximately $170,000 ($3,400,000 times .05).

EGA Cost/(Savings) Breakdown

	State	County	Total
(A) EGA eligibility	$ 225,000	$75,000	$300,000
Process applications	$ 0	$105,000	$105,000
(B) Available resources	($127,500)	($ 42,500)	($170,000)
(C) Use of resources	($ 75,000)	($25,000)	($100,000)
(D) Payment provisions	($127,500)	($42,500)	($170,000)
Total	($105,000)	$70,000	($35,000)

2. Definitions — State costs $36,750; County savings $37,750

A. Interim Assistance — Savings $75,000

The definition of "interim assistance" is amended to include the entire period for which General Assistance payments and another maintenance payment are made. This change allows the county agency to recover general assistance paid from a retroactive payment of another maintenance benefit that is concurrent with the general assistance payments. Current rule only allows a county agency to recover those general assistance payments made subsequent to the signing of an interim assistance agreement, even though a number of general assistance payments may have been made prior to the signing of that agreement.

The Social Security Administration informed the Department that the state unnecessarily restricts the period for which it could receive reimbursement for payments of interim assistance.

In 1989 Social Security Administration reimbursements to Minnesota counties for GA recipients who had signed an interim assistance agreement amounted to $600,000. These reimbursements were exclusively for the period beginning with the signing of the interim assistance agreement. Assuming half of the cases with an interim assistance agreement will receive payments for a duplicate period prior to the signing of the agreement and the period of time before signing the agreement is one fourth as long as the period of time after signing the agreement, then SSA reimbursements would increase by approximately $75,000 ($600,000 X .5 X .25). The state would realize savings of approximately $18,750; the county would realize savings of approximately $56,250.

B. "Filing Unit" Savings $56,000

The definition of a "filing unit" combined with the revised statutory definition of "family" is more inclusive than the definition currently in use. Since the filing unit specifies the persons in a household who are financially responsible for members of an assistance unit, the broader definition of "filing unit" could reduce benefit levels for persons eligible under the current rule. However, the change will only effect persons in very specific and unusual circumstances, with the result that the number of cases affected should be relatively small.

There are approximately 6,000 families on general assistance. If one-half of one percent of the families would be affected by clarification of the term filing unit, 30 families would be affected statewide. Since the net effect of the change would be to move a person from the first child standard to the second (a grant reduction of $155) the savings would be approximately $56,000 ($4,650 per month times 12 equals $55,800 per year). The state would realize savings of approximately $42,000; the county would realize savings of approximately $14,000.

C. "Reside With" Costs $ 130,000

The proposed definition of "resides with" may exclude some financially responsible parents of "adult children" on general assistance with the result that less income will be budgeted against the grant. This change will result in additional program costs.

If the total number of individuals on general assistance/work readiness is 19,976 (25,976 average monthly cases minus 6000 family general assistance cases) and one half of one percent of the general assistance population would experience a grant change. Approximately 100 individuals would be affected (19,976 X .005). The maximum grant increase would be from a second child standard of $95 to the single adult standard of $203, an increase of $108 per month, or approximately $130,000 (100 cases X $108 X 12 months equals

$129,600). The state would incur costs of approximately $97,500; the county would incur costs of approximately $32,500.

3. Reporting and Budgeting. Savings $700,000

The current rule has no provision for the mandatory reporting of changes by GA recipients which would affect the general assistance grant. Current rule provision for prospective budgeting relies upon the anticipation of circumstances in the determination of grants. The combination of these two provisions in conjunction with program requirements for advance notice may result in unavoidable overpayments of general assistance grants. Once the overpayment has been made, it is extremely difficult to recover due to the limited financial resources of the general assistance population. On the theory that it is better to avoid the overpayment rather than have to recover it, the proposed rule addresses the problem through a mandatory reporting requirement and retrospective budgeting. A recoupment process will alleviate the problem of unavoidable overpayments. Both provisions are identical to the AFDC program.

In State Fiscal Year 1990, county agencies recovered $712,000 through 100 percent county efforts. This figure does not include SSI interim assistance recoveries or cancellations of county warrants which have been issued and returned. As a working assumption, the department estimates that this figure does not exceed 10 percent of all overpayments. If the proposed rule provisions for reporting, budgeting and recoupment prevent or reduce overpayments by an additional 10 percent, the savings in the program would be approximately $700,000. This is a conservative figure in that it estimates that in 80 percent of the cases, reports will still not be received in sufficient time to reduce, suspend, or terminate a grant. Of the estimated $700,000 in savings, the state would realize $525,000 and the counties would realize $175,000.

Costs/(Savings) Summary

1. Emergency General Assistance

	State	County	Total
(A) EGA eligibility	$ 225,000	$75,000	$300,000
Process applications	$ 0	$105,000	$105,000
(B) Available resources	($127,500)	($ 42,500)	($170,000)
(C) Use of resources	($ 75,000)	($25,000)	($100,000)
(D) Payment provisions	($127,500)	($42,500)	($170,000)
Subtotal	($105,000)	$70,000	($35,000)

2. Definitions

(A) Interim Assistance	($ 18,750)	($ 56,250)	($ 75,000)
(B) Filing Unit	($ 42,000)	($ 14,000)	($ 56,000)

Rule 55 Fiscal Note

(C) "Reside With"	$ 97,500	$ 32,500	$130,000
Subtotal	$ 36,750	($ 37,750)	($ 1,000)
3. Reporting	($525,000)	($175,000)	($700,000)
Total	($593,250)	($142,750)	($736,000)

Date: 8-27-90

ANN WYNIA
Commissioner

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-38____

September 12, 1990

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131, enclosed is a statement of need and reasonableness relating to General Assistance, Minnesota Rules, parts 9500.1200 to 9500.1318.

If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at 612/296-7815.

Sincerely,

Jim Schmidt

Jim Schmidt
Rulemaker

Encl.

Celebrate MINNESOTA 1990

AN EQUAL OPPORTUNITY EMPLOYER

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, Minnesota Rules, Part 9500.1200 to 9500.1318

AFFIDAVIT OF MAILING

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

That on the 12th day of September, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices 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 L. Bishop

Subscribed and sworn to before me
this 13th day of September, 1990

Jean D Storm

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, Minnesota Rules, Part 9500.1200 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, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5.

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 unless a sufficient number withdraw their request in writing. 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, section 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 October 30, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on October 17, 1990.

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

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement Minnesota Statutes, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

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 upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816 or by calling (612) 296-7454.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services.

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 Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

State of Minnesota

Dated: Aug 29, 1990

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing General Assistance, Minnesota Rules, Part 9500.1200 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 Room 500 South, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on October 30, 1990, 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 CANCELED 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

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 Allan W. Klein, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7609, 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, sections 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.

The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement Minnesota Statutes, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5. Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7454. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

NOTICE: Any person may request notification of the date on which the Administrative 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 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, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: Aug 29, 1990

ANN WYNIA
Commissioner

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, Minnesota Rules, Part 9500.1200 to 9500.1318

AFFIDAVIT OF ADDITIONAL MAILING

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

That on the 12th day of September, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notices 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 parties:

- The 87 Minnesota County Human Services Agencies

- 19 Advisory Committee Members

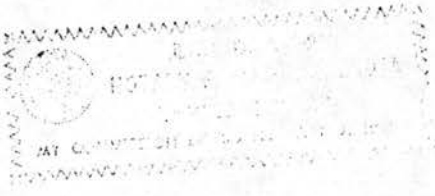
- Val Baertlein
  Executive Director
  Minnesota Coalition for the Homeless
  668 Broadway St. NE
  Minneapolis, MN 55413

- Joan Hill
  MAFAS, Chairperson
  Crow Wing County Social Service Center
  P.O. Box 686
  Brainerd, MN 56401-0686

- General Assistance (GA) Advisory Panel
  (15 individuals - includes 2 advisory committee members and Joan Hill)

Nancy L. Bishop

Subscribed and sworn to before me
this 13th day of Sept., 1990
Jean D Storm



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, Minnesota Rules, Part 9500.1200 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, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5.

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 unless a sufficient number withdraw their request in writing. 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, section 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 October 30, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on October 17, 1990.

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

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement Minnesota Statutes, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

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 upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816 or by calling (612) 296-7454.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services.

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 Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

State of Minnesota

Dated: Aug 29, 1990

ANN WYNIA
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing General Assistance, Minnesota Rules, Part 9500.1200 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 Room 500 South, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on October 30, 1990, 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 CANCELED 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

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 Allan W. Klein, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7609, 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, sections 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.

The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement Minnesota Statutes, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

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The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5. Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7454. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

NOTICE: Any person may request notification of the date on which the Administrative 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 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, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: Aug 29, 1990

ANN WYNIA
Commissioner

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, Minnesota Rules, Part 9500.1200 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 12th day of September, 1990.

Nancy L. Bishop

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

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

Department of Human Services

Proposed Permanent Rules Relating to General Assistance

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*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5.

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 unless a sufficient number withdraw their request in writing. 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*, section 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 October 30, 1990, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on October 17, 1990.

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

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments are necessary to implement *Minnesota Statutes*, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applications and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish

program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

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 upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816 or by calling (612) 296-7454.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Department of Human Services.

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 Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Ann Wynia
Commissioner

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 Room 500 South, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on October 30, 1990, 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 CANCELED 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 October 18, 1990 and October 29, 1990 at (612) 296-7815.

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The purpose of the proposed rule amendments is to establish administrative and program requirements governing general assistance and emergency general assistance to ensure those programs are administered uniformly throughout the state. The rule amendments

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.

are necessary to implement *Minnesota Statutes*, sections 256D.01 to 256D.21. The proposed amendments affect county agencies; applicants and recipients of general assistance including applicants and recipients of work readiness; and applicants and recipients of emergency general assistance.

The proposed rule amendments define words and phrases that have meanings specific to the rule; set forth applicant and recipient rights and county agency responsibilities; establish application requirements; prescribe procedures for processing applications; establish program eligibility factors; require county verification of eligibility factors including verification of state residency; set forth property limitations and income exclusions; clarify earned income and unearned income; establish financial eligibility tests; establish employment disregards for employed members of a family; establish payment procedures; establish budgeting procedures for calculating and determining general assistance grants; set forth applicant and recipient responsibilities; establish work readiness exemptions; and establish administrative procedures and program requirements governing emergency general assistance. The proposed rule amendments also delete obsolete rule parts and reformat portions of the existing general assistance rule to facilitate readability.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 256D.01, subdivisions 1b and 1e; 256D.04, paragraph (2); 256D.051, subdivision 14; 256D.06, subdivision 5; 256D.08, subdivision 2; 256D.09, subdivision 2; and 256D.111, subdivision 5. Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7454. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

NOTICE: Any person may request notification of the date on which the Administrative 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 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, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ann Wynia
Commissioner

Rules as Proposed

9500.1202 PURPOSE OF GENERAL ASSISTANCE PROGRAM.

The purposes of the general assistance program are:

A. to provide financial assistance and services to persons unable to provide for themselves, who have not refused suitable employment, and who are not otherwise provided for by law;

B. to ~~strengthen and preserve the family unit~~ provide work readiness services to help employable and potentially employable persons prepare for and attain permanent work; and

C. to aid those persons who can be helped to become self-supporting or to attain self-care; ~~and~~

~~D. to provide property tax relief by providing state financing for some welfare costs historically financed by county property tax levies~~.

9500.1206 PROGRAM 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. 1a. **Actual availability.** "Actual availability," when used in reference to income or property, means that which is in hand or can be readily obtained for current use.

Subp. 2. **Adult child.** "Adult child" means a person aged 18 years or older who resides with at least one parent.

Subp. 3. **Advanced age.** "Advanced age" means the condition that applies to ~~a~~ an applicant or recipient who:

~~A.~~ is age 55 or older and whose work history shows a marked deterioration compared to ~~his or her~~ the applicant's or recipient's work history ~~prior to~~ before age 55 as indicated by decreasing occupational status, reduced hours of employment, or decreased periods of employment; ~~or~~

~~B. if less than age 55, is evaluated by a vocational specialist as having significantly limited ability to obtain or retain suitable employment because of advancing age~~.

Subp. 4. **AFDC.** "AFDC" means the program authorized by title IV-A of the Social Security Act to provide financial assistance to needy families with dependent children.

Subp. 4a. **Affidavit.** "Affidavit" means a written declaration made under oath before a notary public or other authorized officer.

Subp. 4b. **Appeal.** "Appeal" means a written statement from an applicant or recipient that requests a hearing or expresses dissatisfaction with a county agency decision that can be challenged under *Minnesota Statutes*, section 256.045 and part 9500.1211, subpart 4.

Subp. 5. **Applicant.** "Applicant" means a person who has submitted an application ~~pending with the local agency~~ for general assistance ~~or work readiness~~ to a county agency and whose application has not been approved, denied, or voluntarily withdrawn.

Subp. 5a. **Application.** "Application" means the action by which a person shows in writing a desire to receive assistance by submitting a signed and dated form prescribed by the commissioner to the county agency.

Subp. 6. **Assistance standard.** "Assistance standard" means the amount established by the commissioner under *Minnesota Statutes*, section 256D.01, to provide for an assistance unit's ~~shelter, fuel, food, clothing, utilities, necessary household supplies, and personal need items~~ basic subsistence needs.

Subp. 6a. **Assistance unit.** "Assistance unit" means a person or group of persons who are applying for or receiving assistance and whose needs are included in the calculation of a general assistance payment.

Subp. 6b. **Authorized representative.** "Authorized representative" means a person who is authorized in writing by an applicant or recipient to act on that applicant's or recipient's behalf in matters involving general assistance or emergency general assistance, including submitting applications, making appeals, and providing or requesting information. An authorized representative may exercise the same rights and responsibilities on behalf of the person being represented as an applicant or recipient.

Subp. 7a. **Basic needs.** "Basic needs" means the minimum personal requirements of subsistence and are restricted to:

A. food;

B. clothing;

C. shelter;

D. utilities; and

E. other items of which the loss, or lack of, is determined by the county agency to pose a direct, immediate threat to the physical health or safety of the applicant or recipient.

Subp. 7b. **Budget month.** "Budget month" means the calendar month from which a county agency uses the income or circumstances of an assistance unit to determine the amount of the assistance payment for the payment month.

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Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or a designated representative.

Subp. 8a. **Corrective payment.** "Corrective payment" means an assistance payment made to correct an underpayment.

Subp. 9. **Costs or disbursements.** "Costs" or "disbursements" means a qualified provider's actual out-of-pocket expenses incurred for the provision of special services to an applicant or recipient.

Subp. 9a. **Countable income.** "Countable income" means gross income minus allowable exclusions, deductions, and disregards.

Subp. 9b. **County agency.** "County agency" has the meaning given in *Minnesota Statutes*, section 256D.02, subdivision 12.

Subp. 11. **Department.** "Department" means the Department of Human Services.

Subp. 12. **Director of the ~~local~~ county agency.** "Director of the ~~local~~ county agency" means the director of the ~~local~~ county agency or the director's designated representative.

Subp. 12a. **Documentation, primary documentation, or alternative documentation.** "Documentation" means a written statement or record that substantiates or validates an assertion made by a person or an action taken by a county agency.

A. "Primary documentation" means evidence that independently establishes a fact and is provided by a public or private institution or organization having an official responsibility to establish that fact.

B. "Alternative documentation" means evidence, including declaration, that supports the existence of a fact and that is provided by an individual or institution who has no official responsibility to establish that fact.

Subp. 12b. **Earned income.** "Earned income" means compensation from lawful employment or lawful self-employment, including salaries, wages, tips, gratuities, commissions, earnings from self-employment, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, earnings under title I of the Elementary and Secondary Education Act, employee bonuses and profit sharing, jury duty pay, picket duty pay, and profit from other lawful activities which accrues as a result of the individual's effort or labor. Earned income does not include returns from capital investment or benefits that accrue as compensation for lack of employment.

Subp. 12c. **Earned income tax credit.** "Earned income tax credit" means the payment that can be obtained by a qualified low-income person from an employer or from the United States Internal Revenue Service under United States Code, title 26, section 32.

Subp. 12d. **Emancipated minor.** "Emancipated minor" means a person under the age of 18 years who is or has been married, as recognized by *Minnesota Statutes*, chapter 517; who is on active duty in the uniformed services of the United States; or who has been recognized as being emancipated by a court of competent jurisdiction.

Subp. 12e. **Emergency.** "Emergency" means a situation that causes or threatens to cause a lack of a basic need item when there are insufficient resources to provide for that need.

Subp. 12f. **Encumbrance.** "Encumbrance" means a legal claim against real or personal property that is payable upon the sale of that property.

Subp. 12g. **Equity value.** "Equity value" means the amount of equity in real or personal property owned by a person. Equity value is determined by subtracting any outstanding encumbrances from the fair market value of the real or personal property.

Subp. 12h. **Excluded time facility.** "Excluded time facility" means any hospital, sanitarium, nursing home, shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility, or other institution for the hospitalization or care of human beings, as defined in *Minnesota Statutes*, section 144.50, 144A.01, or 245A.02, subdivision 14; or a maternity home, battered women's shelter, or correctional facility.

Subp. 12i. **Fair hearing or hearing.** "Fair hearing" or "hearing" means the department evidentiary hearing conducted by an appeals referee to resolve the issues specified in part 9500.1211, subpart 4.

Subp. 12j. **Family.** "Family" has the meaning given it in *Minnesota Statutes*, section 256D.02, subdivision 5.

Subp. 12k. **Family assistance unit.** "Family assistance unit" means a general assistance unit that consists of one or more members of a family.

Subp. 12l. **Federal Insurance Contribution Act or FICA.** "Federal Insurance Contribution Act" or "FICA" means the federal law under United States Code, title 26, sections 3101 to 3126, that requires withholding or direct payment of income to the federal government.

Subp. 13. **Fees.** "Fees" means a qualified provider's charge for the hours of direct provision of special services to an applicant or recipient.

Subp. 13a. **Filing unit.** "Filing unit" means a person or persons who reside together and whose income and value of resources must be used to determine the eligibility and benefit level of an assistance unit. The filing unit must include:

A. the applicant;

B. the applicant's spouse;

C. the applicant's family; and

D. the natural or adoptive parents of a single adult applicant or recipient and the minor children of those parents.

Subp. 14. **Full-time student.** "Full-time student" means a ~~student attending~~ a ~~postsecondary institution~~ person who~~:~~

~~A. attends training for a minimum of 25 hours per week if the training does not involve shop practice and for a minimum of 30 hours per week if the training does involve shop practice for a vocational or technical student; or~~

~~B. registers for and attends a minimum of 12 credit hours per semester or quarter~~ is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or postsecondary school, and who meets the school's standard for full-time attendance.

Subp. 14a. **General assistance.** "General assistance" means the program authorized under *Minnesota Statutes*, sections 256D.01 to 256D.21 and parts 9500.1200 to 9500.1272. When the term general assistance is used in parts 9500.1200 to 9500.1272 it also means work readiness assistance and includes financial benefits received by persons under work readiness assistance.

Subp. 15. **Good cause.** "Good cause" means 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, or a conflicting obligation which has been determined by the county agency to be reasonable or justified.

Subp. 15a. **Gross income.** "Gross income" means the total amount of cash or in-kind payment or benefit, whether earned or unearned, before any withholdings, deductions, or disregards, paid to, or for the benefit of, a person, including income specified in *Minnesota Statutes*, section 256D.02, subdivision 8. Gross income does not include personal property previously established as a resource, subject to the limitations under part 9500.1221.

Subp. 15b. **Gross receipts.** "Gross receipts" means the money received by a self-employed person before the expenses of self-employment are deducted.

Subp. 15c. **Homestead.** "Homestead" means the house owned and occupied by a member of the filing unit as the member's dwelling place together with all contiguous land on which the house is situated and other appurtenant structures.

Subp. 15d. **Household report form.** "Household report form" means a form prescribed by the commissioner on which a recipient reports information to a county agency about income and other circumstances.

Subp. 16. **Initial supplemental security income payment or initial SSI payment.** "Initial supplemental security income payment" or "initial SSI payment" means the first payment of ~~retroactive~~ SSI benefits to the recipient that includes a period when general assistance benefits were also paid.

Subp. 16a. **In-kind income.** "In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid assets, and which cannot be made available to the individual in those forms, including goods, produce, services, privileges, or third-party payments made on behalf of a person for whom the income is intended.

Subp. 17. **Interim assistance.** "Interim assistance" means the total amount of general assistance provided for ~~the~~ a recipient, based on the state assistance standards and the negotiated rate provisions of part ~~9500.1249~~ 9500.1237, subpart 7, to cover the period for which ~~the initial~~ a payment of ~~other~~ another maintenance ~~benefits~~ benefit is made. The amount of general assistance considered interim assistance is limited to the total amount the monthly payments for the assistance unit would have been reduced if the ~~applicant or recipient had not been included in the assistance unit~~ other maintenance benefits had been paid at the time of their accrual. The interim assistance period begins with the month of application for general assistance~~,~~ or the first month of eligibility for the other maintenance benefits, ~~or the date the interim assistance authorization agreement is signed,~~ whichever is ~~latest~~ later. ~~The interim assistance period ends with the last month covered by the initial payment of the other maintenance benefits. The~~ term Interim assistance does not include per diem payments made to shelters for battered women ~~pursuant to~~ under *Minnesota Statutes*, section 256D.05, subdivision 3.

Subp. 18. **Interim assistance authorization agreement.** "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the ~~local~~ county agency for the amount of general assistance provided ~~for him or her~~ during the period when eligibility for another maintenance benefit program is being determined. The agreement

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must require reimbursement to the ~~local~~ county agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

Subp. 18a. **Job Training Partnership Act.** "Job Training Partnership Act" means the Job Training Partnership Act authorized under Public Law Number 97-300 and its successor programs.

Subp. 18b. **Legal custodian.** "Legal custodian" means a person who has been granted legal custody of a minor child by a court; or, if assistance is being requested for the minor child, a person who is defined as an eligible relative caretaker of the minor child under AFDC program rules, part 9500.2440, subpart 7.

Subp. 18c. **Liquid assets or liquid resources.** "Liquid assets" or "liquid resources" means personal property in the form of cash or other financial instruments that are readily convertible to cash.

Subp. 18d. **Liquidate.** "Liquidate" means to convert real or personal property into cash or other financial instruments that are readily convertible to cash. The conversion can be by sale or by borrowing using the nonliquid real or personal property as security for a loan.

Subp. 19. [See Repealer.]

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~~ the registrant's children to and from child care.

Subp. 19b. **Lump sum.** "Lump sum" means nonrecurring income that is not excluded in part 9500.1223.

Subp. 19c. **Mandatory work readiness participant.** "Mandatory work readiness participant" means a general assistance recipient who is not exempt from work readiness under part 9500.1251.

Subp. 20. **Medical certification.** "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~~ who is qualified through professional training and experience ~~qualifies him or her~~ to diagnose or certify the person's condition. For an incapacity involving a spinal subluxation condition, "medical certification" means a statement signed by a licensed chiropractor who is qualified through professional training and experience to diagnose and certify the condition.

Subp. 21. **Mental illness.** "Mental illness" means the condition of a person who has a psychological disorder resulting in behavior that severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22. **Mental retardation.** "Mental retardation" 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 standardized test and the condition severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22a. **Minnesota supplemental aid or MSA.** "Minnesota supplemental aid" or "MSA" means the program established under *Minnesota Statutes*, sections 256D.33 to 256D.54.

Subp. 23. **Minor child.** "Minor child" means a person who is under the age of 18; or if age 18, who is a member of a family assistance unit and who is enrolled as a full-time student in an accredited high school and who is expected to graduate by age 19.

Subp. 23a. **Month.** "Month" means a calendar month.

Subp. 24. **Negotiated rate.** ~~Except for shelter facilities provided for under *Minnesota Statutes*, section 256D.05, subdivision 3,~~ "Negotiated rate" means ~~a general assistance payment that includes room and board and is either set by the state or local agency or is negotiated by one of those agencies with a party not included in the assistance unit. The set or negotiated rate provides for an assistance unit's shelter, fuel, food, utilities, household supply need items, and other costs necessary to provide room and board. The rate shall pay only for those items. It shall not include the clothing and personal needs allowance under *Minnesota Statutes*, section 256D.06, subdivision 3, payments for foster care, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services~~ the amount a county agency will pay on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement.

Subp. 24a. **Nonrecurring income.** "Nonrecurring income" means a form of income that is:

A. received only one time or is not of a continuous nature; or

B. received in a prospective payment month but is no longer received in the corresponding retrospective payment month.

Subp. ~~24a.~~ 24b. **Occupational or vocational literacy program.** "Occupational or vocational literacy program" means a program providing literacy training which emphasizes specific language and reading skills needed to perform in employment, complete employment training programs, or complete work readiness programs.

Subp. 25. **Other maintenance benefits.** "Other maintenance benefits" means any of the following:

A. workers' compensation benefits as provided by *Minnesota Statutes*, chapter 176 and rules adopted thereunder;

B. unemployment compensation benefits as provided by *Minnesota Statutes*, sections 268.07 to 268.10 and rules adopted thereunder;

C. railroad retirement benefits as provided by United States Code, title 45, sections 231 to 231s;

D. veteran's disability benefits as provided by United States Code, title 38, sections 301 to 363;

E. ~~supplemental security income~~ any benefits ~~as~~ provided by the Social Security Administration under United States Code, title 42~~, sections 1381 to 1383e~~; or

F. ~~social security disability insurance benefits as provided by United States Code, title 42, section 423; or~~

~~G.~~ other ~~programs~~ sources identified by the ~~local~~ county agency that provide periodic payments that can be used to meet basic needs and that, if received, would reduce or eliminate the need for general assistance.

Subp. 25a. **Overpayment.** "Overpayment" means that portion of an assistance payment which is greater than the amount for which an assistance unit is eligible, resulting from a calculation error, a client reporting error, a misapplication of existing program requirements by a county agency, or changes in payment eligibility that cannot be affected due to notification requirements.

Subp. 25b. **Parent.** "Parent" means a child's biological or adoptive parent who is legally obligated to support that child.

Subp. 25c. **Participation in a literacy program.** "Participation in a literacy program" means to receive instruction and complete assignments as part of a literacy program in accordance with the schedule or plan established by the literacy training program provider.

Subp. 25d. **Payment month.** "Payment month" means the calendar month for which the county agency issues an assistance payment.

Subp. 25e. **Permanent employment.** "Permanent employment" means suitable employment that is not, by description, of limited duration.

Subp. 25f. **Personal property.** "Personal property" means an item of value that is not real property. Personal property includes, but is not limited to, the value of a contract for deed held by a seller, assets held in trust on behalf of members of an assistance unit, cash surrender value of life insurance, value of a prepaid burial, savings account, value of stocks and bonds, and value of retirement accounts less any costs and penalties for early withdrawal.

Subp. 26. **Potentially eligible.** "Potentially eligible" means that the ~~local~~ county agency has determined that the applicant or recipient ~~appears~~ shows circumstances which appear to meet the eligibility requirements of another maintenance benefit program.

Subp. 26a. **Principle wage earner.** "Principle wage earner" means the parent who has earned the greater amount of income in the 24 months preceding the month of application.

Subp. 26b. **Probable fraud.** "Probable fraud" means the level of evidence that, if proven as fact, will establish that assistance has been wrongfully obtained.

Subp. 26c. **Prospective budgeting.** "Prospective budgeting" means a method of determining the amount of assistance in which the budget month and payment month are the same.

Subp. 26d. **Qualified professional.** "Qualified professional" means a social worker employed by the county 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 as defined in *Minnesota Statutes*, section 145A.02, subdivision 18.

Subp. 27. **Qualified provider.** A "qualified provider" means the ~~local~~ county agency, or:

A. a nonprofit legal assistance organization;

B. an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy;

C. a private attorney at law; or

D. another organization or person determined by the ~~local~~ county agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

Subp. 28a. **Real property.** "Real property" means the land itself and all buildings, structures, and improvements, or other fixtures on it, belonging or appertaining to the land, and all mines, minerals, fossils, and trees on or under it.

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Subp. 28b. **Reasonable compensation.** "Reasonable compensation" means the value received in exchange for property transferred to another owner which equals or exceeds the seller's equity in the property, reduced by costs incurred in the sale.

Subp. 28c. **Recipient.** "Recipient" means an individual currently receiving, or suspended for one month from receiving, general assistance. Recipient includes any person whose needs are included in the payment to an assistance unit.

Subp. 28d. **Redetermination of eligibility.** "Redetermination of eligibility" means the process by which information is collected periodically by a county agency and used to determine a recipient's continued eligibility for assistance.

Subp. 28e. **Reside with.** "Reside with" means to share living quarters such as living rooms, bedrooms, or kitchens. Entrances, laundry rooms, and bathrooms are not considered living quarters.

Subp. 29. **Responsible relative.** "Responsible relative" means the spouse of an applicant or recipient, the parent of an applicant's or recipient's minor child if residing together as a family, the parent of a minor child who is an applicant or recipient, or the parent of an adult child who resides with the parent and is an applicant or recipient.

Subp. 29a. **Retrospective budgeting.** "Retrospective budgeting" means a method of determining the amount of assistance an assistance unit will receive in which the payment month is the second month after the budget month.

Subp. 29b. **Social services.** "Social services" means the services included in a county's community social services plan which are administered by the county board as described under *Minnesota Statutes*, section 256E.03, subdivision 2.

Subp. 30. **SSI or supplementary security income.** "SSI" or "supplementary security income" means the supplemental security income program administered by the Social Security Administration under United States Code, title 42, sections 1381 to 1383c.

Subp. 31. [See Repealer.]

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

A. meets existing health and safety standards set by federal, state, or local regulations;

B. is within the physical and mental ability of a person;

C. ~~pays at least the minimum wage prescribed by state or federal law and provides a gross income of at least $268 per month~~ provides a gross income equal to the federal or state minimum wage for 40 hours per week, or an income which, after allowable exclusions, deductions, and disregards would exceed the standard of assistance for the assistance unit, whichever is less; 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. 32a. **Suitable recipient.** "Suitable recipient" means a recipient ~~eligible for~~ of general assistance ~~under part 9500.1258, subpart 1, item P, unless it is unlikely that participation in a literacy program would improve the recipient's literacy level due to mental retardation, mental illness, or a learning disability~~ who is determined not to be exempt from work readiness participation under part 9500.1251, and who has been determined to be functionally illiterate by an assessment under part 9500.1259, subpart 1, item B.

Subp. 32b. **Underpayment.** "Underpayment" means an assistance payment, resulting from a calculation error, a client reporting error, or a misapplication of program requirements by a county agency, which is less than the amount for which an assistance unit is eligible.

Subp. 32c. **Unearned income.** "Unearned income" means income received by a person which does not meet the definition of earned income. Unearned income includes interest, dividends, unemployment compensation, disability insurance payments, veterans benefits, pension payments, return on capital investments, insurance payments or settlements, and severance payments.

Subp. 32d. **Vendor.** "Vendor" means a provider of goods or services.

Subp. 32e. **Vendor payment.** "Vendor payment" means a payment made by a county agency directly to a vendor.

Subp. 32f. **Verification.** "Verification" means the process a county agency must use to establish the accuracy or completeness of information from an applicant, recipient, third-party, or other source as that information relates to an assistance unit's eligibility for general assistance or the amount of a monthly assistance payment.

Subp. 33. **Vocational specialist.** "Vocational specialist" means a counselor of the Department of Jobs and Training or Division of Vocational Rehabilitation, or another similarly qualified person who advises persons about occupational goals and employment.

9500.1211 APPLICANT AND RECIPIENT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES TO APPLICANTS AND RECIPIENTS.

Subpart 1. **Right to information.** An applicant or recipient has the right to obtain information about the benefits, requirements, and restrictions of the general assistance program.

Subp. 2. **Right to apply.** A person has the right to apply, including the right to reapply, for general assistance. A county agency

shall inform a person who inquires about general assistance of the right to apply, shall explain how to apply, and shall mail or hand deliver an application form to the person inquiring about assistance. When a county agency ends assistance, the county agency shall inform the recipient in writing of the right to reapply.

Subp. 3. **Authorized representative.** An applicant or recipient of general assistance may designate an authorized representative to act on the applicant's or recipient's behalf. An applicant or recipient has the right to be assisted or represented by an authorized representative in the application, eligibility redetermination, fair hearing process, and any other contact with the county agency or the department.

When a county agency determines that it is necessary for a person to assist an applicant or recipient, the county agency shall designate a staff member to assist the applicant or recipient. The county agency staff member may assist the applicant or recipient to take the actions necessary to submit an application to establish the date of the application.

Upon a request from an applicant or recipient, a county agency shall provide addresses and telephone numbers of organizations that provide legal services at no cost to low-income persons.

Subp. 4. **Appeal rights.** An applicant, recipient, or former recipient has a right to request a fair hearing when aggrieved by an action or inaction of a county agency. A request for a fair hearing must be submitted in writing to the county agency or to the department. The request must be mailed within 30 days after the applicant or recipient receives written notice of the county agency's action or within 90 days when the applicant or recipient shows good cause for not submitting the request within 30 days. A former recipient who receives a notice of overpayment may appeal the action contained in the notice in the manner and within the periods described in this subpart. Issues which may be appealed are:

A. denial of the right to apply for assistance;

B. failure of a county agency to approve or deny an application within 30 days;

C. denial of an application for assistance;

D. suspension, reduction, or termination of assistance;

E. calculated amount of an overpayment and the calculated level of recoupment due to that overpayment;

F. eligibility for and calculation of a corrective payment;

G. other factors involved in the calculation of an assistance payment;

H. a change to protective, vendor, or two-party payments for recipients; and

I. the calculated amount retained by a county agency under an interim assistance authorization agreement from a retroactive benefit payment.

Subp. 5. **Rights pending hearing.** Unless otherwise specified, a county agency shall not reduce, suspend, or terminate payment when an aggrieved recipient requests a fair hearing before the effective date of the action or within ten days of the mailing of the notice, whichever is later, unless the recipient requests in writing not to receive continued assistance pending a hearing decision. A county agency may increase or reduce an assistance payment while an appeal is pending when the circumstances of the recipient change and the change is not related to the issue under appeal. Assistance issued pending a fair hearing is subject to recovery when, as a result of the fair hearing, the commissioner finds that the recipient was not eligible for such assistance. This subpart shall in no way reduce any rights that the recipient may have under part 9500.1259, subpart 2.

A county agency shall reimburse appellants for reasonable and necessary expenses of attending the hearing, such as child care and transportation costs. A county agency shall reimburse appellant's witnesses and representatives for the expenses of transportation to and from the hearing.

Subp. 6. **Right to review records.** A county agency shall allow an applicant or recipient to review his or her case records that are held by the county agency and that are related to eligibility for or the assistance payment from the program, except those case records to which access is denied under *Minnesota Statutes*, chapter 13. A county agency shall make case records available to an applicant or recipient as soon as possible but in no event later than the fifth business day following the date of the request. When an applicant, recipient, or authorized representative asks for photocopies of material from the case record, the county agency shall provide one copy of each page at no cost.

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9500.1213 APPLICATION REQUIREMENTS.

Subpart 1. **Application for general assistance, county of residence.** An applicant for general assistance must apply for general assistance in the applicant's county of residence. However, a county agency must not refuse to take an application from an individual who appears to reside in another county, but must promptly forward the completed application to the county of residence. The county of residence must use the date the application was filed in the county of application as the application date.

Subp. 2. **County agency requirements.** A county agency must:

A. inform persons who inquire about cash assistance of general assistance eligibility requirements and how to apply for general assistance;

B. offer, by hand or mail, the application form prescribed by the commissioner when a person makes a written or oral inquiry;

C. inform the person that, if the person is found eligible, the county agency must use the date the application form is submitted to the county agency as the starting point for computing assistance, and that any delay in submitting an application form will reduce the amount of assistance paid for the month of application;

D. upon receipt of a signed and dated application from an applicant, the county agency must sign and date the application;

E. designate a staff member to assist the applicant to take the action necessary to submit an application if a county agency determines an applicant needs assistance in completing an application; and

F. inquire and determine at the time of initial application if the applicant has an emergency as defined in part 9500.1206, subpart 12e, and if so, determine the person's eligibility for emergency assistance under part 9500.1261, unless the emergency can be resolved through other sources or by promptly processing an application for monthly assistance.

Subp. 3. **Date of application.** The date of application is the date the county agency signs and dates the application.

Subp. 4. **Withdrawal of application.** An applicant may withdraw an application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal and inform the applicant of the agency's understanding that the applicant has withdrawn the application. If, within ten days of the date of the agency's notice, an applicant informs the county agency that the applicant does not wish to withdraw the application, the county agency must reinstate and finish processing the application.

Subp. 5. **Agency verification of information on application.** The county agency shall verify information provided by an applicant as specified in part 9500.1215.

Subp. 6. **Determination of filing unit.** When an application for general assistance is made and when the county agency redetermines the eligibility of a recipient, the county agency must determine the composition of the applicant's or recipient's filing unit. The county agency must determine the composition of a filing unit according to part 9500.1206, subpart 13a.

Subp. 7. **Processing application.** Within 30 days after receiving an application, a county agency must determine the applicant's program eligibility, approve or deny the application, inform the applicant of its decision, and issue assistance when the applicant is eligible. When an applicant establishes the inability to provide required documentation within the 30-day processing period, the county agency shall have an additional 30 days to process the application and to allow the applicant to provide the documentation. If eligibility cannot be determined by the end of the second 30-day period, the application must be denied.

9500.1215 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY.

Subpart 1. **Information that must be verified.** A county agency shall require an applicant or recipient to provide documentation only of information necessary to determine program eligibility and the amount of the assistance payment. Information previously verified and retained by the county agency must not be verified again unless the information no longer applies to current circumstances.

Subp. 2. **Sufficiency of documentation.** An applicant or recipient must provide documentation of the information required under subpart 4, or authorize a county agency to verify it by other means; however, the burden of providing documents for a county agency to use to verify eligibility is upon the applicant or recipient. A county agency shall help an applicant or recipient to obtain documents that the applicant or recipient does not possess and cannot obtain. When an applicant or recipient and the county agency are unable to obtain primary or alternate documents needed to verify information, the county agency may accept an affidavit from an applicant or recipient as sufficient documentation.

Subp. 3. **Contacting third parties.** A county agency must obtain an applicant's or recipient's written consent to request information about the applicant or recipient which is not of public record from a source other than county agencies, the department, or the United States Department of Health and Human Services. An applicant's signature on an application form shall constitute this consent for contact with the sources specified on that form. A county agency may use a single consent form to contact a group of similar sources, such as banks or insurance agencies, but the sources to be contacted must be identified by the county agency before requesting an applicant's consent. A county agency shall not provide third parties with access to information about a person's eligibility status or any other part of the case record without that person's prior written consent, except where access to specific case information is

granted to agencies designated by the Minnesota Government Data Practices Act under *Minnesota Statutes*, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act must only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or a third party.

Subp. 4. **Factors to be verified.** The county agency must verify the factors of program eligibility in items A to C at the time of application, when a factor of eligibility changes, and at each redetermination of eligibility.

A. A county agency must verify:

(1) the identity of each adult and child for whom assistance is requested;

(2) age, if required to establish eligibility;

(3) state residence;

(4) the basis of a claim of exemption from participation in work readiness; and

(5) the relationship of a caretaker to the child for whom application is made.

B. The county agency must verify the information in subitems (1) to (6) when that information is acknowledged by an applicant or recipient or obtained through a federally mandated verification system:

(1) receipt and amount of earned income, including gross receipts from self-employment;

(2) receipt and amount of unearned income;

(3) termination from employment;

(4) ownership and value of real property;

(5) ownership and value of personal property; and

(6) dependent care costs of an employed filing unit member at the time of application, redetermination, or a change in provider.

C. A county agency may verify additional program eligibility and assistance payment factors when it determines that information on the application is inconsistent with statements made by the applicant, other information on the current application, information on previous applications, or other information received by the county agency. The county agency must document the reason for verifying the factor in the case record of an assistance unit. Additional factors that may be verified, subject to the conditions of this item, are:

(1) the presence of a child in the home;

(2) the death of a parent or spouse;

(3) marital status;

(4) residence address; and

(5) income and property that an applicant or recipient has not acknowledged receiving or having.

9500.1219 ASSISTANCE UNIT ELIGIBILITY.

Subpart 1. **Composition of an assistance unit.** The county agency must determine the composition of the assistance unit, as defined in part 9500.1206, subpart 6a, from eligible members of the filing unit. All members of the filing unit must be included in the assistance unit with the exception of and subject to subparts 2 to 6.

Subp. 2. **Exclusion of persons otherwise provided for by law.** Filing unit members shall not be included in an assistance unit if they meet one or more of the following conditions:

A. a filing unit member is receiving benefits under the AFDC, refugee cash assistance, SSI, or Minnesota supplemental aid programs, or has benefits paid on the member's behalf for foster care, child welfare, or subsidized adoption;

B. a filing unit member appears to be currently eligible for benefits under AFDC or refugee cash assistance, or is eligible to have benefits paid on the member's behalf for foster care, child welfare, or subsidized adoption;

C. a filing unit member has been determined to be eligible for AFDC or SSI but cannot receive benefits under those programs because the member refused or failed to comply with a requirement of those programs;

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D. a filing unit member is a parent of a single adult applicant or recipient who resides with a single adult applicant together with the parents' other family members;

E. a filing unit member who is in a period of disqualification from AFDC, SSI, or general assistance due to noncompliance with a program requirement;

F. a filing unit member has, without good cause, refused or failed to comply with part 9500.1254; or

G. a filing unit member has refused to sign an interim assistance authorization agreement as required under part 9500.1251, subpart 2, items F and G.

Subp. 3. **State residence requirement.** No applicant shall be included in an assistance unit unless the applicant is a resident of Minnesota. A resident is a person living in the state with the intention of making a home here and, not for any temporary purpose, as determined by items A to E.

A. An applicant must state on a form prescribed by the commissioner that the applicant lives in the state and intends to make a home in Minnesota.

B. The county agency must verify an applicant's statement of intent to make a home in Minnesota if questionable. An applicant's statement of intent to make a home in Minnesota is questionable if:

(1) the applicant has no verified residence address in the state;

(2) the applicant provides identification indicating a residence outside the state;

(3) the applicant indicates that he or she maintains or is having maintained a residence outside the state; or

(4) the applicant is only present in the state as a resident of an excluded time facility.

C. An applicant's intent to make a home in Minnesota can be verified by:

(1) a residence address on a valid Minnesota driver's license, Minnesota identification card, or voter registration card;

(2) a rent receipt or a statement by the landlord, apartment manager, or homeowner showing that the applicant is residing at an address within the county of application;

(3) a statement by a landlord or apartment manager indicating the applicant has located housing which is affordable for the applicant;

(4) postmarked mail addressed to and received by the applicant at the applicant's address within the county;

(5) a current telephone or city directory with the applicant's residence address within the county;

(6) a written statement by an applicant's roommate verifying the applicant's residence and the date the applicant moved in. The roommate must also verify that the roommate lives in the residence by providing a copy of the roommate's mortgage statement, lease agreement, or postmarked mail addressed to and received by the roommate at that address;

(7) documentation that the applicant came to the state in response to an offer of employment;

(8) documentation that the applicant has looked for work by presenting completed job applications or documentation from employers, the local jobs service office, or temporary employment agencies;

(9) documentation that the applicant was formerly a resident of the state for at least 365 days and is returning to the state after an absence of less than 90 days; or

(10) an affidavit from a person engaged in public or private social services, legal services, law enforcement, or health services that the affiant knows the applicant, has had personal contact with the applicant, and believes the applicant is living in the state with the intent of making Minnesota the applicant's permanent home.

D. In addition to meeting one of the requirements of item C, an applicant described by item B, subitem (2), must document that the applicant has severed the applicant's residence in another state. Documentation may include bank statements indicating the closing of accounts, a document showing cancellation or termination of a lease, or verification that real property used as the applicant's residence in another state is abandoned or for sale.

E. Notwithstanding the provisions of item C, any applicant specified in item B, subitems (2) to (4), who also indicates an intention to leave the state within 30 days of application, will be considered to be in the state for a temporary purpose and is not a resident.

Subp. 4. **Minors.** No child under the age of 18 who is not a member of a family as defined in *Minnesota Statutes*, section 256D.02, subdivision 5, shall be included in an assistance unit unless:

A. the child is legally emancipated as defined in part 9500.1206, subpart 12d;

B. the child lives with an adult who is not a family member or legal custodian with the express written consent of an agency acting in its legal capacity as a custodian of the child;

C. the child lives with an adult who is not a family member or legal custodian with the express written consent of the child's parents or legal guardian, together with the express written consent of the county agency; or

D. the child does not live with an adult but is at least 16 years of age and whose living arrangement is approved in a social services case plan for the child and includes general assistance as a component of the plan.

Subp. 5. **Refusal of suitable employment.** A person is not eligible for general assistance if, without good cause, the applicant refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving general assistance shall be terminated from the general assistance program and disqualified from general assistance for 60 days.

Subp. 6. **Physical presence.** The physical presence requirements for family general assistance are the same as the physical presence requirements under the AFDC program. The county agency shall not consider the needs of a family assistance unit member who is not present in the home at the time of application in the calculation of a general assistance grant unless an exception from the physical presence requirement is provided for under the AFDC program rules, part 9500.2140, subpart 5, items A to C.

9500.1221 PROPERTY LIMITATIONS.

Subpart 1. **Determination of equity value of property available to assistance unit.** The county agency must determine the equity value of real and personal property available to the assistance unit. The equity value of real and personal property available to a member of the filing unit who is not included in the assistance unit, but who is a responsible relative of an assistance unit member, must be considered real and personal property available to the assistance unit.

A. When real or personal property is owned by two or more persons, the county agency shall assume that each person owns an equal share, except that either person owns the entire sum in a joint personal checking or savings account. When a person documents greater or lesser ownership, the county agency shall use that share to determine the equity value held by an applicant or recipient.

B. Real or personal property owned by an applicant or recipient is presumed legally available unless the applicant or recipient documents that the property is not legally available. When real or personal property is not legally available, its equity must not be applied against the limits in subpart 2.

C. An applicant must disclose whether the applicant transferred, within one year before the application or redetermination, real or personal property valued in excess of the property limits in subpart 2 for which reasonable compensation was not received. A recipient shall disclose all transfers of property valued in excess of the limits in subpart 2 according to the reporting requirements in part 9500.1245, subpart 5. When a transfer of real or personal property has occurred, the applicant or recipient shall comply with subitems (1) and (2) as a condition of eligibility for general assistance.

(1) The applicant or recipient who transferred the property must provide a description of the property, information necessary to determine the property's equity value, the name of the individual who received the property, and the circumstances of and reason for the transfer.

(2) If reasonable compensation for the property was not received and the property can be reasonably reacquired, or when reasonable compensation can be secured, the property is presumed legally available to the applicant or recipient.

D. A recipient may build the equity value of the recipient's real and personal property to the limits in subpart 2.

Subp. 2. **Equity value; excluded real and personal property.** The equity value of all nonexcluded real and personal property must not exceed $1,000. The county agency shall exclude the value of the real or personal property in items A to T when determining equity value.

A. The applicant's or recipient's homestead according to subitems (1) to (3).

(1) An applicant or recipient who is purchasing real property through a contract for deed and using that property as a home is considered the owner of the real property.

(2) The amount of land that can be excluded under this item is limited to surrounding property which is not separated from the home by intervening property owned by others. Additional property must be assessed as to its legal and actual availability according to subpart 1.

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(3) When real property that has been used as a home by an applicant or recipient is sold, the county agency shall treat the cash proceeds from that sale as excluded property for a period of six months if the applicant or recipient intends to reinvest those proceeds in another home and agrees to maintain the proceeds, unused for other purposes, in a separate account.

B. One motor vehicle, not otherwise excluded, when its equity value does not exceed $1,500 exclusive of the value of special equipment for a handicapped household member. The county agency shall establish the equity value of a motor vehicle by subtracting any outstanding encumbrances from the loan value listed in the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the N.A.D.A. Official Used Car Guide, or when an applicant or recipient disputes the value listed in the guide as unreasonable given the condition of a particular vehicle, the county agency may require the applicant or recipient to document the value of the vehicle by securing a written statement from a motor vehicle dealer licensed under *Minnesota Statutes*, section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. It is published monthly by the National Automobile Dealers Used Car Guide Company and is available through the Minitex interlibrary loan system. It is subject to frequent change.

C. The value of nonliquid real or personal property that is essential to the owner's self-support, self-care, or needed to obtain or retain suitable employment.

D. The value of nonliquid property which currently produces net earned income and is being used for the support of the assistance unit or a reasonable expectation exists that the property will be used within six months or the next income-producing season, whichever is later, to produce net earned income for the support of the assistance unit.

E. The value of real or personal property owned exclusively by the stepparent or sibling of a single adult applicant or recipient who resides with the stepparent or sibling.

F. The value of real and personal property owned exclusively by a recipient of supplemental security income or Minnesota supplemental aid.

G. The value of corrective payments but only for the month in which the payment is received and the following month.

H. Money escrowed in a separate account that is needed to pay real estate taxes or insurance and that is used for that purpose at least semiannually.

I. A mobile home used by an applicant or recipient as a home.

J. Money held in escrow by a self-employed person to cover employee FICA, employee tax withholding, sales tax withholding, employee workers' compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly.

K. Income received in a budget month until the end of that month. This includes monthly general assistance payments and emergency general assistance payments.

L. The value of school loans, grants, or scholarships over the period they are intended to cover if the income from these sources is either excluded by rule or has been used in the calculation of a grant.

M. The value of personal property not otherwise specified which is commonly used by household members in day-to-day living.

N. Payments listed in part 9500.1223, subpart 2, item O, which are held in escrow for the period necessary to replace or repair the personal or real property. This period must not exceed three months.

O. One burial plot per member of a filing unit.

P. The value of a prepaid burial account, burial plan, or burial trust up to $1,000 for each member of a filing unit who is covered by that account, plan, or trust.

Q. The value of an applicant's nonliquid resources if an applicant is excluded by part 9500.1251, subpart 2, item M, because the applicant's need for assistance will not exceed 30 days.

R. The value of real and personal property in excess of the limits in this subpart if the applicant is making a good faith effort to sell the property at a reasonable price.

S. Other real or personal property specifically disregarded by federal law, state law, or federal regulation.

T. In addition to the limits specified in items A to S, an amount up to $1,000 which is accumulated in a separate account from earnings by a resident in a facility licensed under parts 9520.0500 to 9520.2500 or a resident in a supervised apartment with services funded under parts 9535.0100 to 9535.1600 for whom discharge and work are part of a treatment plan. This item applies during residency and for up to 18 additional months if the person moves to an inpatient hospital setting. The accumulated earnings, and the interest on the earnings, are to be used upon discharge from the facility. Any withdrawal before discharge must be counted as income in the month of withdrawal and treated as an available resource in the following months.

Subp. 3. **Exclusion of excess property.** If the county agency determines that an assistance unit is not eligible for general assistance due to owning property in excess of the limit in subpart 2, the county agency must inform the applicant or recipient in writing of the conditions under which excess property may be excluded.

9500.1223 EXCLUDED INCOME.

Subpart 1. **Evaluation of income.** The county agency must determine income available to members of an assistance unit to determine program eligibility and the assistance amount. Income available to members of an assistance unit includes all nonexcluded income whether received by assistance unit members or filing unit members who are not members of the assistance unit when that income is deemed available to members of the assistance unit.

Subp. 2. **Excluded income of all filing unit members.** The county agency shall exclude items A to BB from the income of all filing unit members:

A. food stamps;

B. United States Department of Housing and Urban Development (HUD) refunds or rebates for excess rents charged and HUD relocation and rehabilitation funds;

C. rental security deposit refunds to the client whether paid by the client or by emergency assistance or emergency general assistance;

D. benefits under title IV and title VII of the Older Americans Act of 1965;

E. all Volunteers in Service to America (VISTA) payments;

F. title I loans or grants through the Minnesota Housing Finance Agency;

G. payments for basic care, difficulty of care, and clothing allowance received for providing family foster care under parts 9545.0010 to 9545.0260 or adult foster care under parts 9555.5105 to 9555.6265;

H. work and training allowances and reimbursements received through the work readiness program;

I. work and training allowances received from county agency social services programs that are not classified as wages subject to FICA withholding;

J. reimbursement for employment training received through the Job Training Partnership Act;

K. reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment;

L. loans, whether from private, public, or governmental lending institutions, governmental agencies, and private individuals provided the filing unit member documents that the lender expects repayment. This exclusion does not include education loans on which payment is deferred;

M. state and federal income tax refunds including Minnesota property tax refunds and the earned income tax credit;

N. funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made from public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency subsequent to a presidential declaration of disaster;

O. payments issued by insurance companies which are specifically designated as compensation to a member of an assistance unit for partial or total permanent loss of function or body part or insurance payments specified under *Minnesota Statutes*, section 256.74, subdivision 1, clause (7);

P. reimbursements for medical expenses which cannot be paid by medical assistance;

Q. payments by the vocational rehabilitation program administered by the state under *Minnesota Statutes*, chapter 129A, except those payments that are for current living expenses;

R. in-kind income, as defined in part 9500.1206, subpart 16a, except for payments made for room, board, tuition, or fees by a parent on behalf of a single adult applicant who is enrolled as a full-time student in a postsecondary institution;

S. assistance payments to correct underpayments in a previous month;

T. payments to an applicant or recipient issued under part 9500.1261, 9500.2800, or 9500.2820 for emergency or special needs; however, an initial month's grant may be reduced by the amount of emergency assistance issued to cover that month's needs;

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U. nonrecurring cash gifts, such as those received for holidays, birthdays, and graduations, not to exceed $30 per filing unit member in a calendar quarter;

V. tribal settlements excluded under Code of Federal Regulations, title 45, section 233.20(a)(4)(ii)(e), (k), and (m);

W. any form of energy assistance payment made by the Low Income Home Energy Assistance Program, payments made directly to energy providers by other public and private agencies, benefits issued by energy providers when the Minnesota Department of Jobs and Training determines that those payments qualify under Code of Federal Regulations, title 45, section 233.53, and any form of credit or rebate payment issued by energy providers;

X. the first $50 of child support received;

Y. proceeds from the sale of real or personal property;

Z. payments made from state funds for subsidized adoptions under *Minnesota Statutes*, section 259.40;

AA. interest payments and dividends from property that is not excluded from and does not exceed the $1,000 limit under part 9500.1221, subpart 2; and

BB. income that is otherwise specifically excluded from AFDC program consideration in federal law, state law, or federal regulation.

Subp. 3. **Additional income exclusions, filing unit member who is not a member of assistance unit.** In addition to the income exclusions in subpart 2, the county agency shall exclude the following income of a filing unit member who is not a member of the assistance unit:

A. income that was excluded, disregarded, or allocated in the calculation of a public assistance grant unless the allocation was to meet the needs of persons in the general assistance unit;

B. benefits from the Retirement, Survivors, and Disability Insurance program and any income based on a disability that is received by the parent or parents of a single adult applicant or recipient;

C. income of a stepparent or of a sibling of a single adult applicant or recipient;

D. an amount equal to the standards assigned to filing unit members who are not in the general assistance unit in part 9500.1231, subpart 6, item A; and

E. child support, spousal support, or other payments to meet the needs of a person who lives outside of the household who is or could be claimed as a dependent for federal personal income tax liability or for whom payment is required by court order.

Subp. 4. **Additional income exclusions; family assistance units.** In addition to the income exclusion in subpart 2, the county agency shall exclude the following income from a family assistance unit:

A. educational grants and loans, including income from work study; and

B. income, including retroactive payments, from SSI or Minnesota supplemental aid.

Subp. 5. **Additional income exclusions, assistance unit consisting of individuals who are not members of a family.** In addition to the income exclusions in subpart 2, the county agency shall exclude the following costs from the income of filing unit members when the assistance unit consists of individuals who are not members of a family:

A. the first $50 of earned income for each individual who receives earned income;

B. the cost of transportation to and from employment which is not reimbursed, based on the lesser of the actual cost, or the amount allowed for the use of a personal car in the United States Internal Revenue Code for a maximum of 100 miles per day;

C. a meal allowance of $2 for each day that the individual has a break for a meal during work hours and eats a meal at work, unless the individual can establish that higher costs are both necessary and reasonable;

D. the cost incurred by an applicant or paid by a recipient for uniforms, tools, and equipment which are necessary to accept or retain a job;

E. mandatory payments or deductions from pay for insurance premiums, union dues, association dues, retirement contributions, FICA, state and federal personal income tax withholding, not to exceed the amount specified in the state or federal tax withholding tables for an individual with the same income and number of dependents as the applicant or recipient;

F. other work expenses required for employment and approved by the county agency;

G. public assistance payments received by women residing in facilities for battered women as described in *Minnesota Statutes*, section 256D.05, subdivision 3, for whom general assistance payments are made to pay for residence in the facility;

H. stipends received from the displaced homemaker services program; and

I. in addition to the $50 specified in item A, up to $150 per month from the earnings of a resident of a facility licensed under

parts 9520.0500 to 9520.0690 or a resident of a supervised apartment with services funded under parts 9535.0100 to 9535.1600 for whom discharge and work are part of a treatment plan, provided that the disregarded sum is placed in a separate savings account by the resident.

9500.1225 EARNED INCOME.

Subpart 1. ~~Local~~ County agency duty to determine earned income. The ~~local~~ county agency must determine the total amount of earned income available to the ~~individuals identified in part 9500.1224, subpart 1~~ filing unit. Earned income from self-employment must be calculated ~~in accordance with~~ according to subpart 2. Earned income from contractual agreements must be calculated ~~in accordance with~~ according to subpart 3. The total amount of earned income available to an individual for a month must be determined by combining the amounts of earned income calculated under subparts 2 to 4. The total amount of earned income available to an assistance unit for a month must be determined by combining the total earned income of each ~~assistance~~ filing unit member.

Subp. 2. **Earned income from self-employment.** The ~~local~~ county agency must determine the amount of earned income from self-employment by subtracting business costs from gross receipts according to items A to D.

A. Self-employment expenses must be subtracted from gross receipts except for the expenses listed in subitems (1) to (14):

(1) purchases of capital assets;

(2) payments on the principal of loans for capital assets;

(3) depreciation;

(4) amortization;

(5) the wholesale costs of items purchased, processed, or manufactured that are unsold inventory with a deduction for the costs of those items allowed at the time they are sold;

(6) transportation costs that exceed the amount allowed for use of a personal car in the United States Internal Revenue Code;

(7) the cost of transportation between the individual's home and ~~his or her~~ place of employment;

(8) salaries and other employment deductions made for members of an individual's assistance unit or for individuals who live in the individual's household for whom the individual is legally responsible;

(9) monthly expenses in excess of ~~$70~~ $71 for a roomer;

(10) monthly expenses in excess of ~~$85~~ $86 for a boarder;

(11) monthly expenses in excess of ~~$155~~ $157 for a roomer-boarder;

(12) annual expenses in excess of ~~$102~~ $103 or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income;

(13) expenses not allowed by the United States Internal Revenue Code for self-employment income; and

(14) expenses which exceed 60 percent of gross receipts for child care performed in an individual's home unless the individual can document a higher amount. When funds are received from the quality child care program, those funds are excluded from gross receipts, and the expenses covered by those funds must not be claimed as a business expense that offsets gross receipts.

B. Except for farm income under item C, the self-employment budget period begins in the month of application for applicants and in the first month of self-employment for recipients. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month in which those expenses are paid except for subitems (1) to (3):

(1) The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

(2) Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

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(3) Gross receipts from self-employment may be prorated forward to equal the period ~~of time~~ over which the expenses were incurred except that gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

C. Farm income must be annualized. Farm income is gross receipts minus operating expenses, subject to item A. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from sale of home-produced foods.

D. Income from rental property must be considered self-employment earnings when ~~effort is expended by~~ the owner ~~to maintain or manage~~ spends an average of 20 hours per week on maintenance or management of the property. A ~~local~~ county agency must deduct an amount for upkeep and repairs, ~~in accordance with~~ according to item A, subitem (11), for real estate taxes, insurance, utilities, and interest on principal payments. When an ~~individual~~ applicant or recipient lives on the rental property, the ~~local~~ county agency must divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of rooms to determine the expense per room. The ~~local~~ county agency shall deduct expenses from rental income only for the number of rooms rented, not for rooms occupied by an ~~individual's~~ assistance unit. When ~~no effort is expended by the owner to maintain or manage~~ an owner does not spend an average of 20 hours per week on maintenance or management of the property, income from rental property must be considered unearned income. The deductions described in this item must be subtracted from gross rental receipts.

Subp. 3. **Earned income from contractual agreements.** The ~~local~~ county agency must prorate the amount of earned income received by individuals employed on a contractual basis over the period covered by the contract even if the payments are received over a shorter period ~~of time~~.

Subp. 4. **Other earned income.** The ~~local~~ county agency must consider all other forms of earned income not specifically provided for under subparts 2 and 3 to be earned income available to the individual in the month it is received.

9500.1226 UNEARNED INCOME.

Subpart 1. **~~Local~~ County agency duty to determine unearned income.** The ~~local~~ county agency must determine the total amount of unearned income available to the ~~individuals identified in part 9500.1224, subpart 1. Educational grants, loans, and scholarships must be calculated as unearned income in accordance with subpart 2. Income allocated to a member or members of an assistance unit from a responsible relative must be calculated as unearned income in accordance with subpart 3. The total amount of unearned income available to an individual for a month must be determined by combining the amounts of unearned income calculated under subparts 2 to 4~~ filing unit. The total amount of unearned income available to ~~an assistance~~ a filing unit for a month must be determined by combining the total unearned income of each ~~assistance~~ filing unit member.

Subp. 2. to 4. [See Repealer.]

Subp. 5. **Deductions for certain costs.** Costs incurred to secure payments of unearned income shall be deducted from unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

Subp. 6. **Payments for disability or illness.** Payments for illness or disability must be considered unearned income whether the premium payments are made wholly or in part by an employer or a recipient.

Subp. 7. **Education grants, scholarships, and loans.** Educational grants, scholarships, and loans, including assistance funded under title IV of the Higher Education Act, which are available to an assistance unit that does not contain a member of a family must be considered unearned income, together with the in-kind income derived from the payment of room and board and tuition and fees paid by the parents of the student. The county agency must subtract tuition and fees, in addition to books, supplies, transportation, and miscellaneous personal expenses as indicated by the school, from the total educational grants, loans, scholarships, and in-kind income. The deductions of these expenses are to be made at the time that the educational funds become available for the student's benefit, and any excess funds prorated over the remainder of the time they were intended to cover. School expenses that exceed loans, grants, and scholarships may be deducted from work study income.

Subp. 8. **Nonexcluded filing unit member income.** Income from a filing unit member who is not a member of the assistance unit which is not excluded under part 9500.1223 is deemed unearned income available to the assistance unit.

Subp. 9. **Lump sums received by filing unit.** Lump sums received by a filing unit must be considered as earned income under parts 9500.1223 and 9500.1225 or as unearned income under subparts 5 to 8. For recipients of general assistance, lump sums are considered income in the month received and a resource in the following months.

9500.1231 ASSISTANCE STANDARDS.

Subpart 1. **Standard, single individual.** Except as provided in subpart 2, the standard of assistance for a single adult who does not reside with his or her parents; an adult applicant or recipient who resides with his or her parents and those parents have no minor children; or an emancipated minor applicant or recipient defined under part 9500.1206, subpart 12d, is $203 per month. The standard in this subpart shall be increased by the same percentage as any increase in subpart 4.

Subp. 2. **Standard, individuals residing in a nursing home, negotiated rate facility, or regional treatment center.** The standard

of assistance for an assistance unit composed of one individual who resides in a nursing home, negotiated rate facility, or regional treatment center is the amount established as the clothing and personal needs allowance for medical assistance recipients under *Minnesota Statutes*, section 256B.35, subdivision 1.

Subp. 3. **Standard, married couples without children.** The standards of assistance for a married couple without children are the same as the first and second adult standards under subpart 4. If one member of the couple is not included in the general assistance grant, the standard for the other is the second adult standard under subpart 4.

Subp. 4. **Standards, filing units with a minor child.** The county agency shall use the standards in items A to M to determine the amount of assistance for a filing unit with a minor child or children. The standard of assistance shall increase or decrease to remain equal to the equivalent AFDC standards under part 9500.2440, subpart 6:

A. first adult, $187;

B. second adult, $73;

C. first child, $250;

D. second child, $95;

E. third child, $89;

F. fourth child, $76;

G. fifth child, $76;

H. sixth child, $77;

I. seventh child, $66;

J. eighth child, $64;

K. ninth child, $55;

L. tenth child, $54; and

M. each additional child, $53.

Subp. 5. **Standard, single adult residing with parents with minor children.** A single adult applicant or recipient who resides with his or her parents who have minor children will receive a child standard from subpart 4 as though the single adult were an additional minor child added to an assistance unit composed of the parent and minor child or children.

Subp. 6. **Standard, assistance unit composed of part or all members of a family.** The county agency shall determine the assistance standard for a family assistance unit as follows:

A. The county agency shall assign standards from subpart 4 to each member of the filing unit as though each was a member of an AFDC assistance unit composed of the entire filing unit. If a member or members of a family are not to be included in the assistance unit, the county agency shall assign standards from subpart 4 to those members first and to the remaining members of the assistance unit last. Each adult in the filing unit except the first will receive a second adult standard. A minor parent family member shall be treated as provided in subitem (1) or (2).

(1) A minor parent family member who resides with his or her parent will be assigned a child standard.

(2) A minor parent family member who does not reside with his or her parent or parents shall be assigned an adult standard. If two adult standards have already been assigned to filing unit members, the minor parent will be assigned a second adult standard.

B. The county agency shall add together the standards assigned to the members of the general assistance unit in item A. That total is the standard for the assistance unit. In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit.

Subp. 7. **Standard applies to full month.** Except when an increase must be made in the standard of assistance applicable to an assistance unit due to the addition of a member to the assistance unit or when a recipient enters the community from a negotiated rate facility, the standard of assistance applicable to an assistance unit the first day of a payment month or at the time of application, whichever is later, applies to the assistance unit for the entire month. When a decrease must be made in the standard of assistance for an assistance unit, the decrease shall be effective in the month following the month in which the change necessitating the reduction in the standard took place.

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9500.1232 STATE PARTICIPATION.

Subpart 1. to 3. [See Repealer.]

Subp. 4. **State participation for payment in excess of state standards.** State participation is not available for special need items or the amount of the higher ~~local~~ county agency standard ~~provided under part 9500.1230, subpart 5~~ authorized under *Minnesota Statutes*, section 256D.03, subdivision 2a, which exceed the applicable state assistance standards.

Subp. 5. **State participation for costs of providing transportation to recipients assigned to literacy training.** State participation for the actual costs of providing transportation under part ~~9500.1257~~ 9500.1259, subpart ~~5~~ 1, item D, subitem (6), is 100 percent.

9500.1233 FINANCIAL ELIGIBILITY TESTS.

Subpart 1. **Prospective eligibility.** A county agency shall determine whether the eligibility requirements that pertain to an assistance unit will be met prospectively for the payment month. To prospectively assess income, a county agency shall estimate the amount of income an assistance unit expects to receive in the payment month.

Subp. 2. **Termination and suspension of assistance when prospectively ineligible.** When an assistance unit is prospectively ineligible for general assistance for at least two consecutive months due to excess income, assistance must be terminated. When an assistance unit is prospectively ineligible for general assistance for only one month and is prospectively eligible the following month, assistance must continue. The income for the single month in which prospective ineligibility exists must be applied retrospectively as described in subpart 3, resulting in suspension for the corresponding payment month.

Subp. 3. **Retrospective eligibility.** After the first two months of program eligibility, a county agency must determine whether an assistance unit is prospectively eligible for the payment month. The county agency must then determine whether the assistance unit is retrospectively eligible by applying the gross income test for family assistance and the payment eligibility test to the income from the budget month. When either the gross income test for family assistance units or the payment eligibility test is not satisfied, assistance must be suspended when ineligibility exists for one month, or terminated when ineligibility exists for more than one month.

Subp. 4. **Gross income test for family assistance units.** A county agency shall apply a gross income test both prospectively and retrospectively for each month of program eligibility. A family assistance unit is not eligible when available income as determined in parts 9500.1223 to 9500.1226 equals or exceeds 185 percent of the standard of assistance for the assistance unit. The income applied against the gross income test must include the gross earned income of a dependent child in the assistance unit who is not a full-time student and whose income is from a source other than the Job Training Partnership Act. The income in items A to F must be considered in the gross income test.

A. Gross earned income from employment, before mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and disregards, unless the employment income is specifically excluded under part 9500.1223.

B. Gross earned income from self-employment, less deductions for self-employment expenses in part 9500.1225, subpart 2, but before any reductions for personal state and federal income taxes, business taxes, personal FICA, personal health and life insurance, and disregards.

C. Unearned income after allowable expenses in part 9500.1226, unless the income has been specifically excluded in part 9500.1223.

D. Gross earned income from employment as determined under item A which is received through the Job Training Partnership Act by a member of an assistance unit who is a dependent child after the child has received both Job Training Partnership Act earnings and assistance for six payment months in the same calendar year.

E. Gross earned income from employment, as determined under item A, which is received through employment other than the Job Training Partnership Act by a member of an assistance unit who is a dependent child and a full-time student after the child has received both those earnings and assistance for six payment months in the same calendar year.

F. Child support and spousal support received or anticipated to be received by an assistance unit less the first $50 of current child support.

Subp. 5. **Payment eligibility test.** Each assistance unit must pass a test of payment eligibility prospectively and retrospectively for each program month that the unit is otherwise eligible.

A. Family assistance units which have passed the gross income test, must use the income described in subpart 4 to determine payment eligibility except that:

(1) earned income of a dependent child who is a part-time or full-time student must be excluded; and

(2) the disregards as determined in part 9500.1235 must be deducted from earned income.

B. Assistance units which do not contain a member of a family must use the income determined in parts 9500.1223 to 9500.1226 to determine payment eligibility.

C. The county agency must apply the assistance unit's countable income against the assistance unit's standard. If the income is equal to or greater than the standard, the assistance unit must be denied assistance or assistance must be terminated.

9500.1235 EMPLOYMENT DISREGARDS FOR EMPLOYED MEMBERS OF A FAMILY ASSISTANCE UNIT.

The county agency shall deduct the disregards in items A to D from the gross earned income of employed members of a family assistance unit.

A. A $90 work expense, whether employment is full-time or part-time, must be deducted from the gross earned income of each employed member of an assistance unit and $75 for other financially responsible household members who are excluded from the assistance unit, except that sanctioned individuals must not receive this disregard.

B. A monthly deduction for costs for care of a dependent child or an adult dependent who is in the assistance unit. These costs must be documented according to part 9500.1215, subpart 4, item B, subitem (6). This disregard must only be deducted from the gross income of a member of an assistance unit, and must be applied after all other disregards have been applied. The deduction must not exceed $175 for each dependent age two or older, or $200 for each dependent under the age of two when employment equals or exceeds 30 hours per week. The deduction shall not exceed $174 for each dependent age two or older, or $199 for each dependent under the age of two when employment is less than 30 hours per week. A deduction for dependent care costs is not allowed when the care is provided by a member of the filing unit.

C. A deduction for a $30 and one-third work incentive disregard. This disregard must be allowed for each employed member of an assistance unit. The first $30 must be subtracted from the balance of gross earned income after subtracting the work expense allowed under item A. One-third of the balance must also be subtracted after allowing the $30 disregard. This disregard is limited by subitems (1) to (6).

(1) The disregard must not be deducted from the income of an applicant in the initial month when applying the payment eligibility test in part 9500.1233, subpart 5, except that an applicant who has received general assistance in any of the four months previous to the month of application and who retains eligibility for this disregard from the prior period of eligibility under subitems (2) to (5) shall be eligible for this disregard when determining payment eligibility. When an applicant satisfies the payment eligibility test in the first month, this disregard must be used to calculate the assistance payment amount for that month when the applicant is otherwise eligible to receive it.

(2) Eligibility for this disregard is limited to four payment months in subitems (3) to (5) and cannot be deducted again from the income of that member of the assistance unit until that member has not been a recipient of general assistance for a period of at least 12 consecutive payment months.

(3) The four months of eligibility for this disregard are only those payment months in which any part of the $30 and one-third work incentive is applied against income. When the four months of eligibility for this disregard are interrupted for at least one payment month before the period of eligibility is completed, the recipient is eligible for a new period of four months, with the next subsequent month of its use considered to be the first month, except as otherwise noted in subitems (4) and (5).

(4) When this disregard is not applied because income from a recurring source results in suspension of an assistance payment, that month must not be counted as a month of the four-month period, but this interruption does not establish eligibility for a new four-month period.

(5) When employment is ended, reduced, or refused without good cause, a person shall not be eligible for any of the employment disregards under items A to D in the first month following the month in which that employment is ended, reduced, or refused. The month in which those disregards are disallowed must be counted as one of the four consecutive months in the period of eligibility for this disregard and the remaining months of eligibility must be counted in the consecutive months which immediately follow, regardless of loss of eligibility or change in employment status.

(6) Receipt of a $30 and one-third work incentive disregard of income used to calculate benefits or eligibility for the AFDC or medical assistance programs has no effect on the eligibility for the disregard for recipients of family general assistance.

D. A deduction for a $30 work incentive disregard. This disregard applies for a period of eight months to members of an assistance unit who have completed the four-month period of eligibility for the $30 and one-third work incentive disregard. This disregard is allowed beginning with the first month following the fourth month of eligibility for the $30 and one-third work incentive disregard and must be counted in consecutive months regardless of the loss of eligibility or change in employment status.

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9500.1237 AMOUNT OF ASSISTANCE PAYMENT.

Subpart 1. **Amount of assistance payment.** The county agency must issue an assistance payment to an assistance unit in an amount equal to the difference between the standard of assistance determined in part 9500.1231 and the assistance unit's countable income as determined in parts 9500.1223 to 9500.1226, for a whole month without separate standards for shelter, utilities, or other needs, except as provided under subparts 2 to 9.

Subp. 2. **Prorate the month of application.** When program eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all eligibility factors are met for that applicant, whichever is later. This provision must apply when an applicant loses at least one day of program eligibility.

Subp. 3. **Minimum payment for families.** When the difference between countable income and the standard of assistance for an assistance unit containing members of a family in a payment month is less than $10, an assistance payment must not be issued, but that month must be considered a month of program eligibility. When recoupment of an overpayment reduces the assistance payment, pursuant to part 9500.1243, subpart 3, and the subsequent level of payment is less than $10, the assistance payment must be made.

Subp. 4. **Persons without a verified residence address.** A county agency may make payments to eligible persons without a verified address as specified in items A to G.

A. A county agency which chooses to make payments under this subpart must notify the department of its intention to do so 30 days before implementation.

B. A county agency must apply this subpart equally to all applicants or recipients who are without a verified residence, except that this subpart must not be applied to persons who are certified as having mental illness, mental retardation, or a family assistance unit unless requested in writing by the family assistance unit.

C. A county agency may divide the monthly assistance grant into four payments to be issued weekly for four weeks each month.

D. A county agency may determine eligibility and provide assistance on a weekly basis as specified in subitems (1) to (4).

(1) The amount of assistance issued under this item may be determined either by prorating the monthly assistance standard which applies to the individual at the time of application and at the time of weekly redetermination, or as specified in part 9500.1261.

(2) Forms required for weekly redetermination of eligibility must be approved by the department. The form must contain a statement of need by the recipient.

(3) Notwithstanding part 9500.1259, subpart 4, the county agency must notify the recipient each time weekly assistance is issued under this item that subsequent weekly assistance will not be issued unless the recipient claims need.

(4) Assistance issued under this item must not continue beyond the first full calendar month subsequent to the month of application. Beginning with the second full calendar month, assistance may be issued to a recipient who has not verified a residence address but who is a resident of the state as determined by part 9500.1219, subpart 3, as specified by item C.

E. Assistance provided under items C and D may be in the form of cash or separate vouchers or vendor payments for food, shelter, or other needs.

F. Except for weekly redetermination for assistance under item D, notices must be provided to recipients under this subpart as specified by part 9500.1259, subpart 4.

G. Assistance must not continue under this subpart when the recipient has verified a residence address as specified in part 9500.1219, subpart 3, item C.

Subp. 5. **Initial payments for mandatory participants in the work readiness program.** Initial payments may be made to mandatory participants in the work readiness program as specified in items A to D.

A. The county agency may:

(1) make payments to cover a period of time which begins with the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the last day of the month in which a work readiness orientation is scheduled; or

(2) prorate an initial payment to cover only the initial certification period which begins on the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the date on which all mandatory participants in the assistance unit must attend a scheduled orientation. This initial certification period must not exceed 30 days. If all mandatory participants in an assistance unit attend the scheduled orientation, the county agency must then issue an additional grant of assistance to cover the period beginning the day after the scheduled orientation and ending on the final day of the month. Subsequent grants of assistance must be issued according to part 9500.1237, subpart 1 or 4.

B. The county agency must inform all mandatory participants in the assistance unit that:

(1) each mandatory participant must attend an orientation within 30 days after application; and

(2) a mandatory participant who fails, without good cause, to attend the required orientation will lose eligibility for assistance without further notice due to noncompliance with work readiness requirements subject to reinstatement upon a showing of good cause.

C. Subsequent assistance must not be issued within 60 days from the date of the initial application to a mandatory participant whose eligibility has ended for failing, without a showing of good cause, to attend a scheduled orientation unless the person completes an application, is determined eligible, attends an orientation, or has become exempt from work readiness participation under part 9500.1251.

D. The county may make payment under items A and B to persons without a verified address according to subpart 4 as long as the county agency implements the provision consistently for all applicants and recipients.

Subp. 6. **Assistance payment when need will not exceed 30 days.** For persons who are exempt from registration with the work readiness program under part 9500.1251, subpart 2, item M, the county agency shall issue a grant determined by subtracting any countable income that the applicant has received since the first of the calendar month of application and any countable income the applicant is expected to receive before the date on which the county agency has anticipated that the applicant will lose eligibility for general assistance, from his or her prorated standard of assistance. The prorated standard of assistance must be determined by comparing the number of days between the date of application or the date all eligibility factors have been met, whichever is later, and the date which the county agency has anticipated that the applicant will lose eligibility for general assistance, with a 30-day month.

Subp. 7. **Payments to facilities with negotiated rates.** In addition to any payment an individual is entitled to by comparing the individual's countable income determined by parts 9500.1223 to 9500.1226 with the standard of need specified under part 9500.1231, subpart 7, the county agency must make direct payment on behalf of an individual described under part 9500.1231, subpart 2, to a negotiated rate facility out of general assistance funds unless other funds are available. An individual who has countable income in excess of the standard specified in part 9500.1231, subpart 2, but who is otherwise eligible for general assistance, is eligible for a payment to be made to a facility on the individual's behalf. However, the initial payment to the facility must be reduced by the amount that the individual's countable income exceeds the standard applicable to the individual on the first day of the month in which the individual enters the facility. Payments for months subsequent to the month in which the individual enters the facility must be reduced by the amount the individual's countable income exceeds the standard specified by part 9500.1231, subpart 2. If the individual's countable income exceeds that standard by an amount equal to, or greater than, the facility's monthly rate, there is no eligibility under the general assistance program. The county agency may make payment to the facility either in advance each month, or upon receipt of a billing statement from the facility. Payments to the facility shall cover a period beginning on the date the county agency receives an application signed by the applicant or the date all eligibility factors have been met, or the date the individual enters the facility, whichever is later, and ending on the date the recipient leaves the facility.

Subp. 8. **Payments to shelter facilities.** In addition to any payment to which an individual may be eligible under other parts of this program or under the aid to families with dependent children program, the county agency shall make payment on behalf of that individual to a secure crisis shelter, a housing network, or other shelter facility which provides shelter services to women and their children who are being or have been assaulted by males with whom they are residing or have resided in the past. The county agency's payment to the shelter must be reduced by the amount that the individual's countable income determined by parts 9500.1223 to 9500.1226 exceeds their standard of assistance as determined by part 9500.1231. Eligibility for a shelter payment under this subpart shall not affect the individual's eligibility or benefit level for general assistance or aid to families with dependent children and there can be concurrent payments under this subpart and those programs. Eligibility for a shelter payment under this subpart begins with the date an applicant enters the shelter provided that the shelter files the applicant's completed application with the county agency within ten days of the date the applicant entered the shelter, and ends on the date the individual leaves the shelter.

Subp. 9. **Additional grants to start employment.** In addition to any other benefits to which a recipient or applicant, otherwise eligible, might be entitled under this part, the county agency may, within the limits of available appropriations, make grants necessary to enable individuals to accept bona fide offers of employment. A grant may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. A grant under this subpart shall not be furnished more than once in any 12-month period.

9500.1239 PAYMENT PROVISIONS.

Subpart 1. **Grant issuance.** Grants of general assistance shall be issued to the recipient according to subparts 2 and 3.

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Subp. 2. **Time period for issuance of assistance.** The state or county agency shall mail assistance payments to the address where the assistance unit lives, or an alternate address when approved by the county agency, within time to allow postal service delivery to occur no later than the first day of each month unless:

A. the county agency has exercised its option to issue assistance weekly under part 9500.1237, subpart 4, item C or D, in which case the county agency must provide the recipient with a schedule by which the recipient is to visit the agency to pick up the payments or notices; and

B. the state or county agency issues payments by means other than checks, in which case the payments must conform to the time limits in this subpart.

Subp. 3. **Special voucher or vendor payment provisions.** Assistance must be paid directly to a recipient, except as provided in items A to H.

A. When a county agency has determined that a voucher or vendor payment is the most effective way to resolve an emergency situation under part 9500.1261, payment shall be made by voucher or directly to a vendor.

B. When the county agency has reason to suspect that a client is drug dependent, payment shall be made as provided under part 9500.1272.

C. When the applicant or recipient has no verified residence address, payment shall be made as provided under part 9500.1237, subpart 4, item C, D, or E.

D. When the applicant or recipient requests in writing that all or part of the assistance be issued in the form of vendor payments and the county agency approves the request, payment shall be made by vendor payment.

E. When an assistance unit consists of only minor children due to the disqualification of one or both parents who have not complied with the work readiness program, payment shall be made by vendor or protective payment.

F. When a county agency has determined that a recipient has exhibited a continuing pattern of money mismanagement, payment shall be made by vendor or protective payment. A continuing pattern of money mismanagement exists when a recipient has received a total of two or more grants of emergency assistance within an 18-month period. For the purposes of this provision, grants of emergency assistance are payments made under part 9500.1261 or 9500.2820 or emergency payments from county funds. In order to be counted for this provision, the emergencies for which grants were issued must have resulted from the recipient's failure to use available resources for the payment of basic need items. The county agency must review the use of protective or vendor payments under this item at each redetermination of eligibility.

G. When a county agency has established a negotiated rate with providers of room and board, boarding care, supervised living, or adult foster care, payment shall be made by vendor payment.

H. When an applicant or recipient resides in a shelter facility as defined in *Minnesota Statutes*, section 256D.05, subdivision 3, payment shall be made by vendor payment.

9500.1243 BUDGETING.

Subpart 1. **Prospective budgeting.** A county agency shall use prospective budgeting to calculate the assistance payment amount for the first two months for an applicant who has not received general assistance for at least one payment month preceding the first month of payment under a current application, subject to items A to E.

A. Income received or anticipated in the first month of program eligibility must be applied against the need of the first month. Income received or anticipated in the second month must be applied against the need of the second month.

B. When the assistance payment for any part of the first two months is based on anticipated income, an initial assistance payment amount must be determined based on information available at the time the initial assistance payment is made. When the amount of actual countable income is different than the anticipated countable income which was budgeted to determine the assistance payment for the first two months, the assistance unit is liable for an overpayment or is eligible for a corrective payment for the difference between anticipated and actual countable income for those two months.

C. The assistance payment for the first two months of program eligibility must be determined by budgeting both recurring and nonrecurring income for those two months.

D. An assistance unit shall have the assistance payment amount determined prospectively according to items A to C if the assistance unit:

(1) has had assistance suspended for a month as provided by part 9500.1233, subpart 2; and

(2) has experienced a recurring change of at least $50 in net income, exclusive of the disregards in part 9500.1235, items B and C, in the month preceding the month of suspension or in the month of suspension.

E. An individual who enters a facility with a negotiated rate or a shelter facility described in *Minnesota Statutes*, section

256D.05, subdivision 3, shall have an assistance payment determined prospectively from the date the individual entered the facility. Any income, including grants of public assistance, received by the individual before entering the facility must only be applied against the assistance unit's standard specified under part 9500.1231, subpart 2, and not against the payment to the facility as specified in part 9500.1237, subparts 7 and 8. Any assistance payments made to the individual beginning two months after the month the individual leaves the facility must be determined retrospectively according to subpart 2.

Subp. 2. **Retrospective budgeting.** Retrospective budgeting must be used to calculate the monthly assistance payment amount after the payment for the first two months has been made under subpart 1. Retrospective budgeting is subject to items A and B.

A. Retrospective budgeting is used to determine the amount of the assistance payment in the first two months of program eligibility when:

(1) an assistance unit applies for general assistance for the same month for which general assistance has been terminated, the interruption in eligibility is less than one payment month, and the general assistance payment for the immediately preceding month was determined retrospectively; or

(2) a person applies to be added to an assistance unit, that assistance unit has received general assistance for at least two preceding months, and that person has been receiving general assistance for at least two months as a member of another assistance unit.

B. Income received in the budget month by an assistance unit and by a filing unit member who is not included in the assistance unit must be applied against the standard of assistance to determine the assistance payment to be issued for the payment month, except as provided in subitems (1) to (4).

(1) When a source of income ends before the third payment month, that income is not considered in calculation of the assistance payment for the third payment month. When a source of income ends before the fourth payment month, that income is not considered when determining the assistance payment for the fourth payment month.

(2) When a member of a filing unit leaves the household of the assistance unit, the income of that member is not budgeted retrospectively for any full payment month in which that household member does not live with that household and is not included in the filing unit.

(3) When a child is removed from an assistance unit because the child is no longer a dependent, the income of that child is not budgeted retrospectively for payment months in which that child is not included in the assistance unit.

(4) When a person ceases to have financial responsibility for one or more members of an assistance unit, the income of that person is not budgeted retrospectively for the payment months which follow the month in which financial responsibility ends.

Subp. 3. **Recoupment of overpayments.** When a recipient receives an overpayment, the overpayment must be recouped or recovered under the conditions of this part even when the overpayment is due to agency error or to other circumstances outside the person's responsibility or control, according to items A to C.

A. When a county agency discovers that a person has received an overpayment for one or more months, the county agency shall notify that person of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the person's right to appeal recoupment of the overpayment.

B. When an assistance unit is eligible for assistance, the county agency shall recoup an overpayment by reducing one or more monthly assistance payments until the overpayment is repaid. The amount of repayment deducted from a monthly assistance payment shall be three percent of the assistance unit standard of assistance for the payment month.

C. A county agency shall not initiate efforts to recover overpayments from a person no longer on assistance unless the amount of overpayment is greater than $35 or overpayment was due to fraud.

Subp. 4. **Correction of underpayments.** A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment or by issuing a separate payment to a current recipient. When an underpayment occurs in a payment month specified in subpart 1, and is not identified until the next payment month or later, that underpayment must first be subtracted from any overpayment balance before issuing the corrective payment. An underpayment for a current payment month must not be applied against an overpayment balance and payment must be issued within seven calendar days after the underpayment is identified.

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Subp. 5. **Prohibition against use of general assistance grant to recover overpayment from other maintenance programs.** Subparts 3 and 4 apply only to overpayments or underpayments of assistance from the general assistance program. A county agency may not recover an overpayment by another maintenance benefit program from a general assistance grant.

9500.1245 APPLICANT AND RECIPIENT RESPONSIBILITIES.

Subpart 1. **Applicant reporting requirements.** An applicant shall provide information about circumstances that affect the applicant's program eligibility or the assistance payment. The applicant shall provide the information on an application form and supplemental forms. An applicant shall report any changes in those circumstances under subpart 5 while the application is pending.

Subp. 2. **Responsibility to inquire.** An applicant or recipient who does not know or who is unsure whether a change in circumstances will affect program eligibility or assistance payments shall contact the county agency for information about whether or not to report the change.

Subp. 3. **Household report forms.** An assistance unit with a member who has earned income or a recent work history, and an assistance unit that has income allocated to it from a filing unit member who has earned income or a recent work history, shall complete a monthly household report form. "Recent work history" means the individual received earned income in any one of the three calendar months preceding the current payment month. To be complete, a household report form must be signed and dated no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered and documentation of earned income must be included. A recipient shall submit the household report form by the eighth calendar day of the month following the reporting period covered by the form, or, if the eighth calendar day of the month falls on a weekend or holiday, by the first working day that follows the eighth calendar day. Delays in submitting the completed household report form may delay an assistance payment in the month following the month in which the form is due.

Subp. 4. **Late household report forms.** When a household report form is late or incomplete, items A, B, or C apply.

A. When a complete household report form is not received by a county agency before the last ten days of the month in which the form is due, the county agency shall send notice of proposed termination of assistance. When a recipient submits an incomplete form on or after the date the notice of proposed termination has been sent, the termination is valid unless the recipient submits a complete form before the end of the month.

B. When a recipient submits an incomplete household report form before the last ten days of the month in which it is due, a county agency's ten-day notice of termination of assistance for failure to provide a complete household report form is invalid unless the county agency has returned the incomplete form on or before the ten-day notice deadline.

C. If a complete household report form is received by the county agency within a calendar month after the month in which assistance was received, an assistance unit required to submit a household report form is considered to have continued its application for assistance effective the date the required report is received by the county agency. However, no assistance shall be paid for the period beginning with the first day of the month after the month in which the report was due and ending with the date the report was received by the county agency.

Subp. 5. **Changes which must be reported.** Recipients shall report the changes or anticipated changes specified in items A to K within ten days after the date they occur, within ten days after the date the recipient learns that the change will occur, at the time of the periodic redetermination under subpart 6, or within eight calendar days after a reporting period as in subpart 3, whichever occurs first. A recipient shall report other changes at the time of the periodic redetermination of eligibility under subpart 6 or at the end of a reporting period under subpart 3 as applicable. A recipient shall make these reports in writing or in person to the county agency. Changes in circumstances which must be reported within ten days must also be reported on the household report form for the reporting period in which those changes occurred. Within ten days, a recipient must report changes in:

A. initial employment;

B. the initial receipt of unearned income;

C. a recurring change of more than $50 per month of net earned or unearned income;

D. the receipt of a lump sum;

E. an increase in resources;

F. a change in the physical or mental status of a recipient who is exempt from work readiness registration due to the physical or mental condition;

G. the marriage or divorce of an assistance unit member;

H. a change in the household composition including departures from and returns to the home of filing unit members, or the birth or death of a member of the filing unit;

I. a change in the address or living quarters of an assistance unit;

J. the sale, purchase, or other transfer of property; and

K. a change in school attendance of a child over 15 years of age or an adult member of an assistance unit.

Subp. 6. **Redetermination of eligibility.** Except as provided in items A to C, a county agency must redetermine eligibility of a recipient once each year. A recipient must complete forms prescribed by the commissioner and required for redetermination of eligibility.

A. A county agency that has opted to provide assistance on a weekly basis to persons without a verified residence address may redetermine eligibility each week. In redetermining eligibility, the county agency must use the form in part 9500.1237, subpart 4, item D, subitem (2). The form must include a claim of need by the recipient.

B. A county agency must redetermine eligibility when a recipient who has been disqualified from receiving cash assistance due to noncompliance with a program provision requests assistance after the expiration of the disqualification period.

C. A county agency may redetermine the eligibility of a recipient when a change that affects program eligibility is reported to the county agency.

Subp. 7. **Other maintenance benefits.** An applicant or recipient must apply, according to part 9500.1254, for other maintenance benefits that the county agency has determined the applicant or recipient is potentially eligible for. An applicant or recipient who fails or refuses to take the actions specified by the county agency according to part 9500.1254 must be terminated from general assistance and remains ineligible for assistance until the applicant or recipient takes the actions specified by the county agency under this subpart.

Subp. 8. **Work readiness program.** Any applicant or recipient who is not exempt from work readiness under part 9500.1251 must participate in the work readiness program under part 9500.1259, according to items A and B.

A. A mandatory work readiness participant meets the work readiness participation requirements if the mandatory participant:

(1) cooperates with the county agency in all aspects of the work readiness program;

(2) accepts any suitable employment, including employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options;

(3) does not voluntarily quit or refuse suitable employment without good cause; and

(4) participates in work readiness activities assigned by the county agency, including completing the specific tasks or assigned duties that were identified by the county agency in the notice required under part 9500.1259, subpart 1, item E, subitem (1).

B. Mandatory participants who fail, without good cause, to meet the work readiness participation requirements shall be terminated from assistance and disqualified from work readiness according to subitems (1) and (2).

(1) For the first instance of noncompliance, without good cause, in a six-month period beginning with the completion of the work readiness orientation, the county agency shall notify the participant of the particular action or actions that the participant must take, by a date certain, to achieve compliance and avoid termination of assistance. A mandatory participant's failure to take the required actions by the specified date will result in the removal, both prospectively and retrospectively, of that individual's needs from the calculation of a grant for the assistance unit. The period of disqualification for those persons is one month.

(2) For any subsequent instance of noncompliance, without good cause, in a six-month period beginning with the date of any previous instance, the mandatory participant may not take corrective action to avoid removal from assistance and disqualification. If the effective date of a termination under this subitem is within six months of the end of a previous disqualification, the period of disqualification is two months.

Subp. 9. **Persons exempt from work readiness, voluntary participation.** An applicant or recipient of general assistance who is exempt from mandatory participation in work readiness may volunteer to participate in work readiness.

9500.1248 DETERMINATION OF COUNTY OF FINANCIAL RESPONSIBILITY.

Subpart 1. and 2. [See Repealer.]

Subp. 3. **Determination of county of financial responsibility.** The county of financial responsibility shall be determined according to *Minnesota Statutes*, chapter 256G.

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9500.1250 LOCAL AGENCY REPORTS.

The ~~local~~ county agencies shall collect and report information necessary to administer, monitor, and evaluate the general assistance program, including work requirements ~~and the MEED program~~. ~~The local agency shall enter information on all general assistance applicants and recipients in the welfare information system on the schedules established by the department. In addition, the local agency shall enter and maintain information on the case information file or supply supplemental information as needed to:~~

~~A. minimize the occasions on which similar information is obtained from applicants and recipients;~~

~~B. improve coordination of services to recipients;~~

~~C. minimize the possibility of duplicate payments;~~

~~D. report to the legislature on general assistance recipients' participation in the MEED program.~~

9500.1251 WORK READINESS REQUIREMENT AND EXEMPTIONS.

Subpart 1. **Work readiness participation required.** To receive a grant of general assistance, an individual must be a registrant with the work readiness program or must be exempt from registration by the county under subpart 2. A "registrant" is an individual, otherwise eligible for assistance, whose exemption status under subpart 2 has been assessed by the county agency and who does not qualify for an exemption, or who has qualified for an exemption and has voluntarily requested to participate in the work readiness program. Individuals otherwise exempt under subpart 2, items F and G, but who have not signed an interim assistance authorization agreement, shall not be allowed to register for work readiness and therefore cannot receive a grant.

Subp. 2. **Exemption from work readiness.** An applicant or recipient is exempt from work readiness requirements if:

A. The applicant or recipient suffers from a permanent or temporary injury, or incapacity that is medically certified and that prevents the applicant or recipient from obtaining or retaining suitable employment for at least 30 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 exempt under this item only for the period of illness, injury, or incapacity.

B. The applicant or recipient is needed at home on a substantially continuous basis because a member of the applicant's or recipient's household requires care due to age, or a medically certified illness, injury, or incapacity. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself. The applicant or recipient must verify that no other household member is able to provide the care.

C. The applicant or recipient is residing in a facility licensed under *Minnesota Statutes*, chapter 245A, and certified under *Minnesota Statutes*, chapter 144, for purposes of physical or mental health rehabilitation or a chemical dependency domiciliary facility. Residence in the facility must be due to illness or incapacity and must be based on a plan developed or approved by the director of the county agency.

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

E. The applicant or recipient does not meet the condition in item A or C but is diagnosed by a qualified professional as having mental retardation or mental illness and that condition prevents the applicant or recipient from obtaining or retaining employment.

F. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program and the applicant or recipient has signed an interim assistance authorization agreement. An applicant or recipient whose previous application for social security benefits was based solely on a condition other than chemical dependency or mental illness who does not appeal a denial by the social security administration is only exempt under this item if the new application is made for social security benefits based on a different disability or a new application is made that alleges new or aggravated symptoms of the original disability.

G. The applicant or recipient has appealed the denial of an application for social security disability or SSI benefits or the termination of social security disability benefits or SSI benefits and the appeal is pending. The applicant or recipient must produce medical evidence in support of an appeal of a denied application within 60 days of the initial denial or termination. An applicant or recipient of general assistance under this item must sign an interim assistance authorization agreement. A county agency shall not approve a new application for a recipient whose general assistance has been terminated for failure to provide medical evidence in support of the appeal of an application denied by social security until such medical evidence is produced.

H. The applicant or recipient is unable to obtain or retain employment due to advanced age as defined in part 9500.1206, subpart 3.

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

J. The applicant or recipient is under the age of 19 and is a full-time student in a secondary institution.

K. The applicant or recipient is under the age of 16.

L. The applicant or recipient is in the last trimester of pregnancy.

M. The applicant shows circumstances that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or anticipated income, provided that the applicant has not received general assistance under that condition for at least 60 days.

N. The applicant or recipient is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day.

O. The applicant's or recipient's homestead is more than two hours round-trip from any potential suitable employment, exclusive of time needed to transport the applicant's or recipient's children to and from child care.

P. The recipient or applicant is a parent, who is not otherwise exempt, in an assistance unit which contains a child under the age of six if there is no suitable child care available at no cost to the family which is not reimbursed, or greater than the disregard provided by part 9500.1235, item B. If there are two parents in an assistance unit who are not otherwise exempt under this subpart, the parent who is not the principle wage earner as defined in part 9500.1206, subpart 26a, is exempt. If, in a two-parent assistance unit, there are no earnings, or if the earnings of both parents are the same, the applicant must designate the principal wage earner, and that designation must not change as long as assistance continues without interruption. "Suitable child care at no cost to the family," as described above, can include a parent in the filing unit who is not in the assistance unit so long as that parent is not a current participant in an AFDC work program or is not otherwise available for child care.

Q. The applicant or recipient, not otherwise exempt under items A to P, has been assessed by a qualified professional or vocational specialist as not being likely to obtain permanent employment and:

(1) the applicant or recipient has been referred to, and is participating in, an accredited remedial or skills training program designed to address barriers to the person's employment; or

(2) the applicant or recipient has been referred to, and has applied for, another maintenance benefit for which the applicant or recipient is potentially eligible.

Subp. 3. **Assessment of exemption status.** The assessment by the qualified professional or vocational specialist must consider the person's age, physical and mental health, education, trainability, prior work experience, and local market.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Subpart 1. **Screening requirement.** The ~~local~~ county agency must determine the potential eligibility of each general assistance applicant or recipient for other maintenance benefits as follows:

A. The ~~local~~ county agency must determine an applicant's potential eligibility for other maintenance benefits when application for general assistance is made.

B. The ~~local~~ county agency must determine a recipient's potential eligibility for other maintenance benefits at the recipient's semiannual redetermination of eligibility for general assistance. The ~~local~~ county agency must also determine a recipient's potential eligibility for other maintenance benefits whenever it determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits.

C. If the ~~local~~ county agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the ~~local~~ county agency must document its determination on forms prescribed by the commissioner and must retain the forms in the ~~local~~ county agency case record for the applicant or recipient.

Subp. 2. **Informing and referral requirement.** When the ~~local~~ county agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the ~~local~~ county agency shall refer the applicant or recipient to the other maintenance benefit program on a form prescribed by the commissioner by informing the applicant or recipient orally and in writing of the following:

A. that the applicant or recipient must apply for the other maintenance benefit program, ~~in accordance with~~ according to subpart 4, item A;

B. that the applicant or recipient must execute an interim assistance authorization agreement, ~~in accordance with~~ according to subpart 4, item D;

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C. that the applicant or recipient must comply with all procedures necessary to determine ~~his or her~~ eligibility or ineligibility for the other maintenance benefits ~~in accordance with~~ according to subpart 4, item C;

D. that the applicant or recipient must authorize the ~~local~~ county agency and the qualified provider, when one is chosen, to exchange relevant data concerning the applicant's or recipient's eligibility with the other maintenance benefit program office, ~~in accordance with~~ according to subpart 4, item B;

E. the estimated amount of benefits the applicant or recipient may be eligible to receive under the other maintenance benefit program, if known;

F. the address at which the applicant or recipient shall apply for the other maintenance benefit program;

G. general instructions regarding how to apply for the other maintenance benefit program;

H. that the applicant or recipient may elect to receive special services to assist ~~him or her~~ in applying for SSI benefits, ~~in accordance with~~ according to part 9500.1256, subpart 1, and that the applicant or recipient has a right to choose to receive special services from a qualified provider;

I. notice of the actions which the ~~local~~ county agency must take, ~~in accordance with~~ according to subpart 5, if the applicant or recipient fails to comply with the requirements under subpart 4, items A to D; and

J. notice of the applicant's or recipient's right to appeal a determination of ineligibility for general assistance due to noncompliance with subpart 4, items A to D.

Subp. 3. **Special referral provisions.** When the ~~local~~ county agency determines that the applicant or recipient is potentially eligible for another maintenance benefit program, the ~~local~~ county agency shall refer the applicant or recipient to a chosen qualified provider and the other maintenance benefit program ~~in accordance with~~ according to items A and B:

A. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the ~~local~~ county agency shall:

(1) offer to provide special services to the applicant or recipient ~~in accordance with~~ according to part 9500.1256, subpart 1, to assist ~~him or her~~ in applying for and obtaining SSI;

(2) furnish the applicant or recipient with a list of qualified providers with whom the ~~local~~ county agency has contracted to provide special services to applicants or recipients or who have asked to be included on the list;

(3) notify the Social Security Administration's local office of the applicant's or recipient's potential eligibility for SSI on the date of referral so that the earliest potential date of eligibility for SSI can be established; and

(4) if the applicant or recipient elects at any time to receive the special services specified in part 9500.1256, subpart 1, from a qualified provider other than the ~~local~~ county agency, the ~~local~~ county agency shall refer the applicant or recipient to the chosen provider. If the ~~local~~ county agency has not contracted with the chosen provider, the ~~local~~ county agency must enter into a contract with that qualified provider to provide special services to applicants or recipients who apply for SSI benefits.

B. If the ~~local~~ county agency determines that an applicant or recipient is potentially eligible for another maintenance benefit program, and the applicant or recipient has previously applied for and been found ineligible for that other maintenance benefit program, ~~he or she~~ the applicant or recipient shall not be required to appeal from that decision or to reapply for that other maintenance benefit program unless one of the following conditions is met:

(1) the ~~local~~ county agency determines that the applicant's or recipient's health or circumstances have changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. **Requirements upon referral for other maintenance benefits.** When the ~~local~~ county agency refers an applicant or recipient to another maintenance benefit program as provided under subpart 2, the applicant or recipient shall do the following:

A. The applicant or recipient shall apply for those benefits within 30 days of the date of referral. If the recipient has not provided the ~~local~~ county agency with verification of ~~his or her~~ an application for those benefits within 30 days of the date of referral, the ~~local~~ county agency must contact the other maintenance benefit program ~~local~~ county office to determine if the recipient has applied for benefits. If the ~~local~~ county office of the other maintenance benefit program verifies that the recipient has applied for those benefits, the recipient shall be deemed to have met the requirement of applying for other maintenance benefits. If the ~~local~~ county office of the other maintenance benefit program verifies that the recipient has not applied for those benefits, the local agency shall mail or give the recipient notice of termination from general assistance ~~in accordance with~~ according to subpart 5.

B. The applicant or recipient shall, within 30 days of the date of referral, provide ~~his or her~~ informed written consent and authorization for the ~~local~~ county agency or a qualified provider, if one is chosen, to exchange data concerning the applicant or recipient

with the other maintenance benefit program ~~local~~ county office. The data exchanged must be relevant to a determination of the applicant's or recipient's eligibility or ineligibility for benefits from the other program.

For purposes of exchanging private or confidential data about a person for whom a qualified provider has contracted to provide special services, a qualified provider other than the ~~local~~ county agency shall not be considered part of the welfare system under *Minnesota Statutes*, section 13.46, subdivision 1.

If the ~~local~~ county agency determines that the recipient has not given informed written consent and authorization for the ~~local~~ county agency or a qualified provider to exchange data concerning ~~his or her~~ eligibility or ineligibility for the other maintenance benefit program within the prescribed 30 days, the ~~local~~ county agency shall mail or give the recipient notice of termination from general assistance ~~in accordance with~~ according to subpart 5.

C. A recipient shall comply with all procedures necessary to determine ~~his or her~~ eligibility or ineligibility for the other maintenance benefit program.

If the ~~local~~ county agency determines that the recipient has not complied with the procedures necessary to determine ~~his or her~~ eligibility or ineligibility for other maintenance benefits, the ~~local~~ county agency shall mail or give the recipient notice of termination from general assistance ~~in accordance with~~ according to subpart 5.

D. An applicant or recipient shall execute an interim assistance authorization agreement with the ~~local~~ county agency within 30 days of the date of referral.

If the recipient fails to execute an interim assistance authorization agreement within the 30 days prescribed, the ~~local~~ county agency shall mail or give the recipient notice of termination from general assistance ~~in accordance with~~ according to subpart 5.

Subp. 5. **Ineligibility.** This subpart governs termination of general assistance eligibility for a recipient who fails, without good cause, to comply with the requirements of subpart 4.

A. Upon determining that a recipient has failed, without good cause, to comply with the requirements of subpart ~~4, items A to D,~~ the ~~local~~ county agency shall mail or give the recipient notification of termination from general assistance. The ~~local~~ county agency shall hand deliver or mail the written notice to the recipient at least 30 days before reducing, suspending, or terminating the recipient's monthly general assistance payment. The notice must be on a form prescribed by the commissioner and must:

(1) list the requirements with which the ~~local~~ county agency believes the recipient has not complied and inform the recipient that ~~he or she~~ the recipient must comply with the requirements to avoid or end a period of ineligibility;

(2) inform the recipient that ~~he or she~~ the recipient will be terminated from general assistance if the recipient fails to comply with the listed requirements, specify the date that the recipient's general assistance will be terminated if ~~he or she~~ the recipient does not comply, and explain the recipient's right to appeal the action ~~in accordance with~~ according to subpart 6;

(3) offer assistance to resolve the circumstances or concerns which prevent the recipient from complying with the requirements of subpart 4; and

(4) inform the recipient of the continued availability of special services provided under part 9500.1256, subpart 1.

B. If the recipient complies with the requirements specified in the notice in item A ~~prior to~~ before the termination date stated in the notice, a period of ineligibility must not be imposed.

C. A recipient who fails to comply with the requirements specified in the notice in item A ~~prior to~~ before the termination date stated in the notice is ineligible for general assistance. The period of ineligibility begins on the date specified in the notice and continues until the person fulfills the requirements of subpart 4. The period of ineligibility always begins on the first day of a calendar month. If the ineligible person subsequently applies for general assistance, the application must be denied unless the requirements of subpart 4 have been met.

D. If the person is determined to be ineligible under item C, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 6. **Appeals.** A recipient to whom the ~~local~~ county agency has given or mailed a notice of termination ~~in accordance with~~ according to subpart 5 may appeal the determination by submitting a written request for a hearing ~~in accordance with~~ according to *Minnesota Statutes*, section 256.045. If the recipient files a written request for an appeal on or before the first day of the period of ineligibility under subpart 5, item C, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance.

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Subp. 7. **Reimbursement for interim assistance.** A ~~local~~ county agency must seek reimbursement for the interim assistance provided to a person who has executed an interim assistance authorization agreement under subpart 4, item D, when the person receives a retroactive payment ~~from the~~ of other maintenance ~~benefit program~~ benefits unless reimbursement is prohibited under federal or state law. Reimbursement for interim assistance and special services provided to an SSI applicant or recipient is governed by part 9500.1256, subpart 2.

The ~~local~~ county agency must request reimbursement for interim assistance from the person receiving other retroactive maintenance benefits, except for SSI, or in those instances where the state or county agency has rights of subrogation under *Minnesota Statutes*, section 256.03. If a request for reimbursement under this subpart is denied, the ~~local~~ county agency may institute a civil action to recover the interim assistance based on the interim assistance authorization agreement. The ~~local~~ county agency must take no action other than a civil action to recover the interim assistance. ~~From the interim assistance recovered, the local agency may retain 25 percent as reimbursement for the county's share of the interim assistance provided, and must credit the balance to the state as an advance payment to the local agency for the state's share of the next month's general assistance grants.~~

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Subpart 1. **Special services.** A recipient who is referred to SSI ~~in accordance with~~ according to part 9500.1254, subparts 2 and 3, item B, may elect to receive special services to assist ~~him or her~~ the recipient in obtaining SSI benefits. Special services for which reimbursement for fees, costs, or disbursements may be claimed under subpart 2 or 3 are limited to the following:

A. explaining to or counseling the applicant or recipient about the application procedures and benefits available through the SSI program;

B. assisting the applicant or recipient in completing the application for SSI and arranging appointments related to application for SSI;

C. assisting the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues that may arise during the SSI eligibility determination process;

D. providing the applicant or recipient with medical or vocational evidence, social history, or expert testimony currently available to substantiate the presence and severity of the applicant's or recipient's blindness or disability;

E. assisting the applicant or recipient in obtaining and using medical or vocational evidence, social history, or expert testimony and in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assisting the applicant or recipient with necessary transportation;

G. preparing for and representing the applicant or recipient at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security Administration's determination of ineligibility for SSI;

H. the ~~local~~ county agency's preparation of a contractual agreement with a qualified provider chosen by the applicant or recipient; and

I. providing other services to assist the applicant or recipient to establish eligibility for SSI benefits.

Subp. 2. **Reimbursement for interim assistance and special services.** A ~~local~~ county agency must be reimbursed for providing interim assistance and special services to an SSI applicant or recipient in the following manner:

A. Upon receiving the initial SSI payment for a person who has executed an interim assistance authorization agreement as specified in part 9500.1254, subpart 4, item D, the ~~local~~ county agency may recover the amount of interim assistance provided. After recovering the interim assistance from the initial SSI payment, the ~~local~~ county agency shall pay the remainder to the person or to a representative payee identified by the Social Security Administration within ten days of receiving the initial SSI payment. From the amount of interim assistance recovered, the ~~local~~ county agency:

(1) shall retain ~~25 percent as reimbursement for~~ the county's share of the interim assistance provided;

(2) may retain, subject to ~~the provisions of~~ subpart 3, item E, ~~an additional~~ 25 percent as an advocacy incentive for providing the special services specified in subpart 1, items A to D; and

(3) may retain from the ~~remaining 50 percent~~ remainder, subject to ~~the provisions of~~ subpart 3, item E, reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 1.

B. The ~~local~~ county agency may not seek reimbursement from the applicant or recipient for the fees, costs, or disbursements of providing special services except as provided in item A.

C. The balance of the amount of interim assistance that is not retained by the ~~local~~ county agency pursuant to item A or paid to another qualified provider under subpart 3 must be credited to the state as an advance payment to the ~~local~~ county agency for the state's share of the next month's general assistance grants.

D. The ~~local~~ county agency must document the fees, costs, and disbursements which it incurs in providing the special services

to claim reimbursement. The ~~local~~ county agency shall be reimbursed under item A, subitem (3), only for the direct costs of providing special services.

Subp. 3. **Reimbursement to qualified providers under contract with the ~~local~~ county agency to provide special services.** Qualified providers under contract with the ~~local~~ county agency to provide special services to general assistance applicants or recipients shall be reimbursed from the amount of interim assistance recovered by the ~~local~~ county agency under subpart 2 in the following manner:

A. To receive reimbursement for the fees, costs, and disbursements related to appeals and litigation and the provision of special services as provided in subpart 1, the qualified provider shall enter into a contract with the ~~local~~ county and provide one or more of the special services specified in subpart 1.

The contract must be on a form prescribed by the commissioner except that the ~~local~~ county agency may add to or modify the form without changing the substance of the contract in order to meet standard contracting procedures established by the county board.

B. The ~~local~~ county agency must reimburse a qualified provider under contract with the ~~local~~ county agency for the provider's reasonable actual fees, costs, and disbursements, including medical reports and expert testimony related to appeals, litigation, and providing special services to an applicant or recipient ~~in accordance with~~ according to the following:

(1) a qualified provider shall not be reimbursed by the ~~local~~ county agency for any fees, costs, or disbursements unless the applicant or recipient has requested the services, the ~~local~~ county agency has referred the applicant or recipient to the qualified provider, and the ~~local~~ county agency has received the initial SSI payment for the recipient served;

(2) the qualified provider shall be reimbursed by the ~~local~~ county agency for fees related to the provision of special services at the rate determined by the qualified provider, but not to exceed $75 per hour of service; and

(3) when a qualified provider requests reimbursement from the ~~local~~ county agency for fees, costs, or disbursements related to services provided, the qualified provider shall document the total number of hours of services provided to the applicant or recipient and provide a record of its costs and disbursements.

C. A qualified provider under contract to provide special services must comply with the following:

(1) a qualified provider shall not require prepayment of any fees, costs, or disbursements from the applicant or recipient; and

(2) a qualified provider shall not seek reimbursement from the applicant or recipient for fees related to the provision of special services. If a qualified provider intends to seek reimbursement for costs and disbursements from an applicant or recipient in the event the applicant or recipient is determined to be ineligible for SSI and the qualified provider therefore will not be fully reimbursed by the ~~local~~ county agency, the qualified provider must so inform the applicant or recipient and obtain the applicant's or recipient's written consent ~~prior to~~ before providing the special services. The qualified provider must also inform the applicant or recipient that he or she may receive the special services from the ~~local~~ county agency without cost to the applicant or recipient.

D. The total reimbursement for special services made by the ~~local~~ county agency to all qualified providers must not exceed the amount of interim assistance retained by the ~~local~~ county agency as specified in subpart 2, item A, subitems (2) and (3), unless the excess is expressly authorized by the ~~local~~ county agency and paid for exclusively with ~~local~~ county agency funds.

E. If more than one qualified provider provides special services to an applicant or recipient, and the amount of interim assistance retained by the ~~local~~ county agency will not fully reimburse all qualified providers, the reimbursement to each qualified provider for fees, costs, and disbursements shall be calculated by multiplying the total amount of funds available to the ~~local~~ county agency as specified in subpart 2, item A, subitems (2) and (3), including any excess funds authorized by the ~~local~~ county agency under item D, by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage shall be determined by dividing the number of hours spent by each qualified provider who provided special services by the total number of hours spent by the ~~local~~ county agency and all other qualified providers under contract with the ~~local~~ county agency who have provided special services to the applicant or recipient.

F. If the ~~local~~ county agency and one or more other qualified providers provide special services to an applicant or recipient, and the amount of interim assistance recovered by the ~~local~~ county agency under subpart 2, item A, subitems (2) and (3), exceeds the amount necessary to fully reimburse the qualified providers for fees, costs, and disbursements, the ~~local~~ county agency may retain the excess to the extent allowed under subpart 2, item A, subitem (2).

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G. The ~~local~~ county agency shall reimburse a qualified provider for fees, costs, and disbursements for special services provided during the six-month period before the applicant or recipient was referred to the qualified provider, unless general contracting procedures of the particular county prohibit this payment. The provider's fees, costs, or disbursements for special services provided before the person's application for general assistance may be reimbursed only if funds remain after reimbursement for special services provided to the person after the person made application for general assistance.

H. The ~~local~~ county agency and another qualified provider may contract to jointly provide the special services specified in subpart 1.

Subp. 4. **Termination of special services and contracts.** Special services and contracts must be terminated in the following manner:

A. If an applicant or recipient requests in writing that the ~~local~~ county agency terminate the special services agreement with a qualified provider, the special services agreement for that applicant or recipient must be terminated, and the ~~local~~ county agency shall mail written notice of the termination to the qualified provider. The notice must include a copy of the applicant's or recipient's written request for termination of the special services agreement. Termination of the agreement is effective three days after the date when the notice is mailed. The qualified provider shall not be reimbursed for fees, costs, or disbursements for special services provided to an applicant or recipient after the effective date of termination.

B. If a qualified provider decides to stop providing special services to an applicant or recipient, the qualified provider shall give or mail the following information to the applicant or recipient and, if the qualified provider is not the ~~local~~ county agency, to the ~~local~~ county agency:

(1) the status of the applicant's or recipient's application for SSI benefits;

(2) any deadlines that must be met regarding the applicant's or recipient's application for SSI benefits;

(3) the right of the applicant or recipient to choose another qualified provider, and the ~~local~~ county agency's obligation to enter into a contract with a new qualified provider to provide the special services specified if the applicant or recipient chooses a qualified provider other than the ~~local~~ county agency; and

(4) that a list of qualified providers may be obtained from the ~~local~~ county agency.

Termination of the contract is effective three days after the date the provider gives or mails the information required in subitems (1) to (4) to the client.

C. If a qualified provider fails to perform all or part of the terms of the contract with the ~~local~~ county agency, the ~~local~~ county agency may terminate the contract with the provider. The ~~local~~ county agency shall terminate the contract and mail written notice to the qualified provider and to the recipients served by the qualified provider. The notice must specify the ~~local~~ county agency's grounds for terminating the contract. Termination of the contract is effective three days after the notice is mailed to the qualified provider. The ~~local~~ county agency shall also give the recipient a list of other qualified providers who have contracted with the ~~local~~ county agency to provide the special services specified in subpart 1 or who have asked to be included on the list. The qualified provider shall not be reimbursed for fees, costs, or disbursements related to special services provided after the effective date of termination.

9500.1259 COUNTY AGENCY RESPONSIBILITIES.

Subpart 1. **Work readiness program.** The county agency must provide a work readiness program for mandatory and voluntary participants according to items A to F.

A. The county agency's work readiness program must include an orientation to the work readiness program which must be offered at least monthly.

B. The county agency must assess each participant's literacy; ability to communicate in the English language; eligibility for displaced homemaker services under *Minnesota Statutes*, section 268.96; educational history; occupational assets; barriers to employment; and exemption status from work readiness participation. When assessing a participant's literacy, the county agency must determine whether the participant is functionally illiterate. For the purpose of this item, "functionally illiterate" means the participant is unable to read at or above the eighth grade level. A county agency shall determine if the participant is functionally illiterate according to subitems (1) and (2).

(1) The county agency may determine that the participant is functionally illiterate based on personal observations or information in the participant's case file.

(2) If the participant is not determined to be functionally illiterate as provided in subitem (1), but the county agency believes that the participant may be functionally illiterate, or if the participant asserts or presents evidence that the participant may be functionally illiterate, the county agency shall offer the participant an opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the participant. The county agency shall either administer the test or make arrangements for the test. If the participant attains a score lower than the eighth grade, the participant shall be considered functionally illiterate.

C. The county agency must prepare an employability development plan for each participant in work readiness. The employability development plan must address the participant's barriers to employment; estimate the length of time it will take for the participant to obtain employment; and specify steps necessary for the participant to overcome any barriers to employment identified in item B. Barriers to employment shall be addressed in the following order:

(1) A participant who is assessed by an English as a second language specialist, vocational specialist, or the county agency as being unable to communicate in the English language must participate in an English language program, if available.

(2) A participant who is determined to be functionally illiterate under item B must participate in an occupational or vocational literacy program, if available.

(3) A participant who has not completed secondary education must participate in a secondary school program or GED program, if available and appropriate.

(4) A participant who has none of the barriers specified in subitems (1) to (3) but who has no work experience must participate in job seeking skills training and a job search program.

(5) A participant who has none of the barriers specified in subitems (1) to (3) and who has a work history must participate in a job search program.

The employability development plan may include referral to available training programs and work experience programs designed to prepare the participant for permanent employment or to education and training activities. The employability development plan must address the participant's barriers to employment, and may, in addition, require the participant to engage in job search or other work readiness activities so long as the combination of requirements does not exceed 32 hours per week or place any requirement upon a participant that interferes with employment which the county agency has determined can lead to self-sufficiency.

D. For those participants who are considered to be functionally illiterate under item B, the county agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of the participant;

(2) assign suitable participants to openings in occupational and vocational literacy programs;

(3) if no openings are available in occupational or vocational literacy programs, assign suitable participants to openings in literacy training programs;

(4) reassign to another literacy program any participant who does not complete an assigned program and who wishes to try another program;

(5) within the limits of funds available, contract with technical institutes or other groups who have literacy instructors trained in occupational literacy methods to provide literacy training sessions so that eligible participants will have the opportunity to attend training;

(6) provide transportation to enable participants to participate in literacy training. The state shall reimburse the county agency for the costs of providing this transportation; and

(7) make every effort to ensure that child care is available as needed by participants who are pursuing literacy training; however, no participant shall be disqualified for noncompliance with the literacy training requirement of work readiness if child care is not made available.

E. The county agency shall provide notices to work readiness participants as provided in subitems (1) to (6).

(1) The county agency shall provide, at the time of registration and each 30 days after that, in advance, a clear written description of the specified tasks and assigned duties the participant must complete to receive work readiness pay. The county agency shall provide notice that the participant will be terminated from the work readiness program unless the participant completes the specified tasks and assigned duties, or shows good cause for failure to do so. The county agency shall provide notice of the disqualification that will be imposed on the participant for failure to comply with part 9500.1245, subpart 8, item B.

(2) The county agency shall provide notice to a participant within three days of determination that the participant has failed to comply with work readiness requirements as specified in part 9500.1245, subpart 8, item A.

(3) For the first instance of noncompliance in a six-month period, beginning on the date of the participant's orientation or the end of the previous disqualification, whichever is later, the county agency's notice:

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(a) must allow at least five working days, after the mailing or hand delivery of the notice, for the participant to take specific corrective action which can realistically be done before the date assistance is scheduled to be paid;

(b) must advise the participant that the participant may request and have a conference with the county agency to discuss the notice; and

(c) must advise the participant that failure to take corrective action by the effective date of the termination notice in subitem (5) will result in termination of assistance and disqualification from program eligibility for one month.

(4) For a second or subsequent instance of noncompliance within a six-month period, beginning on the date of the participant's orientation or the end of the previous disqualification, whichever is later, the county agency's notice of its determination of noncompliance:

(a) must be mailed or hand delivered to the participant before the date assistance is scheduled to be paid; and

(b) must advise the participant that the participant may request and have a conference with the county agency to discuss the notice. The applicable period of disqualification under this subitem is two months.

(5) The county agency shall mail or hand deliver notice of termination concurrently with the notice of noncompliance specified in subitems (3) and (4) only after assessing the participant's exemption status from work readiness participation under part 9500.1251, subpart 2, items A to Q, using the information contained in the recipient's case file. The notice of termination must state that the recipient is not exempt from registration and must indicate the applicable period of disqualification. The advance notice requirements of this item are the same as those of subitems (3) and (4).

(6) The county agency shall assign a schedule by which a participant who has failed to provide the agency with a mailing address must visit the county agency to pick up any notices. Those notices must be deemed delivered on the date of the participant's next scheduled visit to the county agency.

F. The county agency may subcontract any or all of the duties prescribed in items A to D and E, subitem (1). The contract does not relieve the county agency of its primary responsibility in the instance of a default of any provision by a subcontractor.

Subp. 2. **Appeals.** The participant may appeal a proposed termination of benefits until five days after the effective date specified in the notice and continue benefits otherwise due, pending the outcome of the appeal. Appeals from proposed terminations of benefits of participants must be heard within 30 days from the date that the appeal was filed.

Subp. 3. **Information about other programs.** A county agency must inform an applicant or recipient about other programs administered by the county agency for which, from the county agency's knowledge of the person's situation, the person may be eligible.

Subp. 4. **Notices.** The county agency shall mail or hand deliver a notice to a recipient no later than ten days before the effective date of the action except as provided in items A to C. A recipient who has failed to provide the county agency with a mailing address must be assigned a schedule by which the recipient is to visit the agency to pick up any notices. Notices will be deemed to have been delivered on the date of the recipient's next scheduled visit to the county agency.

A. A county agency shall mail a notice to a recipient no later than five days before the effective date of the action when the county agency has factual information which requires an action to reduce, suspend, or terminate assistance based on probable fraud.

B. A county agency must mail or hand deliver a notice to a recipient no later than the effective date of the action when:

(1) the county agency receives a recipient's household report form which includes facts that require payment reduction, suspension, or termination and which contains the recipient's signed acknowledgment that this information will be used to determine program eligibility or the assistance payment amount;

(2) the county agency verifies the death of a recipient or the payee;

(3) the county agency receives a signed statement from a recipient that assistance is no longer wanted;

(4) the county agency receives a signed statement from a recipient that provides information which requires the termination or reduction of assistance, and the recipient shows in that statement that the recipient understands the consequences of providing that information;

(5) the county agency verifies that a member of an assistance unit has been approved to receive assistance by another county or state; or

(6) the county agency cannot locate a payee's whereabouts and mail from the local agency has been returned by the post office showing that the post office has no forwarding address.

C. Whenever any provision of this subpart conflicts with any special notice requirements of another part, those special notice provisions shall prevail.

9500.1261 EMERGENCY ASSISTANCE.

Subpart 1. **Emergency assistance.** A county agency shall make grants of general assistance for emergency situations to eligible individuals, married couples, or families whether residents or nonresidents of the state. The emergency assistance grant may be in excess of the standard amounts for eligible individuals, married couples, or families under part 9500.1231.

Subp. 2. **Emergency situation.** An emergency situation is a situation in which an assistance unit is without, or will lose within 30 days after application, a basic need item as defined in part 9500.1206, subpart 7a.

A. The emergency situation must require immediate financial assistance.

B. The financial assistance required by the emergency must be temporary and must not exceed 30 days subsequent to the date of application. Assistance must be paid for needs that accrue before the 30-day period when it is necessary to resolve emergencies arising or continuing during the 30-day period subject to subpart 4.

Subp. 3. **Eligible persons.** Eligible individuals, married couples, or families are those:

A. who are not current recipients of AFDC, other than a one-person assistance unit consisting of a pregnant woman;

B. who are not recipients under or eligible for the program of emergency assistance under AFDC in the month of application for emergency general assistance;

C. whose resources are not adequate to resolve the emergency situation. For the purpose of this part, "resources" means any funds or services which can actually be available to the applicant or recipient or any member of the filing unit before the loss of a basic need item. Resources include available income without exclusion or disregard, and any resource otherwise excluded under part 9500.1221, subpart 2, which could be liquidated before the loss of a basic need item, so long as the terms of any borrowing cannot be reasonably expected to place the borrower in another emergency situation within three months including the month of application;

D. who have not, without good cause, used more than 50 percent of available income and liquid resources for purposes other than basic needs during the 60 days before application. This item does not apply to individuals who are chemically dependent, mentally ill, or mentally retarded; or

E. who are not in a period of disqualification from work readiness if that disqualification has caused the emergency situation unless the emergency situation directly affects other assistance unit members who are not in a period of disqualification.

Subp. 4. **Payment provisions.** When the county agency has determined that an applicant has an emergency situation and is eligible for emergency general assistance, the county agency must resolve the emergency in the most cost-effective manner. Resolution of the emergency situation in a cost-effective manner shall be governed by items A to H.

A. An emergency general assistance payment is not cost-effective if the applicant's anticipated income together with the grant of emergency general assistance will not be sufficient to cover the applicant's basic needs for the three-month period beginning with the month of application, and another emergency situation can reasonably be anticipated within the two months after the month of the grant of emergency general assistance.

B. When alternative solutions to the emergency situation are available, the most cost-effective solution is the solution which will require an expenditure of emergency general assistance funds which is at least 25 percent less than the emergency general assistance expenditure required to maintain the applicant or recipient in his or her current situation. The county agency has no duty to provide alternative solutions, but must have a reasonable basis to believe that alternative solutions exist. A county agency must not deny assistance because of the determination that the applicant's anticipated income will not cover continued payment of shelter and utility costs when no alternative solution is identified by either the applicant or the county agency.

C. In determining the cost-effectiveness of an emergency general assistance payment, the county agency must not consider a period of time greater than three months including the month of application for emergency general assistance.

D. When the county agency has determined that the emergency situation has resulted from the applicant's mismanagement of money, the county agency may include vendor payment of future needs as part of a cost-effective solution subject to review at each redetermination of eligibility.

E. Emergency grants for food must not exceed the amount the assistance unit would receive under the United States Department of Agriculture's Thrifty Food Plan.

F. Emergency grants for clothing must not exceed the cost of necessary clothing for assistance unit members considering the season of application.

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G. Emergency grants for shelter, exclusive of moving expenses or deposits, must not exceed an amount equal to four times the assistance unit's monthly assistance standard.

H. Grants for emergency general assistance must be in the form of vouchers or vendor payments unless the county agency determines that a cash grant will better meet the need of the emergency situation.

Subp. 5. **Assistance for transportation.** Notwithstanding subpart 2, grants may be issued under the emergency general assistance program for an applicant's immediate need for transportation in the following situations:

A. the need for assistance will not exceed 30 days and the transportation is required to accept a bona fide offer of suitable employment; or

B. the transportation is requested by the applicant to return to a residence maintained by or for the applicant.

Subp. 6. **Excess grants, county agency payment responsibility.** A county agency may issue emergency assistance grants that exceed the limitations in subpart 4 if the county agency does not include the additional costs on its claim for state aid reimbursement.

9500.1272 ASSIGNMENT OF REPRESENTATIVE PAYEE FOR RECIPIENTS WHO ARE DRUG DEPENDENT.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Form of payment pending completion of assessment.** A county agency shall provide only emergency general assistance (EGA) or general assistance vendor payments to a client who has been referred for a chemical use assessment under subpart 2. EGA may be provided to clients only in emergency situations as provided in part ~~9500.1238~~ 9500.1261. All other payments made under this subpart must be general assistance vendor payments.

[For text of subps 5 to 19, see M.R.]

REPEALER. *Minnesota Rules*, parts 9500.1205; 9500.1206, subparts 19 and 31; 9500.1209; 9500.1210; 9500.1212; 9500.1214; 9500.1216; 9500.1217; 9500.1218; 9500.1220; 9500.1222; 9500.1224; 9500.1226, subparts 2, 3, and 4; 9500.1227; 9500.1228; 9500.1229; 9500.1230; 9500.1232, subparts 1, 2, and 3; 9500.1238; 9500.1240; 9500.1242; 9500.1246; 9500.1248, subparts 1 and 2; 9500.1252; 9500.1257; 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 are repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Agriculture

Adopted Permanent Rules Relating to Minnesota Grown Labeling Statements

The rules proposed and published at *State Register*, Volume 15, Number 1, pages 5-6, July 2, 1990 (15 SR 5) are adopted as proposed.

Department of Jobs and Training

Adopted Permanent Rules Relating to Vending Stands and Business Enterprises of Services for the Blind

The rules proposed and published at *State Register*, Volume 14, Number 50, pages 2888-2892, June 11, 1990 (14 SR 2888) are adopted with the following modifications:

Department of Human Services

Proposed Permanent Rules Relating to General Assistance

Rules as Proposed

9500.1202 PURPOSE OF GENERAL ASSISTANCE PROGRAM.

The purposes of the general assistance program are:

A. to provide financial assistance and services to persons unable to provide for themselves, who have not refused suitable employment, and who are not otherwise provided for by law;

B. to ~~strengthen and preserve the family unit~~ provide work readiness services to help employable and potentially employable persons prepare for and attain permanent work; and

C. to aid those persons who can be helped to become self-supporting or to attain self-care~~; and~~

~~B. to provide property tax relief by providing state financing for some welfare costs historically financed by county property tax levies.~~

9500.1206 PROGRAM 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. 1a. **Actual availability.** "Actual availability," when used in reference to income or property, means that which is in hand or can be readily obtained for current use.

Subp. 2. **Adult child.** "Adult child" means a person aged 18 years or older who resides with at least one parent.

Subp. 3. **Advanced age.** "Advanced age" means the condition that applies to ~~a~~ an applicant or recipient who~~:~~

~~A.~~ is age 55 or older and whose work history shows a marked deterioration compared to ~~his or her~~ the applicant's or recipient's work history ~~prior to~~ before age 55 as indicated by decreasing occupational status, reduced hours of employment, or decreased periods of employment~~; or~~

Approved by Revisor KTH

~~B.--if-less-than-age-55,-is-evaluated-by-a-vocational specialist-as-having-significantly-limited-ability-to-obtain-or retain-suitable-employment-because-of-advancing-age.~~

Subp. 4. **AFDC.** "AFDC" means the program authorized by title IV-A of the Social Security Act to provide financial assistance to needy families with dependent children.

Subp. 4a. **Affidavit.** "Affidavit" means a written declaration made under oath before a notary public or other authorized officer.

Subp. 4b. **Appeal.** "Appeal" means a written statement from an applicant or recipient that requests a hearing or expresses dissatisfaction with a county agency decision that can be challenged under Minnesota Statutes, section 256.045 and part 9500.1211, subpart 4.

Subp. 5. **Applicant.** "Applicant" means a person who has submitted an application ~~pending-with-the-local-agency~~ for general assistance ~~or-work-readiness~~ to a county agency and whose application has not been approved, denied, or voluntarily withdrawn.

Subp. 5a. **Application.** "Application" means the action by which a person shows in writing a desire to receive assistance by submitting a signed and dated form prescribed by the commissioner to the county agency.

Subp. 6. **Assistance standard.** "Assistance standard" means the amount established by the commissioner under Minnesota Statutes, section 256D.01, to provide for an assistance unit's ~~shelter,-fuel,-food,-clothing,-utilities,-necessary-household supplies,-and-personal-need-items~~ basic subsistence needs.

Subp. 6a. **Assistance unit.** "Assistance unit" means a person or group of persons who are applying for or receiving assistance and whose needs are included in the calculation of a general assistance payment.

Subp. 6b. **Authorized representative.** "Authorized representative" means a person who is authorized in writing by an applicant or recipient to act on that applicant's or recipient's behalf in matters involving general assistance or

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emergency general assistance, including submitting applications, making appeals, and providing or requesting information. An authorized representative may exercise the same rights and responsibilities on behalf of the person being represented as an applicant or recipient.

Subp. 7a. **Basic needs.** "Basic needs" means the minimum personal requirements of subsistence and are restricted to:

A. food;

B. clothing;

C. shelter;

D. utilities; and

E. other items of which the loss, or lack of, is determined by the county agency to pose a direct, immediate threat to the physical health or safety of the applicant or recipient.

Subp. 7b. **Budget month.** "Budget month" means the calendar month from which a county agency uses the income or circumstances of an assistance unit to determine the amount of the assistance payment for the payment month.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or a designated representative.

Subp. 8a. **Corrective payment.** "Corrective payment" means an assistance payment made to correct an underpayment.

Subp. 9. **Costs or disbursements.** "Costs" or "disbursements" means a qualified provider's actual out-of-pocket expenses incurred for the provision of special services to an applicant or recipient.

Subp. 9a. **Countable income.** "Countable income" means gross income minus allowable exclusions, deductions, and disregards.

Subp. 9b. **County agency.** "County agency" has the meaning given in Minnesota Statutes, section 256D.02, subdivision 12.

Subp. 11. **Department.** "Department" means the Department of Human Services.

Subp. 12. **Director of the ~~local~~ county agency.** "Director

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of the ~~local~~ county agency" means the director of the ~~local~~ county agency or the director's designated representative.

Subp. 12a. **Documentation, primary documentation, or alternative documentation.** "Documentation" means a written statement or record that substantiates or validates an assertion made by a person or an action taken by a county agency.

A. "Primary documentation" means evidence that independently establishes a fact and is provided by a public or private institution or organization having an official responsibility to establish that fact.

B. "Alternative documentation" means evidence, including declaration, that supports the existence of a fact and that is provided by an individual or institution who has no official responsibility to establish that fact.

Subp. 12b. **Earned income.** "Earned income" means compensation from lawful employment or lawful self-employment, including salaries, wages, tips, gratuities, commissions, earnings from self-employment, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, earnings under title I of the Elementary and Secondary Education Act, employee bonuses and profit sharing, jury duty pay, picket duty pay, and profit from other lawful activities which accrues as a result of the individual's effort or labor. Earned income does not include returns from capital investment or benefits that accrue as compensation for lack of employment.

Subp. 12c. **Earned income tax credit.** "Earned income tax credit" means the payment that can be obtained by a qualified low-income person from an employer or from the United States Internal Revenue Service under United States Code, title 26, section 32.

Subp. 12d. **Emancipated minor.** "Emancipated minor" means a person under the age of 18 years who is or has been married, as recognized by Minnesota Statutes, chapter 517; who is on active duty in the uniformed services of the United States; or who has been recognized as being emancipated by a court of competent

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jurisdiction.

Subp. 12e. **Emergency.** "Emergency" means a situation that causes or threatens to cause a lack of a basic need item when there are insufficient resources to provide for that need.

Subp. 12f. **Encumbrance.** "Encumbrance" means a legal claim against real or personal property that is payable upon the sale of that property.

Subp. 12g. **Equity value.** "Equity value" means the amount of equity in real or personal property owned by a person. Equity value is determined by subtracting any outstanding encumbrances from the fair market value of the real or personal property.

Subp. 12h. **Excluded time facility.** "Excluded time facility" means any hospital, sanitarium, nursing home, shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility, or other institution for the hospitalization or care of human beings, as defined in Minnesota Statutes, section 144.50, 144A.01, or 245A.02, subdivision 14; or a maternity home, battered women's shelter, or correctional facility.

Subp. 12i. **Fair hearing or hearing.** "Fair hearing" or "hearing" means the department evidentiary hearing conducted by an appeals referee to resolve the issues specified in part 9500.1211, subpart 4.

Subp. 12j. **Family.** "Family" has the meaning given it in Minnesota Statutes, section 256D.02, subdivision 5.

Subp. 12k. **Family assistance unit.** "Family assistance unit" means a general assistance unit that consists of one or more members of a family.

Subp. 12l. **Federal Insurance Contribution Act or FICA.** "Federal Insurance Contribution Act" or "FICA" means the federal law under United States Code, title 26, sections 3101 to 3126, that requires withholding or direct payment of income to the federal government.

Subp. 13. **Fees.** "Fees" means a qualified provider's

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charge for the hours of direct provision of special services to an applicant or recipient.

Subp. 13a. **Filing unit.** "Filing unit" means a person or persons who reside together and whose income and value of resources must be used to determine the eligibility and benefit level of an assistance unit. The filing unit must include:

A. the applicant;

B. the applicant's spouse;

C. the applicant's family; and

D. the natural or adoptive parents of a single adult applicant or recipient and the minor children of those parents.

Subp. 14. **Full-time student.** "Full-time student" means a ~~student attending a postsecondary institution~~ person who:

~~A. attends training for a minimum of 25 hours per week if the training does not involve shop practice and for a minimum of 30 hours per week if the training does involve shop practice for a vocational or technical student; or~~

~~B. registers for and attends a minimum of 12 credit hours per semester or quarter~~ is enrolled in a graded or ungraded primary, intermediate, secondary, GED preparatory, trade, technical, vocational, or postsecondary school, and who meets the school's standard for full-time attendance.

Subp. 14a. **General assistance.** "General assistance" means the program authorized under Minnesota Statutes, sections 256D.01 to 256D.21 and parts 9500.1200 to 9500.1272. When the term general assistance is used in parts 9500.1200 to 9500.1272 it also means work readiness assistance and includes financial benefits received by persons under work readiness assistance.

Subp. 15. **Good cause.** "Good cause" means 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, or a conflicting obligation which has been determined by the county agency to be reasonable or

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justified.

Subp. 15a. **Gross income.** "Gross income" means the total amount of cash or in-kind payment or benefit, whether earned or unearned, before any withholdings, deductions, or disregards, paid to, or for the benefit of, a person, including income specified in Minnesota Statutes, section 256D.02, subdivision 8. Gross income does not include personal property previously established as a resource, subject to the limitations under part 9500.1221.

Subp. 15b. **Gross receipts.** "Gross receipts" means the money received by a self-employed person before the expenses of self-employment are deducted.

Subp. 15c. **Homestead.** "Homestead" means the house owned and occupied by a member of the filing unit as the member's dwelling place together with all contiguous land on which the house is situated and other appurtenant structures.

Subp. 15d. **Household report form.** "Household report form" means a form prescribed by the commissioner on which a recipient reports information to a county agency about income and other circumstances.

Subp. 16. **Initial supplemental security income payment or initial SSI payment.** "Initial supplemental security income payment" or "initial SSI payment" means the first payment of ~~retroactive~~ SSI benefits to the recipient that includes a period when general assistance benefits were also paid.

Subp. 16a. **In-kind income.** "In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid assets, and which cannot be made available to the individual in those forms, including goods, produce, services, privileges, or third-party payments made on behalf of a person for whom the income is intended.

Subp. 17. **Interim assistance.** "Interim assistance" means the total amount of general assistance provided for ~~the~~ a recipient, based on the state assistance standards and the negotiated rate provisions of part ~~9500.1249~~ 9500.1237, subpart 7, to cover the period for which ~~the initial~~ a payment of ~~other~~

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another maintenance ~~benefits~~ benefit is made. The amount of general assistance considered interim assistance is limited to the total amount the monthly payments for the assistance unit would have been reduced if the ~~applicant-or-recipient-had-not-been-included-in-the-assistance-unit~~ other maintenance benefits had been paid at the time of their accrual. The interim assistance period begins with the month of application for general assistance~~,~~ or the first month of eligibility for the other maintenance benefits, ~~or-the-date-the-interim-assistance-authorization-agreement-is-signed,~~ whichever is ~~latest~~ later. ~~The-interim-assistance-period-ends-with-the-last-month-covered-by-the-initial-payment-of-the-other-maintenance-benefits.--The-term~~ Interim assistance does not include per diem payments made to shelters for battered women ~~pursuant-to~~ under Minnesota Statutes, section 256D.05, subdivision 3.

Subp. 18. **Interim assistance authorization agreement.** "Interim assistance authorization agreement" means the agreement in which the general assistance applicant or recipient agrees to reimburse the ~~local~~ county agency for the amount of general assistance provided ~~for-him-or-her~~ during the period when eligibility for another maintenance benefit program is being determined. The agreement must require reimbursement to the ~~local~~ county agency only when the general assistance applicant or recipient is found eligible for another maintenance benefit program and the initial payment of those other maintenance benefits has been made.

Subp. 18a. **Job Training Partnership Act.** "Job Training Partnership Act" means the Job Training Partnership Act authorized under Public Law Number 97-300 and its successor programs.

Subp. 18b. **Legal custodian.** "Legal custodian" means a person who has been granted legal custody of a minor child by a court; or, if assistance is being requested for the minor child, a person who is defined as an eligible relative caretaker of the minor child under AFDC program rules, part 9500.2440, subpart 7.

Subp. 18c. **Liquid assets or liquid resources.** "Liquid

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assets" or "liquid resources" means personal property in the form of cash or other financial instruments that are readily convertible to cash.

Subp. 18d. **Liquidate.** "Liquidate" means to convert real or personal property into cash or other financial instruments that are readily convertible to cash. The conversion can be by sale or by borrowing using the nonliquid real or personal property as security for a loan.

Subp. 19. [See Repealer.]

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~~ the registrant's children to and from child care.

Subp. 19b. **Lump sum.** "Lump sum" means nonrecurring income that is not excluded in part 9500.1223.

Subp. 19c. **Mandatory work readiness participant.** "Mandatory work readiness participant" means a general assistance recipient who is not exempt from work readiness under part 9500.1251.

Subp. 20. **Medical certification.** "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~~ who is qualified through professional training and experience ~~qualifies him or her~~ to diagnose or certify the person's condition. For an incapacity involving a spinal subluxation condition, "medical certification" means a statement signed by a licensed chiropractor who is qualified through professional training and experience to diagnose and certify the condition.

Subp. 21. **Mental illness.** "Mental illness" means the condition of a person who has a psychological disorder resulting in behavior that severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22. **Mental retardation.** "Mental retardation" means

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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 standardized test and the condition severely limits the person in obtaining, performing, or maintaining suitable employment.

Subp. 22a. **Minnesota supplemental aid or MSA.** "Minnesota supplemental aid" or "MSA" means the program established under Minnesota Statutes, sections 256D.33 to 256D.54.

Subp. 23. **Minor child.** "Minor child" means a person who is under the age of 18; or if age 18, who is a member of a family assistance unit and who is enrolled as a full-time student in an accredited high school and who is expected to graduate by age 19.

Subp. 23a. **Month.** "Month" means a calendar month.

Subp. 24. **Negotiated rate.** ~~Except for shelter facilities provided for under Minnesota Statutes, section 256D.05, subdivision 3,~~ "Negotiated rate" means ~~a general assistance payment that includes room and board and is either set by the state or local agency or is negotiated by one of those agencies with a party not included in the assistance unit. The set or negotiated rate provides for an assistance unit's shelter, fuel, food, utilities, household supply need items, and other costs necessary to provide room and board. The rate shall pay only for those items. It shall not include the clothing and personal needs allowance under Minnesota Statutes, section 256D.06, subdivision 3, payments for foster care, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services~~ the amount a county agency will pay on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement.

Subp. 24a. **Nonrecurring income.** "Nonrecurring income" means a form of income that is:

A. received only one time or is not of a continuous nature; or

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B. received in a prospective payment month but is no longer received in the corresponding retrospective payment month.

Subp. ~~24a.~~ 24b. **Occupational or vocational literacy program.** "Occupational or vocational literacy program" means a program providing literacy training which emphasizes specific language and reading skills needed to perform in employment, complete employment training programs, or complete work readiness programs.

Subp. 25. **Other maintenance benefits.** "Other maintenance benefits" means any of the following:

A. workers' compensation benefits as provided by Minnesota Statutes, chapter 176 and rules adopted thereunder;

B. unemployment compensation benefits as provided by Minnesota Statutes, sections 268.07 to 268.10 and rules adopted thereunder;

C. railroad retirement benefits as provided by United States Code, title 45, sections 231 to 231s;

D. veteran's disability benefits as provided by United States Code, title 38, sections 301 to 363;

E. ~~supplemental-security-income~~ any benefits ~~as~~ provided by the Social Security Administration under United States Code, title 42~~,-sections-1381-to-1383c~~; or

F. ~~social-security-disability-insurance-benefits-as-provided-by-United-States-Code,-title-42,-section-423;-or~~

~~G.~~ other ~~programs~~ sources identified by the ~~local~~ county agency that provide periodic payments that can be used to meet basic needs and that, if received, would reduce or eliminate the need for general assistance.

Subp. 25a. **Overpayment.** "Overpayment" means that portion of an assistance payment which is greater than the amount for which an assistance unit is eligible, resulting from a calculation error, a client reporting error, a misapplication of existing program requirements by a county agency, or changes in payment eligibility that cannot be affected due to notification requirements.

Subp. 25b. **Parent.** "Parent" means a child's biological or

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adoptive parent who is legally obligated to support that child.

Subp. 25c. **Participation in a literacy program.** "Participation in a literacy program" means to receive instruction and complete assignments as part of a literacy program in accordance with the schedule or plan established by the literacy training program provider.

Subp. 25d. **Payment month.** "Payment month" means the calendar month for which the county agency issues an assistance payment.

Subp. 25e. **Permanent employment.** "Permanent employment" means suitable employment that is not, by description, of limited duration.

Subp. 25f. **Personal property.** "Personal property" means an item of value that is not real property. Personal property includes, but is not limited to, the value of a contract for deed held by a seller, assets held in trust on behalf of members of an assistance unit, cash surrender value of life insurance, value of a prepaid burial, savings account, value of stocks and bonds, and value of retirement accounts less any costs and penalties for early withdrawal.

Subp. 26. **Potentially eligible.** "Potentially eligible" means that the ~~local~~ county agency has determined that the applicant or recipient ~~appears~~ shows circumstances which appear to meet the eligibility requirements of another maintenance benefit program.

Subp. 26a. **Principle wage earner.** "Principle wage earner" means the parent who has earned the greater amount of income in the 24 months preceding the month of application.

Subp. 26b. **Probable fraud.** "Probable fraud" means the level of evidence that, if proven as fact, will establish that assistance has been wrongfully obtained.

Subp. 26c. **Prospective budgeting.** "Prospective budgeting" means a method of determining the amount of assistance in which the budget month and payment month are the same.

Subp. 26d. **Qualified professional.** "Qualified professional" means a social worker employed by the county

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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 as defined in Minnesota Statutes, section 145A.02, subdivision 18.

Subp. 27. **Qualified provider.** A "qualified provider" means the ~~local~~ county agency, or:

A. a nonprofit legal assistance organization;

B. an agency that employs licensed practitioners or accredited counseling staff or staff with a master's degree from an accredited program in social work, psychology, counseling, occupational therapy, or physical therapy;

C. a private attorney at law; or

D. another organization or person determined by the ~~local~~ county agency to have sufficient training or experience to be effective in assisting persons to apply for and establish eligibility for SSI benefits.

Subp. 28a. **Real property.** "Real property" means the land itself and all buildings, structures, and improvements, or other fixtures on it, belonging or appertaining to the land, and all mines, minerals, fossils, and trees on or under it.

Subp. 28b. **Reasonable compensation.** "Reasonable compensation" means the value received in exchange for property transferred to another owner which equals or exceeds the seller's equity in the property, reduced by costs incurred in the sale.

Subp. 28c. **Recipient.** "Recipient" means an individual currently receiving, or suspended for one month from receiving, general assistance. Recipient includes any person whose needs are included in the payment to an assistance unit.

Subp. 28d. **Redetermination of eligibility.** "Redetermination of eligibility" means the process by which information is collected periodically by a county agency and used to determine a recipient's continued eligibility for assistance.

Subp. 28e. **Reside with.** "Reside with" means to share living quarters such as living rooms, bedrooms, or kitchens.

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Entrances, laundry rooms, and bathrooms are not considered living quarters.

Subp. 29. **Responsible relative.** "Responsible relative" means the spouse of an applicant or recipient, the parent of an applicant's or recipient's minor child if residing together as a family, the parent of a minor child who is an applicant or recipient, or the parent of an adult child who resides with the parent and is an applicant or recipient.

Subp. 29a. **Retrospective budgeting.** "Retrospective budgeting" means a method of determining the amount of assistance an assistance unit will receive in which the payment month is the second month after the budget month.

Subp. 29b. **Social services.** "Social services" means the services included in a county's community social services plan which are administered by the county board as described under Minnesota Statutes, section 256E.03, subdivision 2.

Subp. 30. **SSI or supplementary security income.** "SSI" or "supplementary security income" means the supplemental security income program administered by the Social Security Administration under United States Code, title 42, sections 1381 to 1383c.

Subp. 31. [See Repealer.]

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

A. meets existing health and safety standards set by federal, state, or local regulations;

B. is within the physical and mental ability of a person;

C. ~~pays at least the minimum wage prescribed by state or federal law and provides a gross income of at least $268 per month~~ provides a gross income equal to the federal or state minimum wage for 40 hours per week, or an income which, after allowable exclusions, deductions, and disregards would exceed the standard of assistance for the assistance unit, whichever is less; and

D. includes employment offered through the Job

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Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options, but does not include temporary day labor.

Subp. 32a. **Suitable recipient.** "Suitable recipient" means a recipient ~~eligible for~~ of general assistance ~~under part 9500.1258, subpart 1, item P, unless it is unlikely that participation in a literacy program would improve the recipient's literacy level due to mental retardation, mental illness, or a learning disability~~ who is determined not to be exempt from work readiness participation under part 9500.1251, and who has been determined to be functionally illiterate by an assessment under part 9500.1259, subpart 1, item B.

Subp. 32b. **Underpayment.** "Underpayment" means an assistance payment, resulting from a calculation error, a client reporting error, or a misapplication of program requirements by a county agency, which is less than the amount for which an assistance unit is eligible.

Subp. 32c. **Unearned income.** "Unearned income" means income received by a person which does not meet the definition of earned income. Unearned income includes interest, dividends, unemployment compensation, disability insurance payments, veterans benefits, pension payments, return on capital investments, insurance payments or settlements, and severance payments.

Subp. 32d. **Vendor.** "Vendor" means a provider of goods or services.

Subp. 32e. **Vendor payment.** "Vendor payment" means a payment made by a county agency directly to a vendor.

Subp. 32f. **Verification.** "Verification" means the process a county agency must use to establish the accuracy or completeness of information from an applicant, recipient, third-party, or other source as that information relates to an assistance unit's eligibility for general assistance or the amount of a monthly assistance payment.

Subp. 33. **Vocational specialist.** "Vocational specialist" means a counselor of the Department of Jobs and Training or

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Division of Vocational Rehabilitation, or another similarly qualified person who advises persons about occupational goals and employment.

9500.1211 APPLICANT AND RECIPIENT RIGHTS AND COUNTY AGENCY RESPONSIBILITIES TO APPLICANTS AND RECIPIENTS.

Subpart 1. **Right to information.** An applicant or recipient has the right to obtain information about the benefits, requirements, and restrictions of the general assistance program.

Subp. 2. **Right to apply.** A person has the right to apply, including the right to reapply, for general assistance. A county agency shall inform a person who inquires about general assistance of the right to apply, shall explain how to apply, and shall mail or hand deliver an application form to the person inquiring about assistance. When a county agency ends assistance, the county agency shall inform the recipient in writing of the right to reapply.

Subp. 3. **Authorized representative.** An applicant or recipient of general assistance may designate an authorized representative to act on the applicant's or recipient's behalf. An applicant or recipient has the right to be assisted or represented by an authorized representative in the application, eligibility redetermination, fair hearing process, and any other contact with the county agency or the department.

When a county agency determines that it is necessary for a person to assist an applicant or recipient, the county agency shall designate a staff member to assist the applicant or recipient. The county agency staff member may assist the applicant or recipient to take the actions necessary to submit an application to establish the date of the application.

Upon a request from an applicant or recipient, a county agency shall provide addresses and telephone numbers of organizations that provide legal services at no cost to low-income persons.

Subp. 4. **Appeal rights.** An applicant, recipient, or

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former recipient has a right to request a fair hearing when aggrieved by an action or inaction of a county agency. A request for a fair hearing must be submitted in writing to the county agency or to the department. The request must be mailed within 30 days after the applicant or recipient receives written notice of the county agency's action or within 90 days when the applicant or recipient shows good cause for not submitting the request within 30 days. A former recipient who receives a notice of overpayment may appeal the action contained in the notice in the manner and within the periods described in this subpart. Issues which may be appealed are:

A. denial of the right to apply for assistance;

B. failure of a county agency to approve or deny an application within 30 days;

C. denial of an application for assistance;

D. suspension, reduction, or termination of assistance;

E. calculated amount of an overpayment and the calculated level of recoupment due to that overpayment;

F. eligibility for and calculation of a corrective payment;

G. other factors involved in the calculation of an assistance payment;

H. a change to protective, vendor, or two-party payments for recipients; and

I. the calculated amount retained by a county agency under an interim assistance authorization agreement from a retroactive benefit payment.

Subp. 5. **Rights pending hearing.** Unless otherwise specified, a county agency shall not reduce, suspend, or terminate payment when an aggrieved recipient requests a fair hearing before the effective date of the action or within ten days of the mailing of the notice, whichever is later, unless the recipient requests in writing not to receive continued assistance pending a hearing decision. A county agency may increase or reduce an assistance payment while an appeal is

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by Revisor _____

pending when the circumstances of the recipient change and the change is not related to the issue under appeal. Assistance issued pending a fair hearing is subject to recovery when, as a result of the fair hearing, the commissioner finds that the recipient was not eligible for such assistance. This subpart shall in no way reduce any rights that the recipient may have under part 9500.1259, subpart 2.

A county agency shall reimburse appellants for reasonable and necessary expenses of attending the hearing, such as child care and transportation costs. A county agency shall reimburse appellant's witnesses and representatives for the expenses of transportation to and from the hearing.

Subp. 6. **Right to review records.** A county agency shall allow an applicant or recipient to review his or her case records that are held by the county agency and that are related to eligibility for or the assistance payment from the program, except those case records to which access is denied under Minnesota Statutes, chapter 13. A county agency shall make case records available to an applicant or recipient as soon as possible but in no event later than the fifth business day following the date of the request. When an applicant, recipient, or authorized representative asks for photocopies of material from the case record, the county agency shall provide one copy of each page at no cost.

9500.1213 APPLICATION REQUIREMENTS.

Subpart 1. **Application for general assistance, county of residence.** An applicant for general assistance must apply for general assistance in the applicant's county of residence. However, a county agency must not refuse to take an application from an individual who appears to reside in another county, but must promptly forward the completed application to the county of residence. The county of residence must use the date the application was filed in the county of application as the application date.

Subp. 2. **County agency requirements.** A county agency must:

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A. inform persons who inquire about cash assistance of general assistance eligibility requirements and how to apply for general assistance;

B. offer, by hand or mail, the application form prescribed by the commissioner when a person makes a written or oral inquiry;

C. inform the person that, if the person is found eligible, the county agency must use the date the application form is submitted to the county agency as the starting point for computing assistance, and that any delay in submitting an application form will reduce the amount of assistance paid for the month of application;

D. upon receipt of a signed and dated application from an applicant, the county agency must sign and date the application;

E. designate a staff member to assist the applicant to take the action necessary to submit an application if a county agency determines an applicant needs assistance in completing an application; and

F. inquire and determine at the time of initial application if the applicant has an emergency as defined in part 9500.1206, subpart 12e, and if so, determine the person's eligibility for emergency assistance under part 9500.1261, unless the emergency can be resolved through other sources or by promptly processing an application for monthly assistance.

Subp. 3. **Date of application.** The date of application is the date the county agency signs and dates the application.

Subp. 4. **Withdrawal of application.** An applicant may withdraw an application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal and inform the applicant of the agency's understanding that the applicant has withdrawn the application. If, within ten days of the date of the agency's notice, an applicant informs the county agency that the applicant does not wish to withdraw the application, the county agency must reinstate and finish processing the

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application.

Subp. 5. **Agency verification of information on application.** The county agency shall verify information provided by an applicant as specified in part 9500.1215.

Subp. 6. **Determination of filing unit.** When an application for general assistance is made and when the county agency redetermines the eligibility of a recipient, the county agency must determine the composition of the applicant's or recipient's filing unit. The county agency must determine the composition of a filing unit according to part 9500.1206, subpart 13a.

Subp. 7. **Processing application.** Within 30 days after receiving an application, a county agency must determine the applicant's program eligibility, approve or deny the application, inform the applicant of its decision, and issue assistance when the applicant is eligible. When an applicant establishes the inability to provide required documentation within the 30-day processing period, the county agency shall have an additional 30 days to process the application and to allow the applicant to provide the documentation. If eligibility cannot be determined by the end of the second 30-day period, the application must be denied.

9500.1215 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY.

Subpart 1. **Information that must be verified.** A county agency shall require an applicant or recipient to provide documentation only of information necessary to determine program eligibility and the amount of the assistance payment. Information previously verified and retained by the county agency must not be verified again unless the information no longer applies to current circumstances.

Subp. 2. **Sufficiency of documentation.** An applicant or recipient must provide documentation of the information required under subpart 4, or authorize a county agency to verify it by other means; however, the burden of providing documents for a county agency to use to verify eligibility is upon the applicant

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or recipient. A county agency shall help an applicant or recipient to obtain documents that the applicant or recipient does not possess and cannot obtain. When an applicant or recipient and the county agency are unable to obtain primary or alternate documents needed to verify information, the county agency may accept an affidavit from an applicant or recipient as sufficient documentation.

Subp. 3. **Contacting third parties.** A county agency must obtain an applicant's or recipient's written consent to request information about the applicant or recipient which is not of public record from a source other than county agencies, the department, or the United States Department of Health and Human Services. An applicant's signature on an application form shall constitute this consent for contact with the sources specified on that form. A county agency may use a single consent form to contact a group of similar sources, such as banks or insurance agencies, but the sources to be contacted must be identified by the county agency before requesting an applicant's consent. A county agency shall not provide third parties with access to information about a person's eligibility status or any other part of the case record without that person's prior written consent, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act under Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act must only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or a third party.

Subp. 4. **Factors to be verified.** The county agency must verify the factors of program eligibility in items A to C at the time of application, when a factor of eligibility changes, and at each redetermination of eligibility.

A. A county agency must verify:

(1) the identity of each adult and child for whom assistance is requested;

(2) age, if required to establish eligibility;

Approved by Revisor _____

(3) state residence;

(4) the basis of a claim of exemption from participation in work readiness; and

(5) the relationship of a caretaker to the child for whom application is made.

B. The county agency must verify the information in subitems (1) to (6) when that information is acknowledged by an applicant or recipient or obtained through a federally mandated verification system:

(1) receipt and amount of earned income, including gross receipts from self-employment;

(2) receipt and amount of unearned income;

(3) termination from employment;

(4) ownership and value of real property;

(5) ownership and value of personal property; and

(6) dependent care costs of an employed filing unit member at the time of application, redetermination, or a change in provider.

C. A county agency may verify additional program eligibility and assistance payment factors when it determines that information on the application is inconsistent with statements made by the applicant, other information on the current application, information on previous applications, or other information received by the county agency. The county agency must document the reason for verifying the factor in the case record of an assistance unit. Additional factors that may be verified, subject to the conditions of this item, are:

(1) the presence of a child in the home;

(2) the death of a parent or spouse;

(3) marital status;

(4) residence address; and

(5) income and property that an applicant or recipient has not acknowledged receiving or having.

9500.1219 ASSISTANCE UNIT ELIGIBILITY.

Subpart 1. **Composition of an assistance unit.** The county

Approved by Revisor _____

agency must determine the composition of the assistance unit, as defined in part 9500.1206, subpart 6a, from eligible members of the filing unit. All members of the filing unit must be included in the assistance unit with the exception of and subject to subparts 2 to 6.

Subp. 2. **Exclusion of persons otherwise provided for by law.** Filing unit members shall not be included in an assistance unit if they meet one or more of the following conditions:

A. a filing unit member is receiving benefits under the AFDC, refugee cash assistance, SSI, or Minnesota supplemental aid programs, or has benefits paid on the member's behalf for foster care, child welfare, or subsidized adoption;

B. a filing unit member appears to be currently eligible for benefits under AFDC or refugee cash assistance, or is eligible to have benefits paid on the member's behalf for foster care, child welfare, or subsidized adoption;

C. a filing unit member has been determined to be eligible for AFDC or SSI but cannot receive benefits under those programs because the member refused or failed to comply with a requirement of those programs;

D. a filing unit member is a parent of a single adult applicant or recipient who resides with a single adult applicant together with the parents' other family members;

E. a filing unit member who is in a period of disqualification from AFDC, SSI, or general assistance due to noncompliance with a program requirement;

F. a filing unit member has, without good cause, refused or failed to comply with part 9500.1254; or

G. a filing unit member has refused to sign an interim assistance authorization agreement as required under part 9500.1251, subpart 2, items F and G.

Subp. 3. **State residence requirement.** No applicant shall be included in an assistance unit unless the applicant is a resident of Minnesota. A resident is a person living in the state with the intention of making a home here and, not for any temporary purpose, as determined by items A to E.

Approved by Revisor _____

A. An applicant must state on a form prescribed by the commissioner that the applicant lives in the state and intends to make a home in Minnesota.

B. The county agency must verify an applicant's statement of intent to make a home in Minnesota if questionable. An applicant's statement of intent to make a home in Minnesota is questionable if:

(1) the applicant has no verified residence address in the state;

(2) the applicant provides identification indicating a residence outside the state;

(3) the applicant indicates that he or she maintains or is having maintained a residence outside the state; or

(4) the applicant is only present in the state as a resident of an excluded time facility.

C. An applicant's intent to make a home in Minnesota can be verified by:

(1) a residence address on a valid Minnesota driver's license, Minnesota identification card, or voter registration card;

(2) a rent receipt or a statement by the landlord, apartment manager, or homeowner showing that the applicant is residing at an address within the county of application;

(3) a statement by a landlord or apartment manager indicating the applicant has located housing which is affordable for the applicant;

(4) postmarked mail addressed to and received by the applicant at the applicant's address within the county;

(5) a current telephone or city directory with the applicant's residence address within the county;

(6) a written statement by an applicant's roommate verifying the applicant's residence and the date the applicant moved in. The roommate must also verify that the roommate lives in the residence by providing a copy of the

Approved by Revisor _____

roommate's mortgage statement, lease agreement, or postmarked mail addressed to and received by the roommate at that address;

(7) documentation that the applicant came to the state in response to an offer of employment;

(8) documentation that the applicant has looked for work by presenting completed job applications or documentation from employers, the local jobs service office, or temporary employment agencies;

(9) documentation that the applicant was formerly a resident of the state for at least 365 days and is returning to the state after an absence of less than 90 days; or

(10) an affidavit from a person engaged in public or private social services, legal services, law enforcement, or health services that the affiant knows the applicant, has had personal contact with the applicant, and believes the applicant is living in the state with the intent of making Minnesota the applicant's permanent home.

D. In addition to meeting one of the requirements of item C, an applicant described by item B, subitem (2), must document that the applicant has severed the applicant's residence in another state. Documentation may include bank statements indicating the closing of accounts, a document showing cancellation or termination of a lease, or verification that real property used as the applicant's residence in another state is abandoned or for sale.

E. Notwithstanding the provisions of item C, any applicant specified in item B, subitems (2) to (4), who also indicates an intention to leave the state within 30 days of application, will be considered to be in the state for a temporary purpose and is not a resident.

Subp. 4. **Minors.** No child under the age of 18 who is not a member of a family as defined in Minnesota Statutes, section 256D.02, subdivision 5, shall be included in an assistance unit unless:

A. the child is legally emancipated as defined in part 9500.1206, subpart 12d;

Approved by Revisor _____

B. the child lives with an adult who is not a family member or legal custodian with the express written consent of an agency acting in its legal capacity as a custodian of the child;

C. the child lives with an adult who is not a family member or legal custodian with the express written consent of the child's parents or legal guardian, together with the express written consent of the county agency; or

D. the child does not live with an adult but is at least 16 years of age and whose living arrangement is approved in a social services case plan for the child and includes general assistance as a component of the plan.

Subp. 5. **Refusal of suitable employment.** A person is not eligible for general assistance if, without good cause, the applicant refuses a legitimate offer of, or quits, suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving general assistance shall be terminated from the general assistance program and disqualified from general assistance for 60 days.

Subp. 6. **Physical presence.** The physical presence requirements for family general assistance are the same as the physical presence requirements under the AFDC program. The county agency shall not consider the needs of a family assistance unit member who is not present in the home at the time of application in the calculation of a general assistance grant unless an exception from the physical presence requirement is provided for under the AFDC program rules, part 9500.2140, subpart 5, items A to C.

9500.1221 PROPERTY LIMITATIONS.

Subpart 1. **Determination of equity value of property available to assistance unit.** The county agency must determine the equity value of real and personal property available to the assistance unit. The equity value of real and personal property available to a member of the filing unit who is not included in

Approved by Revisor _____

the assistance unit, but who is a responsible relative of an assistance unit member, must be considered real and personal property available to the assistance unit.

A. When real or personal property is owned by two or more persons, the county agency shall assume that each person owns an equal share, except that either person owns the entire sum in a joint personal checking or savings account. When a person documents greater or lesser ownership, the county agency shall use that share to determine the equity value held by an applicant or recipient.

B. Real or personal property owned by an applicant or recipient is presumed legally available unless the applicant or recipient documents that the property is not legally available. When real or personal property is not legally available, its equity must not be applied against the limits in subpart 2.

C. An applicant must disclose whether the applicant transferred, within one year before the application or redetermination, real or personal property valued in excess of the property limits in subpart 2 for which reasonable compensation was not received. A recipient shall disclose all transfers of property valued in excess of the limits in subpart 2 according to the reporting requirements in part 9500.1245, subpart 5. When a transfer of real or personal property has occurred, the applicant or recipient shall comply with subitems (1) and (2) as a condition of eligibility for general assistance.

(1) The applicant or recipient who transferred the property must provide a description of the property, information necessary to determine the property's equity value, the name of the individual who received the property, and the circumstances of and reason for the transfer.

(2) If reasonable compensation for the property was not received and the property can be reasonably reacquired, or when reasonable compensation can be secured, the property is presumed legally available to the applicant or recipient.

D. A recipient may build the equity value of the recipient's real and personal property to the limits in subpart

Approved by Revisor _____

2.

Subp. 2. **Equity value; excluded real and personal property.** The equity value of all nonexcluded real and personal property must not exceed $1,000. The county agency shall exclude the value of the real or personal property in items A to T when determining equity value.

A. The applicant's or recipient's homestead according to subitems (1) to (3).

(1) An applicant or recipient who is purchasing real property through a contract for deed and using that property as a home is considered the owner of the real property.

(2) The amount of land that can be excluded under this item is limited to surrounding property which is not separated from the home by intervening property owned by others. Additional property must be assessed as to its legal and actual availability according to subpart 1.

(3) When real property that has been used as a home by an applicant or recipient is sold, the county agency shall treat the cash proceeds from that sale as excluded property for a period of six months if the applicant or recipient intends to reinvest those proceeds in another home and agrees to maintain the proceeds, unused for other purposes, in a separate account.

B. One motor vehicle, not otherwise excluded, when its equity value does not exceed $1,500 exclusive of the value of special equipment for a handicapped household member. The county agency shall establish the equity value of a motor vehicle by subtracting any outstanding encumbrances from the loan value listed in the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the N.A.D.A. Official Used Car Guide, or when an applicant or recipient disputes the value listed in the guide as unreasonable given the condition of a particular vehicle, the county agency may require the applicant or recipient to document the value of the vehicle by securing a written statement from a motor vehicle dealer licensed under Minnesota Statutes, section

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168.27, stating the amount that the dealer would pay to purchase the vehicle. The N.A.D.A. Official Used Car Guide, Midwest Edition, is incorporated by reference. It is published monthly by the National Automobile Dealers Used Car Guide Company and is available through the Minitex interlibrary loan system. It is subject to frequent change.

C. The value of nonliquid real or personal property that is essential to the owner's self-support, self-care, or needed to obtain or retain suitable employment.

D. The value of nonliquid property which currently produces net earned income and is being used for the support of the assistance unit or a reasonable expectation exists that the property will be used within six months or the next income-producing season, whichever is later, to produce net earned income for the support of the assistance unit.

E. The value of real or personal property owned exclusively by the stepparent or sibling of a single adult applicant or recipient who resides with the stepparent or sibling.

F. The value of real and personal property owned exclusively by a recipient of supplemental security income or Minnesota supplemental aid.

G. The value of corrective payments but only for the month in which the payment is received and the following month.

H. Money escrowed in a separate account that is needed to pay real estate taxes or insurance and that is used for that purpose at least semiannually.

I. A mobile home used by an applicant or recipient as a home.

J. Money held in escrow by a self-employed person to cover employee FICA, employee tax withholding, sales tax withholding, employee workers' compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly.

K. Income received in a budget month until the end of

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by Revisor _____

that month. This includes monthly general assistance payments and emergency general assistance payments.

L. The value of school loans, grants, or scholarships over the period they are intended to cover if the income from these sources is either excluded by rule or has been used in the calculation of a grant.

M. The value of personal property not otherwise specified which is commonly used by household members in day-to-day living.

N. Payments listed in part 9500.1223, subpart 2, item O, which are held in escrow for the period necessary to replace or repair the personal or real property. This period must not exceed three months.

O. One burial plot per member of a filing unit.

P. The value of a prepaid burial account, burial plan, or burial trust up to $1,000 for each member of a filing unit who is covered by that account, plan, or trust.

Q. The value of an applicant's nonliquid resources if an applicant is excluded by part 9500.1251, subpart 2, item M, because the applicant's need for assistance will not exceed 30 days.

R. The value of real and personal property in excess of the limits in this subpart if the applicant is making a good faith effort to sell the property at a reasonable price.

S. Other real or personal property specifically disregarded by federal law, state law, or federal regulation.

T. In addition to the limits specified in items A to S, an amount up to $1,000 which is accumulated in a separate account from earnings by a resident in a facility licensed under parts 9520.0500 to 9520.2500 or a resident in a supervised apartment with services funded under parts 9535.0100 to 9535.1600 for whom discharge and work are part of a treatment plan. This item applies during residency and for up to 18 additional months if the person moves to an inpatient hospital setting. The accumulated earnings, and the interest on the earnings, are to be used upon discharge from the facility. Any

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withdrawal before discharge must be counted as income in the month of withdrawal and treated as an available resource in the following months.

Subp. 3. **Exclusion of excess property.** If the county agency determines that an assistance unit is not eligible for general assistance due to owning property in excess of the limit in subpart 2, the county agency must inform the applicant or recipient in writing of the conditions under which excess property may be excluded.

9500.1223 EXCLUDED INCOME.

Subpart 1. **Evaluation of income.** The county agency must determine income available to members of an assistance unit to determine program eligibility and the assistance amount. Income available to members of an assistance unit includes all nonexcluded income whether received by assistance unit members or filing unit members who are not members of the assistance unit when that income is deemed available to members of the assistance unit.

Subp. 2. **Excluded income of all filing unit members.** The county agency shall exclude items A to BB from the income of all filing unit members:

A. food stamps;

B. United States Department of Housing and Urban Development (HUD) refunds or rebates for excess rents charged and HUD relocation and rehabilitation funds;

C. rental security deposit refunds to the client whether paid by the client or by emergency assistance or emergency general assistance;

D. benefits under title IV and title VII of the Older Americans Act of 1965;

E. all Volunteers in Service to America (VISTA) payments;

F. title I loans or grants through the Minnesota Housing Finance Agency;

G. payments for basic care, difficulty of care, and

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clothing allowance received for providing family foster care under parts 9545.0010 to 9545.0260 or adult foster care under parts 9555.5105 to 9555.6265;

H. work and training allowances and reimbursements received through the work readiness program;

I. work and training allowances received from county agency social services programs that are not classified as wages subject to FICA withholding;

J. reimbursement for employment training received through the Job Training Partnership Act;

K. reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, or employment;

L. loans, whether from private, public, or governmental lending institutions, governmental agencies, and private individuals provided the filing unit member documents that the lender expects repayment. This exclusion does not include education loans on which payment is deferred;

M. state and federal income tax refunds including Minnesota property tax refunds and the earned income tax credit;

N. funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made from public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency subsequent to a presidential declaration of disaster;

O. payments issued by insurance companies which are specifically designated as compensation to a member of an assistance unit for partial or total permanent loss of function or body part or insurance payments specified under Minnesota Statutes, section 256.74, subdivision 1, clause (7);

P. reimbursements for medical expenses which cannot be paid by medical assistance;

Q. payments by the vocational rehabilitation program administered by the state under Minnesota Statutes, chapter 129A, except those payments that are for current living expenses;

R. in-kind income, as defined in part 9500.1206,

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subpart 16a, except for payments made for room, board, tuition, or fees by a parent on behalf of a single adult applicant who is enrolled as a full-time student in a postsecondary institution;

S. assistance payments to correct underpayments in a previous month;

T. payments to an applicant or recipient issued under part 9500.1261, 9500.2800, or 9500.2820 for emergency or special needs; however, an initial month's grant may be reduced by the amount of emergency assistance issued to cover that month's needs;

U. nonrecurring cash gifts, such as those received for holidays, birthdays, and graduations, not to exceed $30 per filing unit member in a calendar quarter;

V. tribal settlements excluded under Code of Federal Regulations, title 45, section 233.20(a)(4)(ii)(e), (k), and (m);

W. any form of energy assistance payment made by the Low Income Home Energy Assistance Program, payments made directly to energy providers by other public and private agencies, benefits issued by energy providers when the Minnesota Department of Jobs and Training determines that those payments qualify under Code of Federal Regulations, title 45, section 233.53, and any form of credit or rebate payment issued by energy providers;

X. the first $50 of child support received;

Y. proceeds from the sale of real or personal property;

Z. payments made from state funds for subsidized adoptions under Minnesota Statutes, section 259.40;

AA. interest payments and dividends from property that is not excluded from and does not exceed the $1,000 limit under part 9500.1221, subpart 2; and

BB. income that is otherwise specifically excluded from AFDC program consideration in federal law, state law, or federal regulation.

Subp. 3. **Additional income exclusions, filing unit member**

Approved by Revisor _____

who is not a member of assistance unit. In addition to the income exclusions in subpart 2, the county agency shall exclude the following income of a filing unit member who is not a member of the assistance unit:

A. income that was excluded, disregarded, or allocated in the calculation of a public assistance grant unless the allocation was to meet the needs of persons in the general assistance unit;

B. benefits from the Retirement, Survivors, and Disability Insurance program and any income based on a disability that is received by the parent or parents of a single adult applicant or recipient;

C. income of a stepparent or of a sibling of a single adult applicant or recipient;

D. an amount equal to the standards assigned to filing unit members who are not in the general assistance unit in part 9500.1231, subpart 6, item A; and

E. child support, spousal support, or other payments to meet the needs of a person who lives outside of the household who is or could be claimed as a dependent for federal personal income tax liability or for whom payment is required by court order.

Subp. 4. **Additional income exclusions; family assistance units.** In addition to the income exclusion in subpart 2, the county agency shall exclude the following income from a family assistance unit:

A. educational grants and loans, including income from work study; and

B. income, including retroactive payments, from SSI or Minnesota supplemental aid.

Subp. 5. **Additional income exclusions, assistance unit consisting of individuals who are not members of a family.** In addition to the income exclusions in subpart 2, the county agency shall exclude the following costs from the income of filing unit members when the assistance unit consists of individuals who are not members of a family:

Approved by Revisor _____

A. the first $50 of earned income for each individual who receives earned income;

B. the cost of transportation to and from employment which is not reimbursed, based on the lesser of the actual cost, or the amount allowed for the use of a personal car in the United States Internal Revenue Code for a maximum of 100 miles per day;

C. a meal allowance of $2 for each day that the individual has a break for a meal during work hours and eats a meal at work, unless the individual can establish that higher costs are both necessary and reasonable;

D. the cost incurred by an applicant or paid by a recipient for uniforms, tools, and equipment which are necessary to accept or retain a job;

E. mandatory payments or deductions from pay for insurance premiums, union dues, association dues, retirement contributions, FICA, state and federal personal income tax withholding, not to exceed the amount specified in the state or federal tax withholding tables for an individual with the same income and number of dependents as the applicant or recipient;

F. other work expenses required for employment and approved by the county agency;

G. public assistance payments received by women residing in facilities for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3, for whom general assistance payments are made to pay for residence in the facility;

H. stipends received from the displaced homemaker services program; and

I. in addition to the $50 specified in item A, up to $150 per month from the earnings of a resident of a facility licensed under parts 9520.0500 to 9520.0690 or a resident of a supervised apartment with services funded under parts 9535.0100 to 9535.1600 for whom discharge and work are part of a treatment plan, provided that the disregarded sum is placed in a separate savings account by the resident.

Approved
by Revisor _____

9500.1225 EARNED INCOME.

Subpart 1. ~~local~~ County agency duty to determine earned income. The ~~local~~ county agency must determine the total amount of earned income available to the ~~individuals identified in part 9500.1224, subpart 1~~ filing unit. Earned income from self-employment must be calculated ~~in accordance with~~ according to subpart 2. Earned income from contractual agreements must be calculated ~~in accordance with~~ according to subpart 3. The total amount of earned income available to an individual for a month must be determined by combining the amounts of earned income calculated under subparts 2 to 4. The total amount of earned income available to an assistance unit for a month must be determined by combining the total earned income of each ~~assistance~~ filing unit member.

Subp. 2. Earned income from self-employment. The ~~local~~ county agency must determine the amount of earned income from self-employment by subtracting business costs from gross receipts according to items A to D.

A. Self-employment expenses must be subtracted from gross receipts except for the expenses listed in subitems (1) to (14):

(1) purchases of capital assets;

(2) payments on the principal of loans for capital assets;

(3) depreciation;

(4) amortization;

(5) the wholesale costs of items purchased, processed, or manufactured that are unsold inventory with a deduction for the costs of those items allowed at the time they are sold;

(6) transportation costs that exceed the amount allowed for use of a personal car in the United States Internal Revenue Code;

(7) the cost of transportation between the individual's home and ~~his or her~~ place of employment;

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(8) salaries and other employment deductions made for members of an individual's assistance unit or for individuals who live in the individual's household for whom the individual is legally responsible;

(9) monthly expenses in excess of ~~$70~~ $71 for a roomer;

(10) monthly expenses in excess of ~~$85~~ $86 for a boarder;

(11) monthly expenses in excess of ~~$155~~ $157 for a roomer-boarder;

(12) annual expenses in excess of ~~$102~~ $103 or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income;

(13) expenses not allowed by the United States Internal Revenue Code for self-employment income; and

(14) expenses which exceed 60 percent of gross receipts for child care performed in an individual's home unless the individual can document a higher amount. When funds are received from the quality child care program, those funds are excluded from gross receipts, and the expenses covered by those funds must not be claimed as a business expense that offsets gross receipts.

B. Except for farm income under item C, the self-employment budget period begins in the month of application for applicants and in the first month of self-employment for recipients. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month in which those expenses are paid except for subitems (1) to (3):

(1) The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

Approved by Revisor _____

(2) Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

(3) Gross receipts from self-employment may be prorated forward to equal the period ~~of time~~ over which the expenses were incurred except that gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

C. Farm income must be annualized. Farm income is gross receipts minus operating expenses, subject to item A. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from sale of home-produced foods.

D. Income from rental property must be considered self-employment earnings when ~~effort is expended by~~ the owner ~~to maintain or manage~~ spends an average of 20 hours per week on maintenance or management of the property. A ~~local~~ county agency must deduct an amount for upkeep and repairs, ~~in accordance with~~ according to item A, subitem (11), for real estate taxes, insurance, utilities, and interest on principal payments. When an ~~individual~~ applicant or recipient lives on the rental property, the ~~local~~ county agency must divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of rooms to determine the expense per room. The ~~local~~ county agency shall deduct expenses from rental income only for the number of rooms rented, not for rooms occupied by an ~~individual's~~ assistance unit. When ~~no effort is expended by the owner to maintain or manage~~ an owner does not spend an average of 20 hours per week on maintenance or management of the property, income from rental property must be considered

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unearned income. The deductions described in this item must be subtracted from gross rental receipts.

Subp. 3. **Earned income from contractual agreements.** The ~~local~~ county agency must prorate the amount of earned income received by individuals employed on a contractual basis over the period covered by the contract even if the payments are received over a shorter period ~~of time~~.

Subp. 4. **Other earned income.** The ~~local~~ county agency must consider all other forms of earned income not specifically provided for under subparts 2 and 3 to be earned income available to the individual in the month it is received.

9500.1226 UNEARNED INCOME.

Subpart 1. ~~Local~~ **County agency duty to determine unearned income.** The ~~local~~ county agency must determine the total amount of unearned income available to the ~~individuals identified in part 9500.1224, subpart 1. Educational grants, loans, and scholarships must be calculated as unearned income in accordance with subpart 2. Income allocated to a member or members of an assistance unit from a responsible relative must be calculated as unearned income in accordance with subpart 3. The total amount of unearned income available to an individual for a month must be determined by combining the amounts of unearned income calculated under subparts 2 to 4~~ filing unit. The total amount of unearned income available to ~~an assistance~~ a filing unit for a month must be determined by combining the total unearned income of each ~~assistance~~ filing unit member.

Subp. 2. to 4. [See Repealer.]

Subp. 5. **Deductions for certain costs.** Costs incurred to secure payments of unearned income shall be deducted from unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

Subp. 6. **Payments for disability or illness.** Payments for illness or disability must be considered unearned income whether the premium payments are made wholly or in part by an employer or a recipient.

Approved by Revisor _____

Subp. 7. **Education grants, scholarships, and loans.** Educational grants, scholarships, and loans, including assistance funded under title IV of the Higher Education Act, which are available to an assistance unit that does not contain a member of a family must be considered unearned income, together with the in-kind income derived from the payment of room and board and tuition and fees paid by the parents of the student. The county agency must subtract tuition and fees, in addition to books, supplies, transportation, and miscellaneous personal expenses as indicated by the school, from the total educational grants, loans, scholarships, and in-kind income. The deductions of these expenses are to be made at the time that the educational funds become available for the student's benefit, and any excess funds prorated over the remainder of the time they were intended to cover. School expenses that exceed loans, grants, and scholarships may be deducted from work study income.

Subp. 8. **Nonexcluded filing unit member income.** Income from a filing unit member who is not a member of the assistance unit which is not excluded under part 9500.1223 is deemed unearned income available to the assistance unit.

Subp. 9. **Lump sums received by filing unit.** Lump sums received by a filing unit must be considered as earned income under parts 9500.1223 and 9500.1225 or as unearned income under subparts 5 to 8. For recipients of general assistance, lump sums are considered income in the month received and a resource in the following months.

9500.1231 ASSISTANCE STANDARDS.

Subpart 1. **Standard, single individual.** Except as provided in subpart 2, the standard of assistance for a single adult who does not reside with his or her parents; an adult applicant or recipient who resides with his or her parents and those parents have no minor children; or an emancipated minor applicant or recipient defined under part 9500.1206, subpart 12d, is $203 per month. The standard in this subpart shall be

Approved by Revisor _____

increased by the same percentage as any increase in subpart 4.

Subp. 2. **Standard, individuals residing in a nursing home, negotiated rate facility, or regional treatment center.** The standard of assistance for an assistance unit composed of one individual who resides in a nursing home, negotiated rate facility, or regional treatment center is the amount established as the clothing and personal needs allowance for medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 1.

Subp. 3. **Standard, married couples without children.** The standards of assistance for a married couple without children are the same as the first and second adult standards under subpart 4. If one member of the couple is not included in the general assistance grant, the standard for the other is the second adult standard under subpart 4.

Subp. 4. **Standards, filing units with a minor child.** The county agency shall use the standards in items A to M to determine the amount of assistance for a filing unit with a minor child or children. The standard of assistance shall increase or decrease to remain equal to the equivalent AFDC standards under part 9500.2440, subpart 6:

A. first adult, $187;

B. second adult, $73;

C. first child, $250;

D. second child, $95;

E. third child, $89;

F. fourth child, $76;

G. fifth child, $76;

H. sixth child, $77;

I. seventh child, $66;

J. eighth child, $64;

K. ninth child, $55;

L. tenth child, $54; and

M. each additional child, $53.

Subp. 5. **Standard, single adult residing with parents with minor children.** A single adult applicant or recipient who

Approved by Revisor _____

resides with his or her parents who have minor children will receive a child standard from subpart 4 as though the single adult were an additional minor child added to an assistance unit composed of the parent and minor child or children.

Subp. 6. **Standard, assistance unit composed of part or all members of a family.** The county agency shall determine the assistance standard for a family assistance unit as follows:

A. The county agency shall assign standards from subpart 4 to each member of the filing unit as though each was a member of an AFDC assistance unit composed of the entire filing unit. If a member or members of a family are not to be included in the assistance unit, the county agency shall assign standards from subpart 4 to those members first and to the remaining members of the assistance unit last. Each adult in the filing unit except the first will receive a second adult standard. A minor parent family member shall be treated as provided in subitem (1) or (2).

(1) A minor parent family member who resides with his or her parent will be assigned a child standard.

(2) A minor parent family member who does not reside with his or her parent or parents shall be assigned an adult standard. If two adult standards have already been assigned to filing unit members, the minor parent will be assigned a second adult standard.

B. The county agency shall add together the standards assigned to the members of the general assistance unit in item A. That total is the standard for the assistance unit. In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit.

Subp. 7. **Standard applies to full month.** Except when an increase must be made in the standard of assistance applicable to an assistance unit due to the addition of a member to the assistance unit or when a recipient enters the community from a

Approved by Revisor _____

negotiated rate facility, the standard of assistance applicable to an assistance unit the first day of a payment month or at the time of application, whichever is later, applies to the assistance unit for the entire month. When a decrease must be made in the standard of assistance for an assistance unit, the decrease shall be effective in the month following the month in which the change necessitating the reduction in the standard took place.

9500.1232 STATE PARTICIPATION.

Subpart 1. to 3. [See Repealer.]

Subp. 4. **State participation for payment in excess of state standards.** State participation is not available for special need items or the amount of the higher ~~local~~ county agency standard ~~provided under part 9500.1230, subpart 5~~ authorized under Minnesota Statutes, section 256D.03, subdivision 2a, which exceed the applicable state assistance standards.

Subp. 5. **State participation for costs of providing transportation to recipients assigned to literacy training.** State participation for the actual costs of providing transportation under part ~~9500.1257~~ 9500.1259, subpart ~~5~~ 1, item D, subitem (6), is 100 percent.

9500.1233 FINANCIAL ELIGIBILITY TESTS.

Subpart 1. **Prospective eligibility.** A county agency shall determine whether the eligibility requirements that pertain to an assistance unit will be met prospectively for the payment month. To prospectively assess income, a county agency shall estimate the amount of income an assistance unit expects to receive in the payment month.

Subp. 2. **Termination and suspension of assistance when prospectively ineligible.** When an assistance unit is prospectively ineligible for general assistance for at least two consecutive months due to excess income, assistance must be terminated. When an assistance unit is prospectively ineligible for general assistance for only one month and is prospectively

Approved by Revisor _____

eligible the following month, assistance must continue. The income for the single month in which prospective ineligibility exists must be applied retrospectively as described in subpart 3, resulting in suspension for the corresponding payment month.

Subp. 3. **Retrospective eligibility.** After the first two months of program eligibility, a county agency must determine whether an assistance unit is prospectively eligible for the payment month. The county agency must then determine whether the assistance unit is retrospectively eligible by applying the gross income test for family assistance and the payment eligibility test to the income from the budget month. When either the gross income test for family assistance units or the payment eligibility test is not satisfied, assistance must be suspended when ineligibility exists for one month, or terminated when ineligibility exists for more than one month.

Subp. 4. **Gross income test for family assistance units.** A county agency shall apply a gross income test both prospectively and retrospectively for each month of program eligibility. A family assistance unit is not eligible when available income as determined in parts 9500.1223 to 9500.1226 equals or exceeds 185 percent of the standard of assistance for the assistance unit. The income applied against the gross income test must include the gross earned income of a dependent child in the assistance unit who is not a full-time student and whose income is from a source other than the Job Training Partnership Act. The income in items A to F must be considered in the gross income test.

A. Gross earned income from employment, before mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and disregards, unless the employment income is specifically excluded under part 9500.1223.

B. Gross earned income from self-employment, less deductions for self-employment expenses in part 9500.1225, subpart 2, but before any reductions for personal state and federal income taxes, business taxes, personal FICA, personal health and life insurance, and disregards.

C. Unearned income after allowable expenses in part

Approved by Revisor _____

9500.1226, unless the income has been specifically excluded in part 9500.1223.

D. Gross earned income from employment as determined under item A which is received through the Job Training Partnership Act by a member of an assistance unit who is a dependent child after the child has received both Job Training Partnership Act earnings and assistance for six payment months in the same calendar year.

E. Gross earned income from employment, as determined under item A, which is received through employment other than the Job Training Partnership Act by a member of an assistance unit who is a dependent child and a full-time student after the child has received both those earnings and assistance for six payment months in the same calendar year.

F. Child support and spousal support received or anticipated to be received by an assistance unit less the first $50 of current child support.

Subp. 5. **Payment eligibility test.** Each assistance unit must pass a test of payment eligibility prospectively and retrospectively for each program month that the unit is otherwise eligible.

A. Family assistance units which have passed the gross income test, must use the income described in subpart 4 to determine payment eligibility except that:

(1) earned income of a dependent child who is a part-time or full-time student must be excluded; and

(2) the disregards as determined in part 9500.1235 must be deducted from earned income.

B. Assistance units which do not contain a member of a family must use the income determined in parts 9500.1223 to 9500.1226 to determine payment eligibility.

C. The county agency must apply the assistance unit's countable income against the assistance unit's standard. If the income is equal to or greater than the standard, the assistance unit must be denied assistance or assistance must be terminated.

Approved
by Revisor _____

9500.1235 EMPLOYMENT DISREGARDS FOR EMPLOYED MEMBERS OF A FAMILY ASSISTANCE UNIT.

The county agency shall deduct the disregards in items A to D from the gross earned income of employed members of a family assistance unit.

A. A $90 work expense, whether employment is full-time or part-time, must be deducted from the gross earned income of each employed member of an assistance unit and $75 for other financially responsible household members who are excluded from the assistance unit, except that sanctioned individuals must not receive this disregard.

B. A monthly deduction for costs for care of a dependent child or an adult dependent who is in the assistance unit. These costs must be documented according to part 9500.1215, subpart 4, item B, subitem (6). This disregard must only be deducted from the gross income of a member of an assistance unit, and must be applied after all other disregards have been applied. The deduction must not exceed $175 for each dependent age two or older, or $200 for each dependent under the age of two when employment equals or exceeds 30 hours per week. The deduction shall not exceed $174 for each dependent age two or older, or $199 for each dependent under the age of two when employment is less than 30 hours per week. A deduction for dependent care costs is not allowed when the care is provided by a member of the filing unit.

C. A deduction for a $30 and one-third work incentive disregard. This disregard must be allowed for each employed member of an assistance unit. The first $30 must be subtracted from the balance of gross earned income after subtracting the work expense allowed under item A. One-third of the balance must also be subtracted after allowing the $30 disregard. This disregard is limited by subitems (1) to (6).

(1) The disregard must not be deducted from the income of an applicant in the initial month when applying the payment eligibility test in part 9500.1233, subpart 5, except that an applicant who has received general assistance in any of

Approved by Revisor _____

the four months previous to the month of application and who retains eligibility for this disregard from the prior period of eligibility under subitems (2) to (5) shall be eligible for this disregard when determining payment eligibility. When an applicant satisfies the payment eligibility test in the first month, this disregard must be used to calculate the assistance payment amount for that month when the applicant is otherwise eligible to receive it.

(2) Eligibility for this disregard is limited to four payment months in subitems (3) to (5) and cannot be deducted again from the income of that member of the assistance unit until that member has not been a recipient of general assistance for a period of at least 12 consecutive payment months.

(3) The four months of eligibility for this disregard are only those payment months in which any part of the $30 and one-third work incentive is applied against income. When the four months of eligibility for this disregard are interrupted for at least one payment month before the period of eligibility is completed, the recipient is eligible for a new period of four months, with the next subsequent month of its use considered to be the first month, except as otherwise noted in subitems (4) and (5).

(4) When this disregard is not applied because income from a recurring source results in suspension of an assistance payment, that month must not be counted as a month of the four-month period, but this interruption does not establish eligibility for a new four-month period.

(5) When employment is ended, reduced, or refused without good cause, a person shall not be eligible for any of the employment disregards under items A to D in the first month following the month in which that employment is ended, reduced, or refused. The month in which those disregards are disallowed must be counted as one of the four consecutive months in the period of eligibility for this disregard and the remaining months of eligibility must be counted in the consecutive months

Approved
by Revisor _____

which immediately follow, regardless of loss of eligibility or change in employment status.

(6) Receipt of a $30 and one-third work incentive disregard of income used to calculate benefits or eligibility for the AFDC or medical assistance programs has no effect on the eligibility for the disregard for recipients of family general assistance.

D. A deduction for a $30 work incentive disregard. This disregard applies for a period of eight months to members of an assistance unit who have completed the four-month period of eligibility for the $30 and one-third work incentive disregard. This disregard is allowed beginning with the first month following the fourth month of eligibility for the $30 and one-third work incentive disregard and must be counted in consecutive months regardless of the loss of eligibility or change in employment status.

9500.1237 AMOUNT OF ASSISTANCE PAYMENT.

Subpart 1. **Amount of assistance payment.** The county agency must issue an assistance payment to an assistance unit in an amount equal to the difference between the standard of assistance determined in part 9500.1231 and the assistance unit's countable income as determined in parts 9500.1223 to 9500.1226, for a whole month without separate standards for shelter, utilities, or other needs, except as provided under subparts 2 to 9.

Subp. 2. **Prorate the month of application.** When program eligibility exists for the month of application, the amount of the assistance payment for the month of application must be prorated from the date of application or the date all eligibility factors are met for that applicant, whichever is later. This provision must apply when an applicant loses at least one day of program eligibility.

Subp. 3. **Minimum payment for families.** When the difference between countable income and the standard of assistance for an assistance unit containing members of a family

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in a payment month is less than $10, an assistance payment must not be issued, but that month must be considered a month of program eligibility. When recoupment of an overpayment reduces the assistance payment, pursuant to part 9500.1243, subpart 3, and the subsequent level of payment is less than $10, the assistance payment must be made.

Subp. 4. **Persons without a verified residence address.** A county agency may make payments to eligible persons without a verified address as specified in items A to G.

A. A county agency which chooses to make payments under this subpart must notify the department of its intention to do so 30 days before implementation.

B. A county agency must apply this subpart equally to all applicants or recipients who are without a verified residence, except that this subpart must not be applied to persons who are certified as having mental illness, mental retardation, or a family assistance unit unless requested in writing by the family assistance unit.

C. A county agency may divide the monthly assistance grant into four payments to be issued weekly for four weeks each month.

D. A county agency may determine eligibility and provide assistance on a weekly basis as specified in subitems (1) to (4).

(1) The amount of assistance issued under this item may be determined either by prorating the monthly assistance standard which applies to the individual at the time of application and at the time of weekly redetermination, or as specified in part 9500.1261.

(2) Forms required for weekly redetermination of eligibility must be approved by the department. The form must contain a statement of need by the recipient.

(3) Notwithstanding part 9500.1259, subpart 4, the county agency must notify the recipient each time weekly assistance is issued under this item that subsequent weekly assistance will not be issued unless the recipient claims need.

Approved
by Revisor _____

(4) Assistance issued under this item must not continue beyond the first full calendar month subsequent to the month of application. Beginning with the second full calendar month, assistance may be issued to a recipient who has not verified a residence address but who is a resident of the state as determined by part 9500.1219, subpart 3, as specified by item C.

E. Assistance provided under items C and D may be in the form of cash or separate vouchers or vendor payments for food, shelter, or other needs.

F. Except for weekly redetermination for assistance under item D, notices must be provided to recipients under this subpart as specified by part 9500.1259, subpart 4.

G. Assistance must not continue under this subpart when the recipient has verified a residence address as specified in part 9500.1219, subpart 3, item C.

Subp. 5. **Initial payments for mandatory participants in the work readiness program.** Initial payments may be made to mandatory participants in the work readiness program as specified in items A to D.

A. The county agency may:

(1) make payments to cover a period of time which begins with the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the last day of the month in which a work readiness orientation is scheduled; or

(2) prorate an initial payment to cover only the initial certification period which begins on the date of application, or the date on which all eligibility factors have been met, whichever is later, and ending on the date on which all mandatory participants in the assistance unit must attend a scheduled orientation. This initial certification period must not exceed 30 days. If all mandatory participants in an assistance unit attend the scheduled orientation, the county agency must then issue an additional grant of assistance to cover the period beginning the day after the scheduled

Approved by Revisor _____

orientation and ending on the final day of the month. Subsequent grants of assistance must be issued according to part 9500.1237, subpart 1 or 4.

B. The county agency must inform all mandatory participants in the assistance unit that:

(1) each mandatory participant must attend an orientation within 30 days after application; and

(2) a mandatory participant who fails, without good cause, to attend the required orientation will lose eligibility for assistance without further notice due to noncompliance with work readiness requirements subject to reinstatement upon a showing of good cause.

C. Subsequent assistance must not be issued within 60 days from the date of the initial application to a mandatory participant whose eligibility has ended for failing, without a showing of good cause, to attend a scheduled orientation unless the person completes an application, is determined eligible, attends an orientation, or has become exempt from work readiness participation under part 9500.1251.

D. The county may make payment under items A and B to persons without a verified address according to subpart 4 as long as the county agency implements the provision consistently for all applicants and recipients.

Subp. 6. **Assistance payment when need will not exceed 30 days.** For persons who are exempt from registration with the work readiness program under part 9500.1251, subpart 2, item M, the county agency shall issue a grant determined by subtracting any countable income that the applicant has received since the first of the calendar month of application and any countable income the applicant is expected to receive before the date on which the county agency has anticipated that the applicant will lose eligibility for general assistance, from his or her prorated standard of assistance. The prorated standard of assistance must be determined by comparing the number of days between the date of application or the date all eligibility factors have been met, whichever is later, and the date which

Approved by Revisor _____

the county agency has anticipated that the applicant will lose eligibility for general assistance, with a 30-day month.

Subp. 7. **Payments to facilities with negotiated rates.** In addition to any payment an individual is entitled to by comparing the individual's countable income determined by parts 9500.1223 to 9500.1226 with the standard of need specified under part 9500.1231, subpart 7, the county agency must make direct payment on behalf of an individual described under part 9500.1231, subpart 2, to a negotiated rate facility out of general assistance funds unless other funds are available. An individual who has countable income in excess of the standard specified in part 9500.1231, subpart 2, but who is otherwise eligible for general assistance, is eligible for a payment to be made to a facility on the individual's behalf. However, the initial payment to the facility must be reduced by the amount that the individual's countable income exceeds the standard applicable to the individual on the first day of the month in which the individual enters the facility. Payments for months subsequent to the month in which the individual enters the facility must be reduced by the amount the individual's countable income exceeds the standard specified by part 9500.1231, subpart 2. If the individual's countable income exceeds that standard by an amount equal to, or greater than, the facility's monthly rate, there is no eligibility under the general assistance program. The county agency may make payment to the facility either in advance each month, or upon receipt of a billing statement from the facility. Payments to the facility shall cover a period beginning on the date the county agency receives an application signed by the applicant or the date all eligibility factors have been met, or the date the individual enters the facility, whichever is later, and ending on the date the recipient leaves the facility.

Subp. 8. **Payments to shelter facilities.** In addition to any payment to which an individual may be eligible under other parts of this program or under the aid to families with dependent children program, the county agency shall make payment

Approved by Revisor _____

on behalf of that individual to a secure crisis shelter, a housing network, or other shelter facility which provides shelter services to women and their children who are being or have been assaulted by males with whom they are residing or have resided in the past. The county agency's payment to the shelter must be reduced by the amount that the individual's countable income determined by parts 9500.1223 to 9500.1226 exceeds their standard of assistance as determined by part 9500.1231. Eligibility for a shelter payment under this subpart shall not affect the individual's eligibility or benefit level for general assistance or aid to families with dependent children and there can be concurrent payments under this subpart and those programs. Eligibility for a shelter payment under this subpart begins with the date an applicant enters the shelter provided that the shelter files the applicant's completed application with the county agency within ten days of the date the applicant entered the shelter, and ends on the date the individual leaves the shelter.

Subp. 9. **Additional grants to start employment.** In addition to any other benefits to which a recipient or applicant, otherwise eligible, might be entitled under this part, the county agency may, within the limits of available appropriations, make grants necessary to enable individuals to accept bona fide offers of employment. A grant may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. A grant under this subpart shall not be furnished more than once in any 12-month period.

9500.1239 PAYMENT PROVISIONS.

Subpart 1. **Grant issuance.** Grants of general assistance shall be issued to the recipient according to subparts 2 and 3.

Subp. 2. **Time period for issuance of assistance.** The state or county agency shall mail assistance payments to the address where the assistance unit lives, or an alternate address when approved by the county agency, within time to allow postal

Approved by Revisor _____

service delivery to occur no later than the first day of each month unless:

A. the county agency has exercised its option to issue assistance weekly under part 9500.1237, subpart 4, item C or D, in which case the county agency must provide the recipient with a schedule by which the recipient is to visit the agency to pick up the payments or notices; and

B. the state or county agency issues payments by means other than checks, in which case the payments must conform to the time limits in this subpart.

Subp. 3. **Special voucher or vendor payment provisions.** Assistance must be paid directly to a recipient, except as provided in items A to H.

A. When a county agency has determined that a voucher or vendor payment is the most effective way to resolve an emergency situation under part 9500.1261, payment shall be made by voucher or directly to a vendor.

B. When the county agency has reason to suspect that a client is drug dependent, payment shall be made as provided under part 9500.1272.

C. When the applicant or recipient has no verified residence address, payment shall be made as provided under part 9500.1237, subpart 4, item C, D, or E.

D. When the applicant or recipient requests in writing that all or part of the assistance be issued in the form of vendor payments and the county agency approves the request, payment shall be made by vendor payment.

E. When an assistance unit consists of only minor children due to the disqualification of one or both parents who have not complied with the work readiness program, payment shall be made by vendor or protective payment.

F. When a county agency has determined that a recipient has exhibited a continuing pattern of money mismanagement, payment shall be made by vendor or protective payment. A continuing pattern of money mismanagement exists when a recipient has received a total of two or more grants of

Approved by Revisor _____

emergency assistance within an 18-month period. For the purposes of this provision, grants of emergency assistance are payments made under part 9500.1261 or 9500.2820 or emergency payments from county funds. In order to be counted for this provision, the emergencies for which grants were issued must have resulted from the recipient's failure to use available resources for the payment of basic need items. The county agency must review the use of protective or vendor payments under this item at each redetermination of eligibility.

G. When a county agency has established a negotiated rate with providers of room and board, boarding care, supervised living, or adult foster care, payment shall be made by vendor payment.

H. When an applicant or recipient resides in a shelter facility as defined in Minnesota Statutes, section 256D.05, subdivision 3, payment shall be made by vendor payment.

9500.1243 BUDGETING.

Subpart 1. **Prospective budgeting.** A county agency shall use prospective budgeting to calculate the assistance payment amount for the first two months for an applicant who has not received general assistance for at least one payment month preceding the first month of payment under a current application, subject to items A to E.

A. Income received or anticipated in the first month of program eligibility must be applied against the need of the first month. Income received or anticipated in the second month must be applied against the need of the second month.

B. When the assistance payment for any part of the first two months is based on anticipated income, an initial assistance payment amount must be determined based on information available at the time the initial assistance payment is made. When the amount of actual countable income is different than the anticipated countable income which was budgeted to determine the assistance payment for the first two months, the assistance unit is liable for an overpayment or is

Approved
by Revisor _____

eligible for a corrective payment for the difference between anticipated and actual countable income for those two months.

C. The assistance payment for the first two months of program eligibility must be determined by budgeting both recurring and nonrecurring income for those two months.

D. An assistance unit shall have the assistance payment amount determined prospectively according to items A to C if the assistance unit:

(1) has had assistance suspended for a month as provided by part 9500.1233, subpart 2; and

(2) has experienced a recurring change of at least $50 in net income, exclusive of the disregards in part 9500.1235, items B and C, in the month preceding the month of suspension or in the month of suspension.

E. An individual who enters a facility with a negotiated rate or a shelter facility described in Minnesota Statutes, section 256D.05, subdivision 3, shall have an assistance payment determined prospectively from the date the individual entered the facility. Any income, including grants of public assistance, received by the individual before entering the facility must only be applied against the assistance unit's standard specified under part 9500.1231, subpart 2, and not against the payment to the facility as specified in part 9500.1237, subparts 7 and 8. Any assistance payments made to the individual beginning two months after the month the individual leaves the facility must be determined retrospectively according to subpart 2.

Subp. 2. **Retrospective budgeting.** Retrospective budgeting must be used to calculate the monthly assistance payment amount after the payment for the first two months has been made under subpart 1. Retrospective budgeting is subject to items A and B.

A. Retrospective budgeting is used to determine the amount of the assistance payment in the first two months of program eligibility when:

(1) an assistance unit applies for general assistance for the same month for which general assistance has

Approved by Revisor _____

been terminated, the interruption in eligibility is less than one payment month, and the general assistance payment for the immediately preceding month was determined retrospectively; or

(2) a person applies to be added to an assistance unit, that assistance unit has received general assistance for at least two preceding months, and that person has been receiving general assistance for at least two months as a member of another assistance unit.

B. Income received in the budget month by an assistance unit and by a filing unit member who is not included in the assistance unit must be applied against the standard of assistance to determine the assistance payment to be issued for the payment month, except as provided in subitems (1) to (4).

(1) When a source of income ends before the third payment month, that income is not considered in calculation of the assistance payment for the third payment month. When a source of income ends before the fourth payment month, that income is not considered when determining the assistance payment for the fourth payment month.

(2) When a member of a filing unit leaves the household of the assistance unit, the income of that member is not budgeted retrospectively for any full payment month in which that household member does not live with that household and is not included in the filing unit.

(3) When a child is removed from an assistance unit because the child is no longer a dependent, the income of that child is not budgeted retrospectively for payment months in which that child is not included in the assistance unit.

(4) When a person ceases to have financial responsibility for one or more members of an assistance unit, the income of that person is not budgeted retrospectively for the payment months which follow the month in which financial responsibility ends.

Subp. 3. **Recoupment of overpayments.** When a recipient receives an overpayment, the overpayment must be recouped or recovered under the conditions of this part even when the

Approved by Revisor _____

overpayment is due to agency error or to other circumstances outside the person's responsibility or control, according to items A to C.

A. When a county agency discovers that a person has received an overpayment for one or more months, the county agency shall notify that person of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the person's right to appeal recoupment of the overpayment.

B. When an assistance unit is eligible for assistance, the county agency shall recoup an overpayment by reducing one or more monthly assistance payments until the overpayment is repaid. The amount of repayment deducted from a monthly assistance payment shall be three percent of the assistance unit standard of assistance for the payment month.

C. A county agency shall not initiate efforts to recover overpayments from a person no longer on assistance unless the amount of overpayment is greater than $35 or overpayment was due to fraud.

Subp. 4. **Correction of underpayments.** A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment or by issuing a separate payment to a current recipient. When an underpayment occurs in a payment month specified in subpart 1, and is not identified until the next payment month or later, that underpayment must first be subtracted from any overpayment balance before issuing the corrective payment. An underpayment for a current payment month must not be applied against an overpayment balance and payment must be issued within seven calendar days after the underpayment is identified.

Subp. 5. **Prohibition against use of general assistance grant to recover overpayment from other maintenance programs.** Subparts 3 and 4 apply only to overpayments or

Approved by Revisor _____

underpayments of assistance from the general assistance program. A county agency may not recover an overpayment by another maintenance benefit program from a general assistance grant.

9500.1245 APPLICANT AND RECIPIENT RESPONSIBILITIES.

Subpart 1. **Applicant reporting requirements.** An applicant shall provide information about circumstances that affect the applicant's program eligibility or the assistance payment. The applicant shall provide the information on an application form and supplemental forms. An applicant shall report any changes in those circumstances under subpart 5 while the application is pending.

Subp. 2. **Responsibility to inquire.** An applicant or recipient who does not know or who is unsure whether a change in circumstances will affect program eligibility or assistance payments shall contact the county agency for information about whether or not to report the change.

Subp. 3. **Household report forms.** An assistance unit with a member who has earned income or a recent work history, and an assistance unit that has income allocated to it from a filing unit member who has earned income or a recent work history, shall complete a monthly household report form. "Recent work history" means the individual received earned income in any one of the three calendar months preceding the current payment month. To be complete, a household report form must be signed and dated no earlier than the last day of the reporting period. All questions required to determine assistance payment eligibility must be answered and documentation of earned income must be included. A recipient shall submit the household report form by the eighth calendar day of the month following the reporting period covered by the form, or, if the eighth calendar day of the month falls on a weekend or holiday, by the first working day that follows the eighth calendar day. Delays in submitting the completed household report form may delay an assistance payment in the month following the month in which the

Approved
by Revisor _____

form is due.

Subp. 4. **Late household report forms.** When a household report form is late or incomplete, items A, B, or C apply.

A. When a complete household report form is not received by a county agency before the last ten days of the month in which the form is due, the county agency shall send notice of proposed termination of assistance. When a recipient submits an incomplete form on or after the date the notice of proposed termination has been sent, the termination is valid unless the recipient submits a complete form before the end of the month.

B. When a recipient submits an incomplete household report form before the last ten days of the month in which it is due, a county agency's ten-day notice of termination of assistance for failure to provide a complete household report form is invalid unless the county agency has returned the incomplete form on or before the ten-day notice deadline.

C. If a complete household report form is received by the county agency within a calendar month after the month in which assistance was received, an assistance unit required to submit a household report form is considered to have continued its application for assistance effective the date the required report is received by the county agency. However, no assistance shall be paid for the period beginning with the first day of the month after the month in which the report was due and ending with the date the report was received by the county agency.

Subp. 5. **Changes which must be reported.** Recipients shall report the changes or anticipated changes specified in items A to K within ten days after the date they occur, within ten days after the date the recipient learns that the change will occur, at the time of the periodic redetermination under subpart 6, or within eight calendar days after a reporting period as in subpart 3, whichever occurs first. A recipient shall report other changes at the time of the periodic redetermination of eligibility under subpart 6 or at the end of a reporting period under subpart 3 as applicable. A recipient shall make these

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by Revisor _____

reports in writing or in person to the county agency. Changes in circumstances which must be reported within ten days must also be reported on the household report form for the reporting period in which those changes occurred. Within ten days, a recipient must report changes in:

A. initial employment;

B. the initial receipt of unearned income;

C. a recurring change of more than $50 per month of net earned or unearned income;

D. the receipt of a lump sum;

E. an increase in resources;

F. a change in the physical or mental status of a recipient who is exempt from work readiness registration due to the physical or mental condition;

G. the marriage or divorce of an assistance unit member;

H. a change in the household composition including departures from and returns to the home of filing unit members, or the birth or death of a member of the filing unit;

I. a change in the address or living quarters of an assistance unit;

J. the sale, purchase, or other transfer of property; and

K. a change in school attendance of a child over 15 years of age or an adult member of an assistance unit.

Subp. 6. **Redetermination of eligibility.** Except as provided in items A to C, a county agency must redetermine eligibility of a recipient once each year. A recipient must complete forms prescribed by the commissioner and required for redetermination of eligibility.

A. A county agency that has opted to provide assistance on a weekly basis to persons without a verified residence address may redetermine eligibility each week. In redetermining eligibility, the county agency must use the form in part 9500.1237, subpart 4, item D, subitem (2). The form must include a claim of need by the recipient.

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by Revisor _____

B. A county agency must redetermine eligibility when a recipient who has been disqualified from receiving cash assistance due to noncompliance with a program provision requests assistance after the expiration of the disqualification period.

C. A county agency may redetermine the eligibility of a recipient when a change that affects program eligibility is reported to the county agency.

Subp. 7. **Other maintenance benefits.** An applicant or recipient must apply, according to part 9500.1254, for other maintenance benefits that the county agency has determined the applicant or recipient is potentially eligible for. An applicant or recipient who fails or refuses to take the actions specified by the county agency according to part 9500.1254 must be terminated from general assistance and remains ineligible for assistance until the applicant or recipient takes the actions specified by the county agency under this subpart.

Subp. 8. **Work readiness program.** Any applicant or recipient who is not exempt from work readiness under part 9500.1251 must participate in the work readiness program under part 9500.1259, according to items A and B.

A. A mandatory work readiness participant meets the work readiness participation requirements if the mandatory participant:

(1) cooperates with the county agency in all aspects of the work readiness program;

(2) accepts any suitable employment, including employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other employment and training options;

(3) does not voluntarily quit or refuse suitable employment without good cause; and

(4) participates in work readiness activities assigned by the county agency, including completing the specific tasks or assigned duties that were identified by the county agency in the notice required under part 9500.1259, subpart 1,

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item E, subitem (1).

B. Mandatory participants who fail, without good cause, to meet the work readiness participation requirements shall be terminated from assistance and disqualified from work readiness according to subitems (1) and (2).

(1) For the first instance of noncompliance, without good cause, in a six-month period beginning with the completion of the work readiness orientation, the county agency shall notify the participant of the particular action or actions that the participant must take, by a date certain, to achieve compliance and avoid termination of assistance. A mandatory participant's failure to take the required actions by the specified date will result in the removal, both prospectively and retrospectively, of that individual's needs from the calculation of a grant for the assistance unit. The period of disqualification for those persons is one month.

(2) For any subsequent instance of noncompliance, without good cause, in a six-month period beginning with the date of any previous instance, the mandatory participant may not take corrective action to avoid removal from assistance and disqualification. If the effective date of a termination under this subitem is within six months of the end of a previous disqualification, the period of disqualification is two months.

Subp. 9. **Persons exempt from work readiness, voluntary participation.** An applicant or recipient of general assistance who is exempt from mandatory participation in work readiness may volunteer to participate in work readiness.

9500.1248 DETERMINATION OF COUNTY OF FINANCIAL RESPONSIBILITY.

Subpart 1. and 2. [See Repealer.]

Subp. 3. **Determination of county of financial responsibility.** The county of financial responsibility shall be determined according to Minnesota Statutes, chapter 256G.

9500.1250 LOCAL AGENCY REPORTS.

The ~~local~~ county agencies shall collect and report information necessary to administer, monitor, and evaluate the

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general assistance program, including work requirements ~~and the MEED program. The local agency shall enter information on all general assistance applicants and recipients in the welfare information system on the schedules established by the department. In addition, the local agency shall enter and maintain information on the case information file or supply supplemental information as needed to:~~

~~A. minimize the occasions on which similar information is obtained from applicants and recipients;~~

~~B. improve coordination of services to recipients;~~

~~C. minimize the possibility of duplicate payments;~~

~~D. report to the legislature on general assistance recipients' participation in the MEED program.~~

9500.1251 WORK READINESS REQUIREMENT AND EXEMPTIONS.

Subpart 1. **Work readiness participation required.** To receive a grant of general assistance, an individual must be a registrant with the work readiness program or must be exempt from registration by the county under subpart 2. A "registrant" is an individual, otherwise eligible for assistance, whose exemption status under subpart 2 has been assessed by the county agency and who does not qualify for an exemption, or who has qualified for an exemption and has voluntarily requested to participate in the work readiness program. Individuals otherwise exempt under subpart 2, items F and G, but who have not signed an interim assistance authorization agreement, shall not be allowed to register for work readiness and therefore cannot receive a grant.

Subp. 2. **Exemption from work readiness.** An applicant or recipient is exempt from work readiness requirements if:

A. The applicant or recipient suffers from a permanent or temporary injury, or incapacity that is medically certified and that prevents the applicant or recipient from obtaining or retaining suitable employment for at least 30 days and, if a rehabilitation plan is specified in the medical certification, the applicant or recipient is following the

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rehabilitation plan. An applicant or recipient is exempt under this item only for the period of illness, injury, or incapacity.

B. The applicant or recipient is needed at home on a substantially continuous basis because a member of the applicant's or recipient's household requires care due to age, or a medically certified illness, injury, or incapacity. The medical certification of illness, injury, or incapacity must state that the individual requiring care is unable to care for himself or herself. The applicant or recipient must verify that no other household member is able to provide the care.

C. The applicant or recipient is residing in a facility licensed under Minnesota Statutes, chapter 245A, and certified under Minnesota Statutes, chapter 144, for purposes of physical or mental health rehabilitation or a chemical dependency domiciliary facility. Residence in the facility must be due to illness or incapacity and must be based on a plan developed or approved by the director of the county agency.

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

E. The applicant or recipient does not meet the condition in item A or C but is diagnosed by a qualified professional as having mental retardation or mental illness and that condition prevents the applicant or recipient from obtaining or retaining employment.

F. The applicant or recipient has an application pending for the social security disability program or the supplemental security income program and the applicant or recipient has signed an interim assistance authorization agreement. An applicant or recipient whose previous application for social security benefits was based solely on a condition other than chemical dependency or mental illness who does not appeal a denial by the social security administration is only exempt under this item if the new application is made for social security benefits based on a different disability or a new application is made that alleges new or aggravated symptoms of

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by Revisor _____

the original disability.

G. The applicant or recipient has appealed the denial of an application for social security disability or SSI benefits or the termination of social security disability benefits or SSI benefits and the appeal is pending. The applicant or recipient must produce medical evidence in support of an appeal of a denied application within 60 days of the initial denial or termination. An applicant or recipient of general assistance under this item must sign an interim assistance authorization agreement. A county agency shall not approve a new application for a recipient whose general assistance has been terminated for failure to provide medical evidence in support of the appeal of an application denied by social security until such medical evidence is produced.

H. The applicant or recipient is unable to obtain or retain employment due to advanced age as defined in part 9500.1206, subpart 3.

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

J. The applicant or recipient is under the age of 19 and is a full-time student in a secondary institution.

K. The applicant or recipient is under the age of 16.

L. The applicant or recipient is in the last trimester of pregnancy.

M. The applicant shows circumstances that indicate the need for general assistance will not exceed 30 days because of impending employment, an impending move to another state, or

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anticipated income, provided that the applicant has not received general assistance under that condition for at least 60 days.

N. The applicant or recipient is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day.

O. The applicant's or recipient's homestead is more than two hours round-trip from any potential suitable employment, exclusive of time needed to transport the applicant's or recipient's children to and from child care.

P. The recipient or applicant is a parent, who is not otherwise exempt, in an assistance unit which contains a child under the age of six if there is no suitable child care available at no cost to the family which is not reimbursed, or greater than the disregard provided by part 9500.1235, item B. If there are two parents in an assistance unit who are not otherwise exempt under this subpart, the parent who is not the principle wage earner as defined in part 9500.1206, subpart 26a, is exempt. If, in a two-parent assistance unit, there are no earnings, or if the earnings of both parents are the same, the applicant must designate the principal wage earner, and that designation must not change as long as assistance continues without interruption. "Suitable child care at no cost to the family," as described above, can include a parent in the filing unit who is not in the assistance unit so long as that parent is not a current participant in an AFDC work program or is not otherwise available for child care.

Q. The applicant or recipient, not otherwise exempt under items A to P, has been assessed by a qualified professional or vocational specialist as not being likely to obtain permanent employment and:

(1) the applicant or recipient has been referred to, and is participating in, an accredited remedial or skills training program designed to address barriers to the person's employment; or

(2) the applicant or recipient has been referred to, and has applied for, another maintenance benefit for which

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the applicant or recipient is potentially eligible.

Subp. 3. **Assessment of exemption status.** The assessment by the qualified professional or vocational specialist must consider the person's age, physical and mental health, education, trainability, prior work experience, and local market.

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

Subpart 1. **Screening requirement.** The ~~local~~ county agency must determine the potential eligibility of each general assistance applicant or recipient for other maintenance benefits as follows:

A. The ~~local~~ county agency must determine an applicant's potential eligibility for other maintenance benefits when application for general assistance is made.

B. The ~~local~~ county agency must determine a recipient's potential eligibility for other maintenance benefits at the recipient's semiannual redetermination of eligibility for general assistance. The ~~local~~ county agency must also determine a recipient's potential eligibility for other maintenance benefits whenever it determines that changes in the recipient's circumstances, including eligibility for medical assistance, indicate potential eligibility for other maintenance benefits.

C. If the ~~local~~ county agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the ~~local~~ county agency must document its determination on forms prescribed by the commissioner and must retain the forms in the ~~local~~ county agency case record for the applicant or recipient.

Subp. 2. **Informing and referral requirement.** When the ~~local~~ county agency determines that the applicant or recipient is potentially eligible for other maintenance benefits, the ~~local~~ county agency shall refer the applicant or recipient to the other maintenance benefit program on a form prescribed by the commissioner by informing the applicant or recipient orally and in writing of the following:

A. that the applicant or recipient must apply for the

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other maintenance benefit program, ~~in accordance with~~ according to subpart 4, item A;

B. that the applicant or recipient must execute an interim assistance authorization agreement, ~~in accordance with~~ according to subpart 4, item D;

C. that the applicant or recipient must comply with all procedures necessary to determine ~~his or her~~ eligibility or ineligibility for the other maintenance benefits ~~in accordance with~~ according to subpart 4, item C;

D. that the applicant or recipient must authorize the ~~local~~ county agency and the qualified provider, when one is chosen, to exchange relevant data concerning the applicant's or recipient's eligibility with the other maintenance benefit program office, ~~in accordance with~~ according to subpart 4, item B;

E. the estimated amount of benefits the applicant or recipient may be eligible to receive under the other maintenance benefit program, if known;

F. the address at which the applicant or recipient shall apply for the other maintenance benefit program;

G. general instructions regarding how to apply for the other maintenance benefit program;

H. that the applicant or recipient may elect to receive special services to assist ~~him or her~~ in applying for SSI benefits, ~~in accordance with~~ according to part 9500.1256, subpart 1, and that the applicant or recipient has a right to choose to receive special services from a qualified provider;

I. notice of the actions which the ~~local~~ county agency must take, ~~in accordance with~~ according to subpart 5, if the applicant or recipient fails to comply with the requirements under subpart 4, items A to D; and

J. notice of the applicant's or recipient's right to appeal a determination of ineligibility for general assistance due to noncompliance with subpart 4, items A to D.

Subp. 3. **Special referral provisions.** When the ~~local~~ county agency determines that the applicant or recipient is

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potentially eligible for another maintenance benefit program, the ~~local~~ county agency shall refer the applicant or recipient to a chosen qualified provider and the other maintenance benefit program ~~in accordance with~~ according to items A and B:

A. If the applicant or recipient is determined to be potentially eligible for maintenance benefits from SSI, the ~~local~~ county agency shall:

(1) offer to provide special services to the applicant or recipient ~~in accordance with~~ according to part 9500.1256, subpart 1, to assist ~~him or her~~ in applying for and obtaining SSI;

(2) furnish the applicant or recipient with a list of qualified providers with whom the ~~local~~ county agency has contracted to provide special services to applicants or recipients or who have asked to be included on the list;

(3) notify the Social Security Administration's local office of the applicant's or recipient's potential eligibility for SSI on the date of referral so that the earliest potential date of eligibility for SSI can be established; and

(4) if the applicant or recipient elects at any time to receive the special services specified in part 9500.1256, subpart 1, from a qualified provider other than the ~~local~~ county agency, the ~~local~~ county agency shall refer the applicant or recipient to the chosen provider. If the ~~local~~ county agency has not contracted with the chosen provider, the ~~local~~ county agency must enter into a contract with that qualified provider to provide special services to applicants or recipients who apply for SSI benefits.

B. If the ~~local~~ county agency determines that an applicant or recipient is potentially eligible for another maintenance benefit program, and the applicant or recipient has previously applied for and been found ineligible for that other maintenance benefit program, ~~he or she~~ the applicant or recipient shall not be required to appeal from that decision or to reapply for that other maintenance benefit program unless one of the following conditions is met:

Approved by Revisor _____

(1) the ~~local~~ county agency determines that the applicant's or recipient's health or circumstances have changed and the change may result in eligibility for that other maintenance benefit program; or

(2) the eligibility requirements or procedures of the other maintenance benefit program have changed and the change may result in the applicant or recipient being found eligible for that other maintenance benefit program.

Subp. 4. **Requirements upon referral for other maintenance benefits.** When the ~~local~~ county agency refers an applicant or recipient to another maintenance benefit program as provided under subpart 2, the applicant or recipient shall do the following:

A. The applicant or recipient shall apply for those benefits within 30 days of the date of referral. If the recipient has not provided the ~~local~~ county agency with verification of ~~his-or-her~~ an application for those benefits within 30 days of the date of referral, the ~~local~~ county agency must contact the other maintenance benefit program ~~local~~ county office to determine if the recipient has applied for benefits. If the ~~local~~ county office of the other maintenance benefit program verifies that the recipient has applied for those benefits, the recipient shall be deemed to have met the requirement of applying for other maintenance benefits. If the ~~local~~ county office of the other maintenance benefit program verifies that the recipient has not applied for those benefits, the local agency shall mail or give the recipient notice of termination from general assistance ~~in-accordance-with~~ according to subpart 5.

B. The applicant or recipient shall, within 30 days of the date of referral, provide ~~his-or-her~~ informed written consent and authorization for the ~~local~~ county agency or a qualified provider, if one is chosen, to exchange data concerning the applicant or recipient with the other maintenance benefit program ~~local~~ county office. The data exchanged must be relevant to a determination of the applicant's or recipient's

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eligibility or ineligibility for benefits from the other program.

For purposes of exchanging private or confidential data about a person for whom a qualified provider has contracted to provide special services, a qualified provider other than the ~~local~~ county agency shall not be considered part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1.

If the ~~local~~ county agency determines that the recipient has not given informed written consent and authorization for the ~~local~~ county agency or a qualified provider to exchange data concerning ~~his-or-her~~ eligibility or ineligibility for the other maintenance benefit program within the prescribed 30 days, the ~~local~~ county agency shall mail or give the recipient notice of termination from general assistance ~~in-accordance-with~~ according to subpart 5.

C. A recipient shall comply with all procedures necessary to determine ~~his-or-her~~ eligibility or ineligibility for the other maintenance benefit program.

If the ~~local~~ county agency determines that the recipient has not complied with the procedures necessary to determine ~~his or-her~~ eligibility or ineligibility for other maintenance benefits, the ~~local~~ county agency shall mail or give the recipient notice of termination from general assistance ~~in accordance-with~~ according to subpart 5.

D. An applicant or recipient shall execute an interim assistance authorization agreement with the ~~local~~ county agency within 30 days of the date of referral.

If the recipient fails to execute an interim assistance authorization agreement within the 30 days prescribed, the ~~local~~ county agency shall mail or give the recipient notice of termination from general assistance ~~in-accordance-with~~ according to subpart 5.

Subp. 5. **Ineligibility.** This subpart governs termination of general assistance eligibility for a recipient who fails, without good cause, to comply with the requirements of subpart 4.

A. Upon determining that a recipient has failed, without good cause, to comply with the requirements of subpart

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4~~,-items-A-to-D,~~ the ~~local~~ county agency shall mail or give the recipient notification of termination from general assistance. The ~~local~~ county agency shall hand deliver or mail the written notice to the recipient at least 30 days before reducing, suspending, or terminating the recipient's monthly general assistance payment. The notice must be on a form prescribed by the commissioner and must:

(1) list the requirements with which the ~~local~~ county agency believes the recipient has not complied and inform the recipient that ~~he-or-she~~ the recipient must comply with the requirements to avoid or end a period of ineligibility;

(2) inform the recipient that ~~he-or-she~~ the recipient will be terminated from general assistance if the recipient fails to comply with the listed requirements, specify the date that the recipient's general assistance will be terminated if ~~he-or-she~~ the recipient does not comply, and explain the recipient's right to appeal the action ~~in-accordance with~~ according to subpart 6;

(3) offer assistance to resolve the circumstances or concerns which prevent the recipient from complying with the requirements of subpart 4; and

(4) inform the recipient of the continued availability of special services provided under part 9500.1256, subpart 1.

B. If the recipient complies with the requirements specified in the notice in item A ~~prior-to~~ before the termination date stated in the notice, a period of ineligibility must not be imposed.

C. A recipient who fails to comply with the requirements specified in the notice in item A ~~prior-to~~ before the termination date stated in the notice is ineligible for general assistance. The period of ineligibility begins on the date specified in the notice and continues until the person fulfills the requirements of subpart 4. The period of ineligibility always begins on the first day of a calendar month. If the ineligible person subsequently applies for

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by Revisor _____

general assistance, the application must be denied unless the requirements of subpart 4 have been met.

D. If the person is determined to be ineligible under item C, the assistance standard applicable to the person's assistance unit must be based on the number of remaining eligible members of the assistance unit.

Subp. 6. **Appeals.** A recipient to whom the ~~local~~ county agency has given or mailed a notice of termination ~~in accordance with~~ according to subpart 5 may appeal the determination by submitting a written request for a hearing ~~in accordance with~~ according to Minnesota Statutes, section 256.045. If the recipient files a written request for an appeal on or before the first day of the period of ineligibility under subpart 5, item C, the recipient shall continue to receive general assistance while the appeal is pending, provided that the recipient is otherwise eligible for general assistance.

Subp. 7. **Reimbursement for interim assistance.** A ~~local~~ county agency must seek reimbursement for the interim assistance provided to a person who has executed an interim assistance authorization agreement under subpart 4, item D, when the person receives a retroactive payment ~~from the~~ of other maintenance ~~benefit program~~ benefits unless reimbursement is prohibited under federal or state law. Reimbursement for interim assistance and special services provided to an SSI applicant or recipient is governed by part 9500.1256, subpart 2.

The ~~local~~ county agency must request reimbursement for interim assistance from the person receiving other retroactive maintenance benefits, except for SSI, or in those instances where the state or county agency has rights of subrogation under Minnesota Statutes, section 256.03. If a request for reimbursement under this subpart is denied, the ~~local~~ county agency may institute a civil action to recover the interim assistance based on the interim assistance authorization agreement. The ~~local~~ county agency must take no action other than a civil action to recover the interim assistance. ~~From the interim assistance recovered, the local agency may retain 25~~

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~~percent as reimbursement for the county's share of the interim assistance provided, and must credit the balance to the state as an advance payment to the local agency for the state's share of the next month's general assistance grants.~~

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

Subpart 1. **Special services.** A recipient who is referred to SSI ~~in accordance with~~ according to part 9500.1254, subparts 2 and 3, item B, may elect to receive special services to assist ~~him or her~~ the recipient in obtaining SSI benefits. Special services for which reimbursement for fees, costs, or disbursements may be claimed under subpart 2 or 3 are limited to the following:

A. explaining to or counseling the applicant or recipient about the application procedures and benefits available through the SSI program;

B. assisting the applicant or recipient in completing the application for SSI and arranging appointments related to application for SSI;

C. assisting the applicant or recipient in assessing his or her disability in relation to SSI eligibility, and identifying probable issues that may arise during the SSI eligibility determination process;

D. providing the applicant or recipient with medical or vocational evidence, social history, or expert testimony currently available to substantiate the presence and severity of the applicant's or recipient's blindness or disability;

E. assisting the applicant or recipient in obtaining and using medical or vocational evidence, social history, or expert testimony and in cooperating with the Social Security Administration and its agents, procedures, and requirements;

F. assisting the applicant or recipient with necessary transportation;

G. preparing for and representing the applicant or recipient at interviews, hearings, or appeals related to application for SSI or appeal of the Social Security

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Administration's determination of ineligibility for SSI;

H. the ~~local~~ county agency's preparation of a contractual agreement with a qualified provider chosen by the applicant or recipient; and

I. providing other services to assist the applicant or recipient to establish eligibility for SSI benefits.

Subp. 2. **Reimbursement for interim assistance and special services.** A ~~local~~ county agency must be reimbursed for providing interim assistance and special services to an SSI applicant or recipient in the following manner:

A. Upon receiving the initial SSI payment for a person who has executed an interim assistance authorization agreement as specified in part 9500.1254, subpart 4, item D, the ~~local~~ county agency may recover the amount of interim assistance provided. After recovering the interim assistance from the initial SSI payment, the ~~local~~ county agency shall pay the remainder to the person or to a representative payee identified by the Social Security Administration within ten days of receiving the initial SSI payment. From the amount of interim assistance recovered, the ~~local~~ county agency:

(1) shall retain ~~25-percent-as-reimbursement-for~~ the county's share of the interim assistance provided;

(2) may retain, subject to ~~the-provisions-of~~ subpart 3, item E, ~~an-additional~~ 25 percent as an advocacy incentive for providing the special services specified in subpart 1, items A to D; and

(3) may retain from the ~~remaining-50 percent~~ remainder, subject to ~~the-provisions-of~~ subpart 3, item E, reimbursement for actual reasonable fees, costs, and disbursements related to appeals and litigation and provision of special services under subpart 1.

B. The ~~local~~ county agency may not seek reimbursement from the applicant or recipient for the fees, costs, or disbursements of providing special services except as provided in item A.

C. The balance of the amount of interim assistance

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that is not retained by the ~~local~~ county agency pursuant to item A or paid to another qualified provider under subpart 3 must be credited to the state as an advance payment to the ~~local~~ county agency for the state's share of the next month's general assistance grants.

D. The ~~local~~ county agency must document the fees, costs, and disbursements which it incurs in providing the special services to claim reimbursement. The ~~local~~ county agency shall be reimbursed under item A, subitem (3), only for the direct costs of providing special services.

Subp. 3. **Reimbursement to qualified providers under contract with the ~~local~~ county agency to provide special services.** Qualified providers under contract with the ~~local~~ county agency to provide special services to general assistance applicants or recipients shall be reimbursed from the amount of interim assistance recovered by the ~~local~~ county agency under subpart 2 in the following manner:

A. To receive reimbursement for the fees, costs, and disbursements related to appeals and litigation and the provision of special services as provided in subpart 1, the qualified provider shall enter into a contract with the ~~local~~ county and provide one or more of the special services specified in subpart 1.

The contract must be on a form prescribed by the commissioner except that the ~~local~~ county agency may add to or modify the form without changing the substance of the contract in order to meet standard contracting procedures established by the county board.

B. The ~~local~~ county agency must reimburse a qualified provider under contract with the ~~local~~ county agency for the provider's reasonable actual fees, costs, and disbursements, including medical reports and expert testimony related to appeals, litigation, and providing special services to an applicant or recipient ~~in accordance with~~ according to the following:

(1) a qualified provider shall not be reimbursed

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by the ~~local~~ county agency for any fees, costs, or disbursements unless the applicant or recipient has requested the services, the ~~local~~ county agency has referred the applicant or recipient to the qualified provider, and the ~~local~~ county agency has received the initial SSI payment for the recipient served;

(2) the qualified provider shall be reimbursed by the ~~local~~ county agency for fees related to the provision of special services at the rate determined by the qualified provider, but not to exceed $75 per hour of service; and

(3) when a qualified provider requests reimbursement from the ~~local~~ county agency for fees, costs, or disbursements related to services provided, the qualified provider shall document the total number of hours of services provided to the applicant or recipient and provide a record of its costs and disbursements.

C. A qualified provider under contract to provide special services must comply with the following:

(1) a qualified provider shall not require prepayment of any fees, costs, or disbursements from the applicant or recipient; and

(2) a qualified provider shall not seek reimbursement from the applicant or recipient for fees related to the provision of special services. If a qualified provider intends to seek reimbursement for costs and disbursements from an applicant or recipient in the event the applicant or recipient is determined to be ineligible for SSI and the qualified provider therefore will not be fully reimbursed by the ~~local~~ county agency, the qualified provider must so inform the applicant or recipient and obtain the applicant's or recipient's written consent ~~prior to~~ before providing the special services. The qualified provider must also inform the applicant or recipient that he or she may receive the special services from the ~~local~~ county agency without cost to the applicant or recipient.

D. The total reimbursement for special services made by the ~~local~~ county agency to all qualified providers must not

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by Revisor _____

exceed the amount of interim assistance retained by the ~~local~~ county agency as specified in subpart 2, item A, subitems (2) and (3), unless the excess is expressly authorized by the ~~local~~ county agency and paid for exclusively with ~~local~~ county agency funds.

E. If more than one qualified provider provides special services to an applicant or recipient, and the amount of interim assistance retained by the ~~local~~ county agency will not fully reimburse all qualified providers, the reimbursement to each qualified provider for fees, costs, and disbursements shall be calculated by multiplying the total amount of funds available to the ~~local~~ county agency as specified in subpart 2, item A, subitems (2) and (3), including any excess funds authorized by the ~~local~~ county agency under item D, by the qualified provider's reimbursement percentage. The qualified provider's reimbursement percentage shall be determined by dividing the number of hours spent by each qualified provider who provided special services by the total number of hours spent by the ~~local~~ county agency and all other qualified providers under contract with the ~~local~~ county agency who have provided special services to the applicant or recipient.

F. If the ~~local~~ county agency and one or more other qualified providers provide special services to an applicant or recipient, and the amount of interim assistance recovered by the ~~local~~ county agency under subpart 2, item A, subitems (2) and (3), exceeds the amount necessary to fully reimburse the qualified providers for fees, costs, and disbursements, the ~~local~~ county agency may retain the excess to the extent allowed under subpart 2, item A, subitem (2).

G. The ~~local~~ county agency shall reimburse a qualified provider for fees, costs, and disbursements for special services provided during the six-month period before the applicant or recipient was referred to the qualified provider, unless general contracting procedures of the particular county prohibit this payment. The provider's fees, costs, or disbursements for special services provided before the person's

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by Revisor _____

application for general assistance may be reimbursed only if funds remain after reimbursement for special services provided to the person after the person made application for general assistance.

H. The ~~local~~ county agency and another qualified provider may contract to jointly provide the special services specified in subpart 1.

Subp. 4. **Termination of special services and contracts.** Special services and contracts must be terminated in the following manner:

A. If an applicant or recipient requests in writing that the ~~local~~ county agency terminate the special services agreement with a qualified provider, the special services agreement for that applicant or recipient must be terminated, and the ~~local~~ county agency shall mail written notice of the termination to the qualified provider. The notice must include a copy of the applicant's or recipient's written request for termination of the special services agreement. Termination of the agreement is effective three days after the date when the notice is mailed. The qualified provider shall not be reimbursed for fees, costs, or disbursements for special services provided to an applicant or recipient after the effective date of termination.

B. If a qualified provider decides to stop providing special services to an applicant or recipient, the qualified provider shall give or mail the following information to the applicant or recipient and, if the qualified provider is not the ~~local~~ county agency, to the ~~local~~ county agency:

(1) the status of the applicant's or recipient's application for SSI benefits;

(2) any deadlines that must be met regarding the applicant's or recipient's application for SSI benefits;

(3) the right of the applicant or recipient to choose another qualified provider, and the ~~local~~ county agency's obligation to enter into a contract with a new qualified provider to provide the special services specified if the

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applicant or recipient chooses a qualified provider other than the ~~local~~ county agency; and

(4) that a list of qualified providers may be obtained from the ~~local~~ county agency.

Termination of the contract is effective three days after the date the provider gives or mails the information required in subitems (1) to (4) to the client.

C. If a qualified provider fails to perform all or part of the terms of the contract with the ~~local~~ county agency, the ~~local~~ county agency may terminate the contract with the provider. The ~~local~~ county agency shall terminate the contract and mail written notice to the qualified provider and to the recipients served by the qualified provider. The notice must specify the ~~local~~ county agency's grounds for terminating the contract. Termination of the contract is effective three days after the notice is mailed to the qualified provider. The ~~local~~ county agency shall also give the recipient a list of other qualified providers who have contracted with the ~~local~~ county agency to provide the special services specified in subpart 1 or who have asked to be included on the list. The qualified provider shall not be reimbursed for fees, costs, or disbursements related to special services provided after the effective date of termination.

9500.1259 COUNTY AGENCY RESPONSIBILITIES.

Subpart 1. **Work readiness program.** The county agency must provide a work readiness program for mandatory and voluntary participants according to items A to F.

A. The county agency's work readiness program must include an orientation to the work readiness program which must be offered at least monthly.

B. The county agency must assess each participant's literacy; ability to communicate in the English language; eligibility for displaced homemaker services under Minnesota Statutes, section 268.96; educational history; occupational assets; barriers to employment; and exemption status from work

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readiness participation. When assessing a participant's literacy, the county agency must determine whether the participant is functionally illiterate. For the purpose of this item, "functionally illiterate" means the participant is unable to read at or above the eighth grade level. A county agency shall determine if the participant is functionally illiterate according to subitems (1) and (2).

(1) The county agency may determine that the participant is functionally illiterate based on personal observations or information in the participant's case file.

(2) If the participant is not determined to be functionally illiterate as provided in subitem (1), but the county agency believes that the participant may be functionally illiterate, or if the participant asserts or presents evidence that the participant may be functionally illiterate, the county agency shall offer the participant an opportunity to take a standardized literacy test approved by the commissioner. The test must be offered in the county at no expense to the participant. The county agency shall either administer the test or make arrangements for the test. If the participant attains a score lower than the eighth grade, the participant shall be considered functionally illiterate.

C. The county agency must prepare an employability development plan for each participant in work readiness. The employability development plan must address the participant's barriers to employment; estimate the length of time it will take for the participant to obtain employment; and specify steps necessary for the participant to overcome any barriers to employment identified in item B. Barriers to employment shall be addressed in the following order:

(1) A participant who is assessed by an English as a second language specialist, vocational specialist, or the county agency as being unable to communicate in the English language must participate in an English language program, if available.

(2) A participant who is determined to be

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functionally illiterate under item B must participate in an occupational or vocational literacy program, if available.

(3) A participant who has not completed secondary education must participate in a secondary school program or GED program, if available and appropriate.

(4) A participant who has none of the barriers specified in subitems (1) to (3) but who has no work experience must participate in job seeking skills training and a job search program.

(5) A participant who has none of the barriers specified in subitems (1) to (3) and who has a work history must participate in a job search program.

The employability development plan may include referral to available training programs and work experience programs designed to prepare the participant for permanent employment or to education and training activities. The employability development plan must address the participant's barriers to employment, and may, in addition, require the participant to engage in job search or other work readiness activities so long as the combination of requirements does not exceed 32 hours per week or place any requirement upon a participant that interferes with employment which the county agency has determined can lead to self-sufficiency.

D. For those participants who are considered to be functionally illiterate under item B, the county agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of the participant;

(2) assign suitable participants to openings in occupational and vocational literacy programs;

(3) if no openings are available in occupational or vocational literacy programs, assign suitable participants to openings in literacy training programs;

(4) reassign to another literacy program any participant who does not complete an assigned program and who wishes to try another program;

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(5) within the limits of funds available, contract with technical institutes or other groups who have literacy instructors trained in occupational literacy methods to provide literacy training sessions so that eligible participants will have the opportunity to attend training;

(6) provide transportation to enable participants to participate in literacy training. The state shall reimburse the county agency for the costs of providing this transportation; and

(7) make every effort to ensure that child care is available as needed by participants who are pursuing literacy training; however, no participant shall be disqualified for noncompliance with the literacy training requirement of work readiness if child care is not made available.

E. The county agency shall provide notices to work readiness participants as provided in subitems (1) to (6).

(1) The county agency shall provide, at the time of registration and each 30 days after that, in advance, a clear written description of the specified tasks and assigned duties the participant must complete to receive work readiness pay. The county agency shall provide notice that the participant will be terminated from the work readiness program unless the participant completes the specified tasks and assigned duties, or shows good cause for failure to do so. The county agency shall provide notice of the disqualification that will be imposed on the participant for failure to comply with part 9500.1245, subpart 8, item B.

(2) The county agency shall provide notice to a participant within three days of determination that the participant has failed to comply with work readiness requirements as specified in part 9500.1245, subpart 8, item A.

(3) For the first instance of noncompliance in a six-month period, beginning on the date of the participant's orientation or the end of the previous disqualification, whichever is later, the county agency's notice:

(a) must allow at least five working days,

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after the mailing or hand delivery of the notice, for the participant to take specific corrective action which can realistically be done before the date assistance is scheduled to be paid;

(b) must advise the participant that the participant may request and have a conference with the county agency to discuss the notice; and

(c) must advise the participant that failure to take corrective action by the effective date of the termination notice in subitem (5) will result in termination of assistance and disqualification from program eligibility for one month.

(4) For a second or subsequent instance of noncompliance within a six-month period, beginning on the date of the participant's orientation or the end of the previous disqualification, whichever is later, the county agency's notice of its determination of noncompliance:

(a) must be mailed or hand delivered to the participant before the date assistance is scheduled to be paid; and

(b) must advise the participant that the participant may request and have a conference with the county agency to discuss the notice. The applicable period of disqualification under this subitem is two months.

(5) The county agency shall mail or hand deliver notice of termination concurrently with the notice of noncompliance specified in subitems (3) and (4) only after assessing the participant's exemption status from work readiness participation under part 9500.1251, subpart 2, items A to Q, using the information contained in the recipient's case file. The notice of termination must state that the recipient is not exempt from registration and must indicate the applicable period of disqualification. The advance notice requirements of this item are the same as those of subitems (3) and (4).

(6) The county agency shall assign a schedule by which a participant who has failed to provide the agency with a

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mailing address must visit the county agency to pick up any notices. Those notices must be deemed delivered on the date of the participant's next scheduled visit to the county agency.

F. The county agency may subcontract any or all of the duties prescribed in items A to D and E, subitem (1). The contract does not relieve the county agency of its primary responsibility in the instance of a default of any provision by a subcontractor.

Subp. 2. **Appeals.** The participant may appeal a proposed termination of benefits until five days after the effective date specified in the notice and continue benefits otherwise due, pending the outcome of the appeal. Appeals from proposed terminations of benefits of participants must be heard within 30 days from the date that the appeal was filed.

Subp. 3. **Information about other programs.** A county agency must inform an applicant or recipient about other programs administered by the county agency for which, from the county agency's knowledge of the person's situation, the person may be eligible.

Subp. 4. **Notices.** The county agency shall mail or hand deliver a notice to a recipient no later than ten days before the effective date of the action except as provided in items A to C. A recipient who has failed to provide the county agency with a mailing address must be assigned a schedule by which the recipient is to visit the agency to pick up any notices. Notices will be deemed to have been delivered on the date of the recipient's next scheduled visit to the county agency.

A. A county agency shall mail a notice to a recipient no later than five days before the effective date of the action when the county agency has factual information which requires an action to reduce, suspend, or terminate assistance based on probable fraud.

B. A county agency must mail or hand deliver a notice to a recipient no later than the effective date of the action when:

(1) the county agency receives a recipient's

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by Revisor _____

household report form which includes facts that require payment reduction, suspension, or termination and which contains the recipient's signed acknowledgment that this information will be used to determine program eligibility or the assistance payment amount;

(2) the county agency verifies the death of a recipient or the payee;

(3) the county agency receives a signed statement from a recipient that assistance is no longer wanted;

(4) the county agency receives a signed statement from a recipient that provides information which requires the termination or reduction of assistance, and the recipient shows in that statement that the recipient understands the consequences of providing that information;

(5) the county agency verifies that a member of an assistance unit has been approved to receive assistance by another county or state; or

(6) the county agency cannot locate a payee's whereabouts and mail from the local agency has been returned by the post office showing that the post office has no forwarding address.

C. Whenever any provision of this subpart conflicts with any special notice requirements of another part, those special notice provisions shall prevail.

9500.1261 EMERGENCY ASSISTANCE.

Subpart 1. **Emergency assistance.** A county agency shall make grants of general assistance for emergency situations to eligible individuals, married couples, or families whether residents or nonresidents of the state. The emergency assistance grant may be in excess of the standard amounts for eligible individuals, married couples, or families under part 9500.1231.

Subp. 2. **Emergency situation.** An emergency situation is a situation in which an assistance unit is without, or will lose within 30 days after application, a basic need item as defined

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by Revisor _____

in part 9500.1206, subpart 7a.

A. The emergency situation must require immediate financial assistance.

B. The financial assistance required by the emergency must be temporary and must not exceed 30 days subsequent to the date of application. Assistance must be paid for needs that accrue before the 30-day period when it is necessary to resolve emergencies arising or continuing during the 30-day period subject to subpart 4.

Subp. 3. **Eligible persons.** Eligible individuals, married couples, or families are those:

A. who are not current recipients of AFDC, other than a one-person assistance unit consisting of a pregnant woman;

B. who are not recipients under or eligible for the program of emergency assistance under AFDC in the month of application for emergency general assistance;

C. whose resources are not adequate to resolve the emergency situation. For the purpose of this part, "resources" means any funds or services which can actually be available to the applicant or recipient or any member of the filing unit before the loss of a basic need item. Resources include available income without exclusion or disregard, and any resource otherwise excluded under part 9500.1221, subpart 2, which could be liquidated before the loss of a basic need item, so long as the terms of any borrowing cannot be reasonably expected to place the borrower in another emergency situation within three months including the month of application;

D. who have not, without good cause, used more than 50 percent of available income and liquid resources for purposes other than basic needs during the 60 days before application. This item does not apply to individuals who are chemically dependent, mentally ill, or mentally retarded; or

E. who are not in a period of disqualification from work readiness if that disqualification has caused the emergency situation unless the emergency situation directly affects other assistance unit members who are not in a period of

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disqualification.

Subp. 4. **Payment provisions.** When the county agency has determined that an applicant has an emergency situation and is eligible for emergency general assistance, the county agency must resolve the emergency in the most cost-effective manner. Resolution of the emergency situation in a cost-effective manner shall be governed by items A to H.

A. An emergency general assistance payment is not cost-effective if the applicant's anticipated income together with the grant of emergency general assistance will not be sufficient to cover the applicant's basic needs for the three-month period beginning with the month of application, and another emergency situation can reasonably be anticipated within the two months after the month of the grant of emergency general assistance.

B. When alternative solutions to the emergency situation are available, the most cost-effective solution is the solution which will require an expenditure of emergency general assistance funds which is at least 25 percent less than the emergency general assistance expenditure required to maintain the applicant or recipient in his or her current situation. The county agency has no duty to provide alternative solutions, but must have a reasonable basis to believe that alternative solutions exist. A county agency must not deny assistance because of the determination that the applicant's anticipated income will not cover continued payment of shelter and utility costs when no alternative solution is identified by either the applicant or the county agency.

C. In determining the cost-effectiveness of an emergency general assistance payment, the county agency must not consider a period of time greater than three months including the month of application for emergency general assistance.

D. When the county agency has determined that the emergency situation has resulted from the applicant's mismanagement of money, the county agency may include vendor payment of future needs as part of a cost-effective solution

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by Revisor _____

subject to review at each redetermination of eligibility.

E. Emergency grants for food must not exceed the amount the assistance unit would receive under the United States Department of Agriculture's Thrifty Food Plan.

F. Emergency grants for clothing must not exceed the cost of necessary clothing for assistance unit members considering the season of application.

G. Emergency grants for shelter, exclusive of moving expenses or deposits, must not exceed an amount equal to four times the assistance unit's monthly assistance standard.

H. Grants for emergency general assistance must be in the form of vouchers or vendor payments unless the county agency determines that a cash grant will better meet the need of the emergency situation.

Subp. 5. **Assistance for transportation.** Notwithstanding subpart 2, grants may be issued under the emergency general assistance program for an applicant's immediate need for transportation in the following situations:

A. the need for assistance will not exceed 30 days and the transportation is required to accept a bona fide offer of suitable employment; or

B. the transportation is requested by the applicant to return to a residence maintained by or for the applicant.

Subp. 6. **Excess grants, county agency payment responsibility.** A county agency may issue emergency assistance grants that exceed the limitations in subpart 4 if the county agency does not include the additional costs on its claim for state aid reimbursement.

9500.1272 ASSIGNMENT OF REPRESENTATIVE PAYEE FOR RECIPIENTS WHO ARE DRUG DEPENDENT.

[For text of subps 1 to 3, see M.R.]

Subp. 4. **Form of payment pending completion of assessment.** A county agency shall provide only emergency general assistance (EGA) or general assistance vendor payments to a client who has been referred for a chemical use assessment

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by Revisor _____

under subpart 2. EGA may be provided to clients only in emergency situations as provided in part ~~9500.1238~~ 9500.1261. All other payments made under this subpart must be general assistance vendor payments.

[For text of subps 5 to 19, see M.R.]

REPEALER. Minnesota Rules, parts 9500.1205; 9500.1206, subparts 19 and 31; 9500.1209; 9500.1210; 9500.1212; 9500.1214; 9500.1216; 9500.1217; 9500.1218; 9500.1220; 9500.1222; 9500.1224; 9500.1226, subparts 2, 3, and 4; 9500.1227; 9500.1228; 9500.1229; 9500.1230; 9500.1232, subparts 1, 2, and 3; 9500.1238; 9500.1240; 9500.1242; 9500.1246; 9500.1248, subparts 1 and 2; 9500.1252; 9500.1257; 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 are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to General Assistance

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9500

INCORPORATION BY REFERENCE:

Part 9500.1221, subpart 2: N.A.D.A. Official Used Car Guide, Midwest Edition, published monthly by National Automobile Dealers Used Car Guide Company. Available through Minitex interlibrary loan system.

The attached rules are approved for publication in the State Register

Kathleen T. Harrington
Assistant Revisor