

STATEMENT OF NEED AND REASONABLENESS governing the definition of "economically disadvantaged" in Minnesota Statutes, section 268.61, subdivision 4.

Need:

Minnesota Statutes, sections 268.60 to 268.64, authorize the use of financial assistance for comprehensive job training and related services for economically disadvantaged, unemployed, and underemployed individuals through Opportunities Industrialization Centers.

Minnesota Statutes, section 268.61, subdivision 4, requires the Commissioner of the Department of Economic Security to establish by rule the criteria for determining an economically disadvantaged person. For this reason, the Department of Economic Security needs to adopt a permanent rule defining the term "economically disadvantaged". The proposed rule will be used to determine which individuals will receive comprehensive job training and related services.

The permanent rule proposed by the Department of Economic Security is currently in effect as an emergency rule. The emergency rule was originally put into effect on September 28, 1983. It was continued in effect on March 26, 1984, and will remain in effect until September 21, 1984. Emergency rules can only be in effect for 361 days. This rule needs to be permanently adopted because the Department intends to provide financial assistance for economically disadvantaged individuals beyond the final effective date of the emergency rule, September 21, 1984.

Reasonableness:

The Department of Economic Security proposes to permanently adopt the federal definition of economically disadvantaged found in the Job Training and Partnership Act, 29 USCA §1503(8).

The five criteria used to define economically disadvantaged in 29 USCA §1503(8) are based upon economic factors. The use of economic factors is reasonable because it is consistent with the term "economically" disadvantaged.

Criteria based on social deprivation is an alternate way to measure disadvantage. Social deprivation includes physical or mental handicaps, incest, broken families, and alcohol abuse.

Since social deprivation is often the result of low economic status, income is a more reliable and reasonable indicia of disadvantage. Income is common to everyone. Economic factors are reasonable because they are easier to identify, document, and prove than factors based on social deprivation.

Economic factors are also reasonable because they can be accurately measured. Accurate measurement eliminates the chance of bias, and ensures uniform application of the requirements for financial assistance. Accurate measurement and uniform application of the requirements for financial assistance ensures fairness and consistency in program delivery. They also promote administrative efficiency.

Each of the five economic criteria used to define an individual as economically disadvantaged is based on income. An individual need only satisfy one of the five criteria to be considered economically disadvantaged.

Each criteria indicates low economic status. The term "economically disadvantaged" means an individual who:

1. receives, or is a member of a family which receives, cash welfare payments under a federal, state, or local welfare program.

FOR EXAMPLE: A person who receives payments under the Aid to Families with Dependent Children (AFDC) Program would satisfy this criteria. A person who receives payments under the AFDC Program has a low economic status as a matter of public knowledge.

2. a person who has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of the poverty level determined in accordance with criteria established by the director of the Office of Management and Budget, or 70% of the lower living standard income level;
3. a person receiving food stamps pursuant to the Food Stamp Act of 1977;
4. a foster child on behalf of whom state or local government payments are made;
5. or, in cases permitted by regulation of the Secretary of the Department of Labor, is an adult handicapped individual whose own income meets the requirements of 1. or 2., but who is a member of a family whose income does not meet those requirements.

It is self-evident that each of the above criteria indicates an individual who is poor and/or out of a job. Such an individual has a low economic status and is economically disadvantaged. Each of the five criteria is a reasonable means of defining economically disadvantaged because each criteria is a reliable indicia of low economic status.

Small business considerations in rulemaking:

The proposed rule is a definition used to determine which individuals will receive comprehensive job training and related services through Opportunities Industrialization Centers (OIC). OIC's are "small businesses" as defined in Minnesota Statutes, section 14.115, subdivision 1. OIC's may be affected by the proposed rule because the proposed rule determines which individuals will receive OIC services.

Whenever a proposed rule may affect small businesses, Minnesota Statutes, section 14.115, subdivision 2, requires an agency to consider methods for reducing the impact of the proposed rule on small businesses. The Department of Economic Security has considered each of the methods listed in subdivision 2 to reduce the impact of the proposed rule on small businesses. Under the proposed rule:

- a. there are no compliance or reporting requirements for small businesses;
- b. nor are there any schedules or deadlines for compliance or reporting requirements for small businesses;
- c. thus, consolidation or simplification of compliance or reporting requirements for small businesses does not apply to the proposed rule;
- d. there are no required design or operational standards to replace with performance standards for small businesses;
- e. finally, small businesses cannot be exempted from any or all requirements of the proposed rule because the proposed rule's requirements only deal with individual economic status.

Thus, pursuant to Minnesota Statutes, section 14.115, subdivision 3, the Department finds that it is not feasible to incorporate any of the subdivision 2 methods into the proposed rule.