

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

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

STATEMENT OF  
NEED AND  
REASONABLENESS

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The proposed rules, parts 9500.1258 to 9500.1270, govern general assistance categories of eligibility. The authority for the establishment of these rules is found in Minnesota Statutes, sections 256D.04, paragraph (2); 256D.05, subdivision 1; 256D.09, subdivision 4; and 256D.10. The proposed rules, parts 9500.1300 to 9500.1318, govern the work readiness program. The authority for the establishment of these rules is found in Minnesota Statutes, sections 256D.051; 256D.101; and 256D.111, subdivision 5. Amendments have also been proposed that will expand the scope of parts 9500.1200 and 9500.1206, and insure uniform statewide administration of the general assistance and work readiness programs, as required under Minnesota Statutes, section 256D.04, paragraph (2).

BACKGROUND

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

The department provided numerous opportunities for public comment during the development of the proposed permanent rules. A notice of solicitation of outside opinion was published in the State Register on December 2, 1985. In addition, the General Assistance County Panel and the General Assistance Rules Public Advisory Committee met in December 1985, and January, 1986, to review and offer comments on the proposed rules. The proposed rules are based largely on the emergency rules which have been in effect since September, 1985. Modifications have been made in the proposed rules based on the experience of the counties and the department in implementing the emergency rules.

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

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

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

The need for and reasonableness of the specific rule provisions are established in the following statement of need and reasonableness.

#### PART 9500.1200 PURPOSE AND APPLICABILITY.

##### Subpart 1. Purpose.

Part 9500.1200 states the purpose and applicability of the rule parts that govern the general assistance program. It is necessary to modify subpart 1 because the range of rules relating to general assistance has expanded. It is reasonable to modify this subpart to include the proposed rule parts governing general assistance categories of eligibility because it insures that interested parties will be aware of all rule parts that may affect their rights and responsibilities under the general assistance program.

Subpart 2. [No change]

PART 9500.1206 DEFINITIONS.

Part 9500.1206 contains definitions of terms that apply to the general assistance program. To maintain consistency throughout the program, the department is proposing to amend this rule part by expanding its scope, adding one definition, and modifying one other definition. The department has not proposed modifications to subparts 2 to 31 and subpart 33, and the text of these subparts has not, therefore, been printed.

Subpart 1. Scope. This subpart is necessary to establish the range of rule parts these definitions apply to. It is necessary to modify this subpart because the range of rules governing the general assistance program has expanded. It is reasonable to apply the same definitions to the rules governing categories of eligibility and the work readiness program because it insures consistent administration of the total general assistance program and it insures that the work readiness program will be compatible with the general assistance program where the two programs overlap.

Subparts 2 to 31. [No change]

Subpart 19a. Local labor market. It is necessary to add a definition of the term "local labor market" to these definitions because it has a specific meaning as used in parts 9500.1200 to 9500.1270 and 9500.1300 to 9500.1318. This definition of local labor market was developed and adopted as part of the emergency rules governing the work readiness program. The department has received no negative comments on the definition and believes it establishes a reasonable limit on the geographic area in which a recipient or registrant can be required to look for work, or within which a recipient or registrant can be required to accept employment.

Subpart 32. Suitable employment. It is necessary to modify the definition of this term to establish standards governing which jobs a recipient or registrant may be required to seek or accept. It is reasonable to add the concept of "local labor market" to the definition of this term because it insures that a recipient or registrant may not be required to accept a job that requires him or her to commute for over two hours a day to and from the job site. This travel limitation has been used in emergency rules governing general assistance categories of eligibility and emergency rules governing the work readiness program, and is also consistent with emergency rules adopted by the Department of Jobs and Training which govern employment and training services to public assistance recipients.

Item C. It is reasonable to require a recipient or registrant to accept a job if the job provides sufficient earnings to enable the recipient or registrant to meet his or her basic needs from earnings. Employment that pays wages equal to or greater than the standard of assistance permits the recipient or registrant to provide for himself or herself and eliminates the need for general assistance or work readiness. Employment that provides at least 60 hours of work at minimum wage monthly does equal the monthly standard of assistance of \$201 for a single person. However, under the work readiness and general assistance programs, an applicant or recipient is also allowed to deduct the first \$50 of earned income and other employment expenses to determine his or her "countable income." A job would therefore have to provide more than 60 hours of work at minimum wage monthly (or over \$251) to equal or exceed the \$201 monthly standard of assistance plus the \$50 earned income disregard and employment expenses.

It is reasonable to increase the number of hours of work per month from 60 to 80 in this item because this number of hours will provide the recipient or registrant with earnings that equal or exceed the standard of assistance applicable to a single individual and will likely eliminate the individual's need for general assistance or work readiness. A minimum wage job that provides 80 hours of work per month will insure income of \$267 per month. This provides income equal to the sum of 1) the \$201 standard of assistance; 2) the \$50 earned income disregard; and 3) \$16 for the expenses of employment. This change is also reasonable because it reflects a recommendation made during an Advisory Committee meeting by Steve Swanson, Legal Services Advocacy Project, to increase the number of hours to 20 hours per week, which is equivalent to 80 hours per month.

Item D. Minnesota Statutes, section 256D.051, subdivision 3, requires a recipient or registrant to "accept any suitable employment, including employment offered through the Job Training Partnership Act, Minnesota Employment and Economic Development Act, and other training and employment options." It is necessary and reasonable to make this change to the definition in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 3, and to create a uniform rule consistent with law as required by Minnesota Statutes, section 256D.04, clause (2).

Subpart 33. [No change]

#### PART 9500.1258 CATEGORIES OF ELIGIBILITY.

Minnesota Statutes, section 256D.05, subdivision 1 establishes categories of people who are eligible for general assistance provided that their income and resources are less than the standard of assistance established by the commissioner. Part 9500.1258 is needed to implement this statute. Specifying these categories in rule is reasonable because it ensures that local agencies and other people affected by the statute are informed of their rights and responsibilities under this statute. It is also necessary to add specific conditions under which persons must be found categorically eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, in order to insure that the categories are applied uniformly and general assistance is administered as uniformly as possible throughout the state as required under Minnesota Statutes, section 256D.04, clause (2).

Subpart 1. Categories of ongoing eligibility. This subpart specifies the conditions that must be assessed by a local agency under part 9500.1209, subpart 3 in order to determine whether or not each member of a filing unit is eligible for general assistance in accordance with Minnesota Statutes, section 256D.05, subdivision 1, clause (a), paragraphs (1) to (14). The need for and reasonableness of each item is discussed below.

Item A. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1) states that a person shall be categorically eligible for general assistance if the person "is suffering from a permanent or temporary illness, injury or incapacity which is medically certified and which prevents the person from obtaining or retaining employment." It is necessary to divide this category of eligibility into two items in order to clarify and make more specific the meaning of "temporary." Item A, therefore, covers only

"permanent illness, injury, or incapacity," while "temporary illness, injury, or incapacity," is covered in Item B. This division is reasonable because it does not, in and of itself, alter the meaning of the statutory language while it does enable the addition of needed specificity in item B.

It is necessary to replace the word "employment" in item A, with the term "suitable employment" which is defined in part 9500.1206, subpart 32, because it insures that the term will be given a consistent interpretation throughout the general assistance program. This modification is reasonable because it insures that when an individual with a permanent illness, injury, or incapacity can only obtain employment that is excessively dangerous, more than two hours travel time from his or her home, beyond his or her ability to perform, or pays less than the standard of assistance, the individual will not be denied categorical eligibility for general assistance. This modification is also reasonable because item A has been used successfully in the same context in part 9500.1102 [Emergency], during which time the department has received no adverse comments.

Item B. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1) states that a person shall be categorically eligible for general assistance if the person "is suffering from a permanent or temporary illness, injury or incapacity which is medically certified and which prevents the person from obtaining or retaining employment." It is necessary to divide this category of eligibility into two items in order to clarify and make more specific the meaning of "temporary." Item B covers only "temporary illness, injury, or incapacity." This division is reasonable because it does not, in and of itself, alter the meaning of the statutory language while it does enable the addition of needed specificity in item B.

It is necessary to replace the word "employment," in item B, with the term "suitable employment" which is defined in part 9500.1206, subpart 32 because it insures that the term will be given a consistent interpretation throughout the general assistance program. This modification in the statutory language is reasonable because it insures that when an individual with a temporary illness, injury, or incapacity is only able to obtain employment that is excessively dangerous, more than two hours travel time beyond his or her home, beyond his or her ability to perform, or that pays less than the standard of assistance, the individual will not be denied categorical eligibility for general assistance. This item, as modified, is also reasonable because it has been functioning successfully in the same context in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

The term "temporary" in Minnesota Statutes, section 256D.05, subdivision 1, clause (a), paragraph (1) is open to a broad range of interpretations. It is therefore necessary to define the term more precisely in order to achieve administrative uniformity in the general assistance program. To achieve a precise definition, it is necessary to establish both a lower and an upper limit on the period of time encompassed by the term "temporary." The department, in consultation with the General Assistance Rules Public Advisory Committee and local agency representatives on the General Assistance County Panel, has chosen 15 days as a reasonable lower limit on the meaning of the term "temporary" so that very brief incapacities do not generate categorical eligibility for general assistance. The upper limit on eligibility due to

temporary illness, injury, or incapacity is the duration of the illness, injury, or incapacity. These limits are reasonable because they prevent brief incapacities from generating long term eligibility for general assistance, while allowing eligibility for general assistance to cover the entire period of time that the person is prevented from obtaining or retaining suitable employment. These limits have been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1) requires medical certification of the illness, injury, or incapacity that generates eligibility for general assistance. Medical certification is defined in part 9500.1206, subpart 20. Because the upper limit on the period of eligibility under this paragraph is defined in terms of the duration of the illness, injury, or disability, it is necessary to ensure that the applicant or recipient does not prolong the illness, injury, or incapacity, in order to extend his or her period of eligibility. It is therefore reasonable to state that when a medical certification specifies a rehabilitation plan, the applicant or recipient must follow that plan to be eligible for general assistance. This requirement has been functioning successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item C. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (2), states that a person shall be categorically eligible for general assistance if the person's "...presence in the home on a substantially continuous basis is required because of the certified illness, injury, or incapacity or age of another member of the household." Item C is needed to implement this statutory provision, and to provide clarity to the category.

It is necessary to specify who must "certify" the illness, injury or incapacity to insure uniform administration of item C throughout the state. It is reasonable to replace the word "certification" with the term "medical certification" because medical certification is defined in part 9500.1206, subpart 20, and the use of this defined term insures that the certification will be done by a professional who is qualified to diagnose or certify the person's condition.

It is necessary to require that the person who needs care must reside with the applicant or recipient to be consistent with the statute, which states that the applicant or recipient and the person needing care must be members of the same "household." This requirement provides clarification of the statute and has been shown to be reasonable over time in that it has been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Additional clarification of the language in Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (2), is needed because the statute does not specify how the local agency must determine that the individual being cared for actually needs the care that generates eligibility under this category. It is reasonable to require that the medical certification of illness, injury or incapacity must state that the individual requiring care is unable to care for himself or herself because this places judgment of the need for care in the hands of a professional who is qualified

to diagnose or certify the person's condition, and who has no interest in the outcome of the judgment. This requirement is reasonable because it has been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item D. Minnesota Statutes, section 256D.05, subdivision (1), paragraph (a), clause (3), states that a person shall be categorically eligible for general assistance if the person "...has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency...." Item D is needed to implement this statutory provision. It is necessary to add specific references that identify the authority under which the facilities identified in this category must be licensed in order to create clarity, and to insure uniform administration of this provision throughout the state. The references provided in Item D are reasonable because they have been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item E. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (4) states that a person is categorically eligible for general assistance if the person "...resides in a shelter facility described in subdivision 3." Item E is needed to implement this statutory provision. It is necessary to state both the nature of the shelter facility and the complete statutory reference in item E in order to create clarity and to insure a uniform understanding of the provision. The specification "shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3" is reasonable because Minnesota Statutes, section 256D.05, subdivision 3 describes only facilities for battered women. This language has been shown to be reasonable over time in that it has been used successfully in part 9500.1102 [Emergency] during which time no adverse comments have been received by the department.

Item F. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (5) states that a person shall be categorically eligible for general assistance if the person "...is or may be eligible for displaced homemaker services, programs, or assistance under section 4.40, but only if that person is enrolled as a full-time student." Item F is needed to implement this statutory provision. Item F is reasonable because it is fully consistent with the statute, and the language in item F has been used successfully in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item G. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (6) provides eligibility for general assistance for "a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program." Item G is needed to implement this statutory provision.

For purposes of clarity, it is necessary to include the requirement of participation in a language skills program in part 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY, subpart 1, item A rather than to include the requirement under item G. This division of the statutory material is

reasonable because the initial assessment of eligibility for general assistance under part 9500.1258 cannot properly include continuing compliance requirements that are only imposed after eligibility is determined.

The statute does not specify how the applicant's or recipient's inability to communicate in English shall be determined. Such specification is needed to insure uniform administration of this provision throughout the state, as required under Minnesota Statutes, section 256D.04 paragraph (2). Item G specifies that the determination of inability to communicate in English may be made by an English as a second language specialist, a vocational specialist, or the local agency. This is reasonable because while it does not allow mere assertion by the applicant or recipient to create eligibility, it allows latitude for determination by either a qualified professional or by the local agency, which must deal with the applicant or recipient on a day-to-day basis. Should the local agency find that the applicant or recipient can communicate adequately in English, the option of an independent determination by a qualified professional in the field of English as a second language is available to the applicant or recipient.

Item H. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (7) states that a person shall be categorically eligible for general assistance if the person "...is diagnosed by a licensed physician or licensed consulting psychologist as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment." Item H is necessary in order to implement the provisions of this statute. It is reasonable to include these provisions in the rules because they are consistent with statute and they inform affected parties of program policies and procedures.

Item I. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (8) states that a person shall be categorically eligible for general assistance if the person "...has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, or who has been terminated from either program and has an appeal from that termination pending." Item I is necessary in order to implement the provisions of this statute and to inform affected parties of program policies and procedures.

Minnesota Statutes, section 256D.05, subdivision 5, requires certain general assistance applicants or recipients to apply for other maintenance benefit programs, and requires local agencies to provide special services to applicants or recipients who apply to the Supplemental Security Income program. Under this statute and the rules that implement it (Minnesota Rules, parts 9500.1254 to 9500.1256), the special services must be continued throughout an applicant's appeal of a denial. Language has been added to item I to provide eligibility for applicants or recipients pending the appeal of a denial of an application for the social security disability program or the supplemental security income program. This language is needed to insure that the provisions under part 9500.1258 do not undermine the intent of the provisions under parts 9500.1254 to 9500.1256. Eligibility for applicants or recipients who have an appeal pending for these other maintenance benefit programs is reasonable because it creates the necessary consistency between the provisions of statutes and rules.



Item J. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a) clause (9) states that a person shall be categorically eligible for general assistance if the person "...is unable to obtain or retain employment because advanced age significantly affects his or her ability to seek or engage in substantial work." Item J is needed in order to implement the provisions of the statute and to inform affected parties of program policies and procedures.

It is necessary to replace the word "employment" in item J with the term "suitable employment," which is defined in part 9500.1206, subpart 32, because it insures that the term will be given a consistent interpretation throughout the general assistance program. This modification is reasonable because it insures that when an individual who, because of advanced age, can only obtain employment that is excessively dangerous, more than two hours travel time from his or her home, beyond his or her ability to perform, or that pays less than the standard of assistance, the individual will not be denied categorical eligibility for general assistance. This modification is also reasonable because it has been functioning successfully in the same context in part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Item K. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (10) states that a person shall be categorically eligible for general assistance if the person "...is completing a secondary education program." Item K is necessary to implement this provision of the statute. It is reasonable to specify that the applicant or the recipient must be completing "high school" because "high school" is commonly defined as a "secondary school," making this provision consistent with Minnesota Statutes, sections 120.05, subdivision 2, clause (3), and 256D.05, subdivision 1, paragraph (a), clause (10).

Item L. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11) provides categorical eligibility for general assistance for "a family with one or more minor children." Item L is needed to implement the provisions of the statute and to inform affected parties of program policies and procedures.

For purposes of clarity, statutory requirements for participation in the work readiness program for recipients who are eligible under item L have been included under part 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY, subpart 1, item B rather than included under item L, of part 9500.1258. This division of the statutory material is reasonable because the initial assessment of eligibility for general assistance under part 9500.1258 cannot properly include continuing compliance requirements that are only imposed after eligibility has been determined.

Clarification of which persons are eligible for general assistance under this clause is necessary to create consistency among rule parts, as detailed below.

To define and implement standards of assistance in rule, as required by Minnesota Statutes, section 256D.05, subdivision 1, and to do so consistently with Minnesota Statutes, section 256D.15, RELATIVE'S RESPONSIBILITY, the concepts of "filing unit" at part 9500.1205, subdivision 11, and "assistance unit" at part 9500.1205, subdivision 5, have been developed. Other rule parts

specify how membership in filing units and assistance units is to be determined (part 9500.1209, subdivisions 2 and 3, respectively). The statutory provisions governing the financial responsibility of relatives established by Minnesota Statutes, section 256D.15 are reflected in the definition of filing unit, which includes only those family members who can be connected by relationships of financial responsibility.

In general, a filing unit includes those persons who live together and who would ordinarily be considered the "immediate" family, or the "nuclear" family, with two exceptions: a) those members of an immediate family who are eligible for emergency aid to families with dependent children or aid to families with dependent children are excluded from the filing unit in order to be consistent with Minnesota Statutes, section 256D.05, subdivision 1, which excludes those persons from eligibility from general assistance; and b) an unmarried couple who reside with a common minor child form two separate assistance units. Peter Erickson, Administrative Law Judge, in 1983 specified that financial responsibility does not exist between unmarried persons, and that each member of an unmarried couple who live together with a common minor child must be in a separate filing unit.

An assistance unit is composed of those persons who are members of the same filing unit and who are categorically eligible under part 9500.1258.

It is not reasonable to define categorical eligibility under item L by using the terms "filing unit" or "assistance unit" since to do so would exclude categorical eligibility for one of the unmarried parents living with his or her minor child, and would exclude eligibility for a stepparent who lives with a stepchild eligible for aid to families with dependent children.

It is reasonable, however, to specify that eligibility under this category is available to a parent or stepparent living with a minor child because such persons are members of the child's "immediate" or "nuclear" family, and such persons would normally be part of the child's filing unit. This provision is also reasonable because it provides eligibility to both members of an unmarried couple with a common minor child, to the stepparent of a child who receives AFDC, and to the minor child.

In item L, the category of eligibility is defined by specifying each type of person who is eligible for general assistance by virtue of his or her familial relationship to a minor child. It is reasonable to do so because the persons granted categorical eligibility include all and only those persons intended under the law, and because the language used is consistent with all related rule parts.

Item M. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12) states that a person shall be categorically eligible for general assistance if the person "...has substantial barriers to employment..." and authorizes the adoption of permanent rules to define those barriers. Item M is necessary in order to implement the provisions of the statute, to establish the conditions that will constitute substantial barriers to employment, and to inform all affected parties of program policies and procedures. The need and reasonableness of each of the eight subitems proposed is discussed below.

Subitem 1. This subitem is needed because it is necessary to establish an objective geographical limit beyond which an applicant or recipient will not be required to travel to seek employment. It is reasonable to define such a limit in terms of travel time rather than distance traveled, since a distance which would be a substantial barrier for a person who must walk might not be a substantial barrier for a person for whom public transportation is available or for a person driving a car. It is reasonable to exclude the time necessary to transport children to and from needed child care, because the person will have to transport children to the child care regardless of how far away the job is. The limit of two hours round trip travel time has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 2. This subitem is needed because it insures that applicants or recipients who are involved in court ordered services which prevent the applicant or recipient from working at least four hours per day are categorically eligible for general assistance. This provision is reasonable because a person who cannot work more than four hours per day will not be able to obtain or perform suitable employment and would not benefit from work readiness services until this restriction on time available for work has been removed. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 3. This subitem is needed because it insures that a person who is in the last trimester of pregnancy is categorically eligible for general assistance. It is generally accepted that advanced pregnancy restricts a pregnant woman's ability to perform strenuous physical labor and that the pregnancy itself may inhibit potential employers from hiring her. It is reasonable to confer categorical eligibility for a woman in the last trimester of pregnancy because the physical limitations of pregnancy can normally be expected to affect her ability to obtain or perform employment by that time. Use of the last trimester of pregnancy is also reasonable because it is consistent with eligibility criteria for pregnant women established in the aid to families with dependent children program. This subitem has been shown to be reasonable in that it has been functioning in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 4. This subitem is needed because it insures categorical eligibility for an applicant or recipient who has been evaluated by a vocational specialist as being unable to obtain or retain suitable employment. A person who is so evaluated has a "substantial barrier to employment" under the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12). Because these "barriers" may not be apparent to a lay person, it is necessary to specify who must evaluate these circumstances as a substantial barrier. It is reasonable to specify that only vocational specialists or vocational advisors may evaluate individuals under subitem 4, because, by definition, such individuals are professionals in the employment field who are qualified to conclude, based on their special knowledge of a person's particular abilities and disabilities and of employment market conditions, that a particular person will be unable to obtain or retain employment. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 5. This subitem is needed because it insures that persons suffering from severe symptoms of chemical dependency but who refuse evaluation or treatment will be categorically eligible for general assistance. Such persons are commonly considered by employers to be poor candidates for employment. In addition, their refusal of evaluation or treatment precludes their being found eligible for general assistance under any other provision of law or rule that requires medical certification. It is reasonable to include this provision in the rule parts because it will enable the local agency to meet the basic subsistence needs of persons who are "unable to provide for themselves" as provided by Minnesota Statutes, section 256D.01, subdivision 1. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency].

Subitem 6. This subitem is needed because it insures categorical eligibility for persons who have severely diminished ability to carry out the normal functions of daily living. It is reasonable to provide eligibility for general assistance for an applicant or recipient with impaired functioning in areas such as ordinary social skills and personal relations because it is unlikely that he or she will be able to obtain or retain employment or to benefit from the services of the work readiness program. The purpose of the general assistance program is to provide for persons who are "unable to provide for themselves" as stated in Minnesota Statutes, section 256D.01, subdivision 1. This subitem has been shown to be reasonable in that it has been used in rule part 9500.1102 [Emergency], during which time no adverse comments have been received by the department.

Subitem 7. This subitem is needed because it provides categorical eligibility for persons whose circumstances (such as impending employment, an impending move out of state, or anticipated receipt of income) in some cases will clearly result in the applicant or recipient becoming ineligible for both general assistance and work readiness within 30 days. Under such circumstances, an applicant or recipient may meet all the requirements for eligibility except categorical eligibility under part 9500.1258. In such cases, the only assistance available to the person would be the work readiness program. No purpose would be served by placing the person in the work readiness program for one month and requiring the person to search for employment when the person knows that the need for assistance will not be present after 30 days have elapsed. It is reasonable to provide categorical eligibility in such cases in order to prevent meaningless use of work readiness services.

It is necessary to restrict how frequently this subitem may be used to prevent it from being abused. For example, by repeatedly declaring the intention to move out of state but not carrying out the move, a recipient could maintain general assistance eligibility indefinitely, even though the person may be able to benefit from work readiness services and may be able to find or secure suitable employment. It is reasonable to restrict eligibility under this subitem to applicants or recipients who have not received general assistance under this condition for at least 60 days because this restriction will prevent continuing eligibility under this subitem.

Subitem 8. This subitem is needed because it insures categorical eligibility when a individual cannot participate in work readiness because of the time committed to completing a GED program. A person who is completing high school

is provided categorical eligibility under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (12), and under the provisions of subitem K. However, confusion was present in the emergency rules concerning whether a person completing a GED program could be categorically eligible under item K. In order to create clarity, it is reasonable to include under item M, subitem 8, individuals who are completing a GED program, because this provision is consistent with the statute, and it is consistent with the departmental policy of fostering increased independence in public assistance recipients.

It is necessary to specify that an individual will be categorically eligible under this provision only if the individual is "completing a GED program, the time commitment of which precludes participation in the work readiness program" in order to assure that the individual does not create perpetual general assistance eligibility by signing up for GED education, but then never attending or completing the program. It is not reasonable to allow eligibility for general assistance to continue for long periods of time solely because the recipient does not attend or complete the GED instruction, or because the recipient takes a single one-hour per week evening course toward completion of a GED. In such cases the GED instruction is not interfering with involvement with a search for employment or obtaining employment that would be offered in the work readiness program, and the individual should be required to participate in that program. On the other hand, it is reasonable to allow eligibility for general assistance for a recipient whose substantial commitment of time to the completion of a GED conflicts with the requirements of the work readiness program. Adding the restriction that the program must involve a time commitment which precludes participation in work readiness is therefore reasonable because it does not allow eligibility for minimal educational efforts, but does allow eligibility when necessary for completion of a GED program.

Item N. Item N. is both needed and reasonable because it is required by Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (13).

Item O. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (14) provides categorical eligibility for general assistance to an applicant or recipient who is functionally illiterate or learning disabled. This statute also requires that the commissioner adopt permanent rules to govern the local agency's determination of learning disability or functional illiteracy. Item O is needed in order to implement the provisions of statute and to inform affected parties of program policies and procedures.

It is necessary to separate the categories of learning disability and functional illiteracy because the criteria for determining these conditions are very different. Therefore, item O will address only the topic of learning disability. Functional illiteracy is addressed in item P.

The concept of learning disability is subject to a range of interpretations. It is therefore necessary to define the term for the purposes of this item in order to assure uniform interpretation and uniform administration of the program throughout the state.

Part 9500.1102 [Emergency] included in its draft form a definition of "learning disabled" as "medically certified as having any of the disorders listed under code 315 of the International Classification of Diseases." Three substantive comments were received in response to the emergency rule that were pertinent to the definition of "learning disabled." The commentators were Lee-Ann Sanborn, Program Director of Learning Disabilities Association, Inc.; Eric Janus, William Mitchell College of Law; and Lois Larson, Financial Supervisor of the Steele County Social Service Center.

Sanborn recommended specific language defining "learning disabled," and recommended against the use of the definition found in the International Classification of Diseases (ICD-9). The definition she proposed focused on the psychological, as opposed to medical, processes involved in learning disabilities. Janus recommended nearly identical language to define the term or "any professionally accepted definition of the term." Larson also recommended against adoption of the definition in ICD-9. The commentators were in substantial agreement with each other and at least one of the commentators is professionally qualified in the field of learning disabilities.

The language finally adopted in part 9500.1102 [Emergency] defined "learning disabled" consistently with the recommendations of the commentators. This definition is reasonable because it is framed in terms that are appropriate to both children and adults, and it is consistent with current, common use by professionals in the field of learning disabilities. This language has functioned well in part 9500.1102 [Emergency] and no adverse comments have been received by the department concerning its use. The language defining "learning disabled" in part 9500.1258, subpart 1, item 0 is therefore reasonable because it is identical with the definition used in part 9500.1102 [Emergency].

Item P. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (14) provides categorical eligibility for general assistance to an applicant or recipient who is functionally illiterate or learning disabled. The statute also requires that the commissioner adopt permanent rules to govern the local agency's determination of learning disability or functional illiteracy. Item P is needed in order to implement the provisions of statute and to inform affected parties of program policies and procedures.

It is necessary to separate the categories of learning disability and functional illiteracy because the criteria for determining these conditions are very different. Therefore, item P addresses only the category of functional illiteracy. Learning disability is addressed in item 0.

The term "functional illiteracy" is subject to a range of interpretations. It is therefore necessary to provide a precise definition for the purposes of this section in order to assure uniform interpretation and uniform administration of the program throughout the state.

In the process of developing part 9500.1102 [Emergency], both the 4th grade reading level and the 8th grade reading level were proposed as possible standards for the determination of functional illiteracy. The ensuing discussions with public advisory groups, and outside comments received during the promulgation of the emergency rules clearly indicated that the 8th grade reading level was the most reasonable standard of functional illiteracy for the purposes of this item.

Rosmarie J. Park, Associate Professor of Education at the University of Minnesota and a specialist in adult literacy, stated that "most popular magazines and newspaper are written at the 8th grade level of difficulty. The Minneapolis Star and Tribune is written at the 8th or 9th grade level..." Ms. Parks also stated that current definitions accept that at least an 8th grade reading level is required to function effectively in a modern technological society.

The Minnesota Community Education Association, the Minnesota Literacy Council, and Eric Janus of the William Mitchell College of Law all supported the adoption of the 8th grade standard. The Minnesota Literacy Council stated that according to a research report from Wayne State University, Office of Urban Literacy Research, the 5th grade reading level was found to be inadequate for accomplishing the functions of an independent adult. The definition was changed to functioning at the 8th grade level on a standardized test. This 8th grade level is generally accepted here in Minnesota as the basic level of functioning. The Literacy Council also reported that "...Paul Cooperman in his book, The Decline of Literacy, states that a 1975 study indicated it takes a 7th grade level to hold a job as a cook, an 8th grade reading level to hold a job as a mechanic, and a 9th or 10th grade level to hold a job as a supply clerk. In every day life the instructions on a TV dinner are written at an 8th grade level...."

No professionals in the field opposed the 8th grade reading standard or supported the 4th grade standard. Two county agencies opposed the adoption of the 8th grade standard. One county argued that the 8th grade standard would "broaden the eligibility base" beyond the intent of the legislature, and that "large numbers of Americans do not read at the 8th grade level." The other county opposed the 8th grade level as too high, and then proposed that the state "write notices at the eighth grade level, then if a person cannot understand it--use that as the test of comprehension." The 8th grade standard was determined to be reasonable and was adopted in part 9500.1102 [Emergency]. This standard has functioned well in the emergency rules.

In order to provide for the uniform administration of the program, it is necessary to specify the method by which a determination of functional illiteracy may be made. During the development of part 9500.1102 [Emergency], there were extensive discussions with advisory groups and outside commentators on the reasonableness of various methods of determining that a client reads below the 8th grade level. Rosemarie J. Park suggested that the Adult Basic Learning Examination, published by Harcourt, Brace, be used to determine grade level reading scores for the purposes of this item. Eric Janus suggested the same test, or the Degrees of Reading Power Test. Mr. Janus also provided a draft of language incorporating his suggestions in a three-step process of determination of functional illiteracy to be administered by the local agency. Mr. Janus' draft language was determined to be reasonable, and was incorporated virtually intact in part 9500.1200 [Emergency], the only substantive change being the substitution of "a standardized literacy test approved by the commissioner," for the specific tests suggested. This change is reasonable because there is currently more than one professionally recognized test available for the purpose, and because it is reasonable to expect further developments and changes in the testing field to modify the appropriateness of any currently available tests.

The method for determining functional illiteracy specified in part 9500.1102 [Emergency], has functioned well over time and has been incorporated intact as part 9500.1258, subpart 1, item P, subitems 1, 2, and 3. The need for and reasonableness of each of these subitems is discussed below.

Subitem 1. This subitem is reasonable because it allows the local agency to determine functional illiteracy based on previous testing or other knowledge of the applicant or recipient that makes further testing unnecessary. This provision is reasonable to avoid unnecessary administrative costs and to reduce the time necessary to process an application where an applicant's or recipient's functional illiteracy is clearly apparent, thus improving service to the public.

Subitem 2. Subitem 2 requires testing the reading ability of an applicant or recipient, at no cost to him or her, in cases in which there is no adequate record of previous tests and the local agency does not have sufficient knowledge of the applicant or recipient to determine that he or she is obviously functionally illiterate. It is necessary to require the administration of a reading test to insure that determinations made under this item will be based on objective information. This subitem is reasonable because individuals cannot reasonably be expected to identify themselves as functionally illiterate, and the prescribed testing permits the local agency to make its determination quickly and reasonably inexpensively. It is reasonable to specify how the local agency must make its determination of functional illiteracy in order to assure uniform administration throughout the state.

It is reasonable to require that the test be given with no cost to the applicant or recipient because such testing, while relatively inexpensive and generally available to the local agency, may not be otherwise available to an applicant or recipient without costly professional services. It is reasonable to allow the local agency to administer the test because it saves administrative costs to the local agency and the state. It is also reasonable for the local agency to be allowed to arrange for an outside agency to administer the test because not all local agencies will have the resources to administer the tests themselves.

It is clearly possible for an applicant or recipient to frustrate the purpose of testing by deliberately obtaining a lower score than his or her true reading ability, for example, by failing to answer questions on the test. It is reasonable, therefore, to allow the local agency to challenge the score obtained by an applicant or recipient in such cases. It is also reasonable to require that the agency clearly document in the case file the reasons for its determination that the test score is inaccurately low, to prevent the possibility that unfounded challenges of test scores might be used to create an arbitrary delay in an eligibility determination.

Subitem 3. This subitem is necessary because it allows an applicant or recipient to rebut the local agency's determination that a test score is inaccurately low by obtaining certification of functional illiteracy from a source independent of the local agency. This subitem is reasonable because it protects the applicant or recipient from unfounded claims of inaccurately low test scores. It is reasonable to allow the applicant or recipient to obtain such certification from licensed psychologists and from licensed educational



experts in appropriate fields, and to specify the licensing authorities so that the testing for and preparation of such certification may be limited to qualified experts. It is reasonable to require the county to furnish the applicant or recipient with a list of such experts because that information is not likely to be readily available to an applicant or recipient. Providing such a list to an applicant or recipient will prevent unnecessary delays in obtaining information which may be relevant to the eligibility determination. When an expert in the field certifies that the applicant or recipient is unable to read at or above the 8th grade level, it is reasonable to accept such certification as evidence of functional illiteracy because the certification provides the local agency with evidence having greater reliability and validity than a test score by itself. In order to maintain the independence of certifying professionals from the local agency, it is reasonable that the applicant or recipient not be required to be certified by a professional from the list provided by the local office, but that he or she be allowed to obtain certification from any appropriately qualified source.

Subpart 2. Categories providing for six months of eligibility. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), provides eligibility for general assistance for six months out of any 12-month period for an applicant or recipient who has completed six months in the work readiness program, provided that he or she: 1) "...has borderline mental retardation"; or 2) "exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance ...because the illness interferes with the medical certification process." Subpart 2, items A and B, are necessary because they implement the statutory provisions and inform affected parties of program policies and procedures. Definitions of the terms "borderline mental retardation" and "qualified professional" are provided in the rules governing the work readiness program. It is reasonable to provide a reference to the definitions in part 9500.1302 because it insures a uniform understanding of the terms, and it insures consistent identification and treatment of individuals with borderline mental retardation and perceptible symptoms of mental illness as they move from work readiness to general assistance. These provisions are reasonable because they are consistent with statute, and they insure uniform, statewide administration of the general assistance program as required in Minnesota Statutes, section 256D.04, clause (2).

It is reasonable to require the local agency to notify a recipient at the end of this six-month period of general assistance receipt that he or she may be eligible for additional work readiness because it insures that the individual is aware that while general assistance is being terminated, the individual may still receive assistance payments if he or she wishes to participate in the work readiness program.

PART 9500.1260 GENERAL ASSISTANCE INELIGIBILITY; WORK READINESS NOTICE.

Subpart 1. Determination of ineligibility and the right to appeal. This subpart is necessary in order to implement the provisions of Minnesota Statutes, sections 256.045 and 256D.10, which specify an applicant or recipient has a right to appeal denials of eligibility for general assistance. This provision is necessary even if an applicant or recipient is found eligible for work readiness because work readiness assistance is time limited.

These provisions are reasonable because they insure that the individual will receive notice, as required under the statute, and will be informed of his or her right to appeal so that the right can be exercised at the discretion of the individual.

Subpart 2. Work readiness notice. This subpart is necessary in order to implement the provisions of Minnesota Statutes, sections 256.045 and 256D.10, and to insure that applicants and recipients who are not eligible for general assistance will be fully informed of the availability of the work readiness program. Requiring the local agency to fully inform the applicant or recipient of its determinations regarding general assistance ineligibility, the applicant's or recipient's right to appeal, the availability of work readiness, and the consequences of an appeal is reasonable because it protects the rights of applicants and recipients, permits applicants and recipients to make informed choices, and helps to insure uniform administration of the program statewide.

It is necessary to specify the consequences of an applicant's appeal to insure uniform administration of the appeal process and uniform consequences statewide. It is reasonable to specify that the assistance received under the work readiness program be considered general assistance benefits where a client who has been on work readiness wins his or her appeal of the denial of general assistance because this provision protects the recipient's right to possible future benefits under the time-limited work readiness program should he or she become ineligible for general assistance in the future.

#### PART 9500.1262 REQUIREMENTS FOR CONTINUED ELIGIBILITY.

Subpart 1. Requirements for continued eligibility for specific categories of ongoing eligibility. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clauses (6) and (11), in addition to defining categories of eligibility at the time of application for general assistance, also impose requirements that must be met in order for recipients of general assistance to receive benefits beyond the initial month of eligibility. Part 9500.1262, subpart 1, is necessary in order to implement these statutory requirements for continued eligibility and to inform affected parties of program policies and procedures. It is reasonable to limit the applicability of the requirement that an adult cooperate with the work readiness program to applicants or recipients who do not meet a condition of eligibility under part 9500.1258, subdivision 1, items A to K or M to P, since categorical eligibility under any of those items continues to exist without additional conditions. The reasonableness of specific items and subitems will be discussed below.

Item A. Rule part 9500.1258, subpart 1, item G, establishes categorical eligibility for an applicant or recipient who is unable to communicate in the English language. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6), requires, in addition, that the recipient participate in a language skills program if assigned to such a program by the local agency. Item A is needed in order to implement these provisions of the statute. It is necessary to specify the action to be taken by the local agency when a recipient does not comply with the statutory requirement to participate in a language program as assigned because it informs affected parties of the consequences of their actions or inactions. Termination of

eligibility for general assistance for failure to comply is not a reasonable action, since the person could immediately reapply and again be eligible under part 9500.1258, subpart 1, item G. Thus, a person would only need to be eligible for the first day of the month in order to receive a payment for the entire month, even though the person never complied with the requirements. It is reasonable to specify that the recipient be disqualified from receiving general assistance for a specified period of time as prescribed in part 9500.1266, because that action provides a consequence for failure to comply with statutory requirements, and prevents a person from immediately being found eligible after termination by simply reapplying for assistance.

Item B. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), requires certain adults who are eligible for general assistance to participate in and cooperate with the work readiness program. Part 9500.1258, subpart 1, item L, establishes eligibility for these persons. Item B is necessary in order to specify the conditions under which adults eligible under part 9500.1258, subpart 1, item L, are required to cooperate with the work readiness program, and to specify the actions to be taken by the local agency when a recipient fails to cooperate.

Subitem 1. This subitem is necessary and reasonable in order to implement the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), and to inform affected parties of program policies and procedures.

Subitem 2. This subitem is necessary and reasonable in order to implement the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), and to inform affected parties of program policies and procedures.

Subitem 3. This subitem is necessary to implement the requirements of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11). The statute states that if a person who is required to cooperate with the work readiness program under this clause does not do so, the person's needs shall not be taken into account in determining the grant. This subitem specifies the action which the local agency must take in order to remove the needs of such a person from consideration. It is reasonable that the action to be taken by the local agency in such cases is disqualification, as described in part 9500.1266, because that action is consistent with the action taken in the work readiness program against a registrant who does not comply with the work readiness requirements. If the registrant were simply terminated from general assistance for failure to comply, the registrant could reapply and be eligible on the next day. Thus, the registrant could thwart the requirement to comply with the work readiness program by simply reapplying, even though he or she never complied. That outcome is not reasonable and is inconsistent with the intent of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11). It is more reasonable to specify that the person must be disqualified in order to encourage compliance by imposing a negative consequence for failure to comply. It is reasonable to specify that the needs of the disqualified person are to be disregarded by basing the amount of the grant on the assistance standard for the number of remaining eligible members of the assistance unit, since Minnesota Statutes, section 256D.05, subdivision 1, clause (11) requires that the needs of the applicant and recipient who fails to comply not be considered.

Subpart 2. Requirements for continued eligibility under categories of six-month eligibility. Part 9500.1258, subpart 2, in conformity with Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), establishes six-month categories of eligibility for certain applicants or recipients. This subpart describes the conditions that must be met for eligibility to continue and is necessary in order to implement the requirements of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), which states that "In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency."

Item A. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), requires a recipient who is eligible because of perceptible symptoms of mental illness to "...cooperate with social services, treatment, or other plans developed by the local agency to address the illness." Item A is necessary in order to implement this provision of the statute and to inform affected parties of program policies and procedures. The requirement in item A that a recipient cooperate with social services, treatment, or other reasonable plans developed by the local agency to address the illness is reasonable because it is consistent with statute. It is reasonable to require the local agency plans to meet a "reasonableness" test in order to assure that the recipient is not required to comply with requirements which have no relationship to employment and training services, and because it protects the rights of recipients.

It is necessary to specify the action that must be taken by the local agency in the event of noncompliance with the requirements of this item to insure uniform, statewide administration of these requirements as specified under Minnesota Statutes, section 256D.04, clause (2). It is reasonable to require the local agency to disqualify applicants and recipients who fail to comply because it is consistent with statute and because it prevents immediate reapplication from nullifying the requirement to comply with program requirements.

Item B. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), requires that a recipient eligible under paragraph (b) must continue to cooperate with work and training requirements as determined by the local agency. This item is necessary in order to implement that provision of the statute and to inform affected parties of program policies and procedures. Item B is reasonable because it is consistent with statute.

It is necessary to specify the action that must be taken by the local agency in the event of noncompliance with the requirements of this item to insure uniform, statewide administration of these requirements as specified under Minnesota Statutes, section 256D.04, clause (2). It is reasonable to require that the local agency disqualify applicants or recipients who fail to comply because it is consistent with statute and because it prevents immediate reapplication from nullifying the requirement to comply with program requirements.

PART 9500.1264 NOTICE OF DISQUALIFICATION.

Minnesota Statutes, section 256D.10, requires that a recipient receive notice and be afforded an opportunity to be heard prior to any action by the local

agency to reduce, terminate or suspend general assistance benefits. Part 9500.1264 is necessary to establish the requirements for notices of disqualification in accordance with this statute.

Item A. Minnesota Statutes, section 256.01, subdivision 4, paragraph (4), authorizes the commissioner to "...Prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable." It is reasonable to require that the notice be provided to the recipient on a standardized form, prescribed by the commissioner, in order to provide consistent information to recipients statewide, assuring equal treatment.

Item B. It is necessary to prescribe a time period for this notice to be given to insure that the recipient is given adequate time to respond. It is reasonable to require that the notice be provided to the recipient at least 10 days before the effective date of the disqualification because that period of time has historically been used in income maintenance programs, including general assistance, aid to families with dependent children, etc., and has been determined to satisfy the requirements of due process.

Item C. This item is necessary to ensure that the recipient has sufficient information to make an informed decision on whether to exercise his or her appeal rights. It is reasonable to require the notice to contain the information required under this item because having this information enables the recipient to respond in a timely manner, with the knowledge of consequences for failure to respond, and informs the recipient of the right to appeal if the recipient believes he or she has already complied or has good cause for not complying.

#### PART 9500.1266 DISQUALIFICATION.

Part 9500.1262 requires recipients who do not comply with certain requirements of the general assistance program to be disqualified from receiving general assistance. Part 9500.1266 specifies the details of disqualification and the procedures for taking disqualification action. This rule part is necessary to implement the requirements of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clauses (6) and (11), and paragraph (b), as reflected in rule part 9500.1262. The need for and reasonableness of the particular provisions are discussed below.

Part 9500.1206, subpart 15, defines "good cause" as "a reason for taking an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances including: illness of the person, illness of another family member that requires the applicant's or recipient's presence, a family emergency, or the inability to obtain transportation." It is necessary to limit disqualification to circumstances where the failure to comply with the requirements of part 9500.1262 is without good cause in order to protect the recipient from being penalized for taking or not taking an action for a reason that is beyond his or her control. This provision is reasonable because the intent of the disqualification is to encourage compliance, not to penalize reasonable actions.

Item A. It is necessary to specify the period of disqualification in order to inform the affected parties of the consequences of the disqualification

process and to establish uniform administration of the program throughout the state. Specification of a two-month period of disqualification is reasonable because it is consistent with the provision of general assistance benefits on a monthly basis. A two-month period is a reasonable period of disqualification in that it constitutes a substantial incentive for the recipient to cooperate with the requirements of the program, but protects the recipient from unreasonably and arbitrarily long periods of disqualification. A two-month period of disqualification is also reasonable because it is consistent with the period of disqualification imposed in the work readiness program under Minnesota Statutes, section 256D.051, subdivision 3, and it provides equal treatment of persons who fail to cooperate with work readiness program requirements.

Item B. It is necessary to establish the beginning date of disqualification in order to inform affected parties of program policies and procedures, and to assure uniform administration of the program throughout the state. Specifying that the period of disqualification must begin on the first calendar day of the month following the month in which the notice is sent is reasonable because general assistance grants are paid on a monthly basis, on the first day of the month, according to the provisions of Minnesota Statutes, section 256D.09, subdivision 1. The exception, when the required notification cannot be made, is reasonable because Minnesota Statutes, sections 256.045 and 256D.10, require 10 days advance notice prior to any termination of benefits, to enable recipients to appeal and be heard prior to an adverse action by the agency.

When a recipient appeals a local agency determination that the recipient should be disqualified due to his or her failure to comply, a final determination is not arrived at until the commissioner issues an order deciding the appeal. Minnesota Statutes, section 256D.10, states that the recipient must be afforded an opportunity to be heard before the local agency takes any adverse action against the recipient's grant. In order to comply with that requirement and ensure that the recipient is not deprived of his or her constitutional right to due process, as defined in Goldberg v. Kelly and its progeny, it is both necessary and reasonable to continue a recipient's general assistance benefits without imposing a disqualification when the recipient has filed a timely appeal.

Item C. It is necessary to include this provision in the rules because it clarifies what must occur when a recipient applies for general assistance during a period of disqualification, and it ensures uniform administration of the disqualification process. Item C is reasonable because it insures that a recipient cannot avoid the sanction for noncompliance by merely reapplying for general assistance. Item C is also reasonable because it requires a recipient who has been properly disqualified to serve a two-month disqualification before he or she may resume receiving benefits.

Item D. The purpose of imposing a period of disqualification is to provide a sanction that will serve as an incentive for a recipient to comply with the conditions of ongoing eligibility specified in part 9500.1262. When the recipient complies with the requirements prior to the imposition of the penalty, it is reasonable not to impose the disqualification because the purpose of the disqualification no longer exists.

PART 9500.1268 APPEAL OF DISQUALIFICATION.

Minnesota Statutes, section 256D.10, states that a recipient must receive notice and be afforded an opportunity to be heard prior to the reduction, suspension, or termination of his or her general assistance grant. The statute further provides that a recipient has the right to a full administrative and judicial review of an order or determination of a local agency, under Minnesota Statutes, section 256.045.

To implement these statutes and to provide consistency with their requirements it is necessary to specify that a recipient who is disqualified under part 9500.1266 may appeal the determination by submitting a written request for a hearing in accordance with Minnesota Statutes, section 256.045. Including this provision in the rule is reasonable because it informs interested and affected parties of this statutory right, enabling recipients to exercise the right.

PART 9500.1270 SPECIAL VOUCHER OR VENDOR PAYMENT PROVISIONS.

This rule part allows local agencies the option of making general assistance, emergency general assistance, or work readiness payments in the form of vouchers or vendor payments if an applicant or recipient has no residence address. It also gives the local agency the option of providing separate vouchers for different needs, and the option of providing daily or weekly payments rather than monthly payments until the recipient has a residence address. These provisions are necessary to implement the provisions of Minnesota Statutes, section 256D.09, subdivision 4, which permits the local agency to make vendor payments to applicants or recipients who do not have a residence address.

This part also provides that if a local agency uses the options described, it must place the recipient in a negotiated rate facility or provide for all of his or her food, shelter, or other daily needs regardless of the standard of assistance. This provision is necessary in order to ensure that provision of payments on a daily or weekly basis does not deprive the recipient of the ability to obtain a residence address. Often, landlords require rent on a monthly basis, usually on the first of the month. If the recipient received daily or weekly assistance payments, the recipient would have to pay for daily or weekly subsistence needs, and would be unable to accumulate enough money to make a monthly rent payment. In such case, the person would be prevented from moving to a residence address because he or she did not receive a monthly payment with which to pay the monthly rent, and would be locked into payment of needs on a daily or weekly basis. It is reasonable to specify that if the local agency uses these provisions the local agency must place the recipient in a negotiated rate facility or must provide for all of the recipient's food, shelter, or other daily needs, regardless of the standard of assistance, in order to assure that the recipient's subsistence needs are properly provided for, and to assure that the method of payment does not cause the recipient to permanently be without a residence address.

PART 9500.1300 PURPOSE AND APPLICABILITY.

Subpart 1. Purpose. This subpart states the purpose of parts 9500.1300 to 9500.1318. Promulgation of parts 9500.1300 to 9500.1318 is mandated by Minnesota Statutes, sections 256D.051; 256D.09, subdivision 4; 256D.101; and

256D.111, subdivision 5. It is necessary for the commissioner to establish the rights and responsibilities of the department, local agencies, and registrants of the work readiness program in order to fulfill the statutory requirement and to adequately manage and control the administration of the program. It is reasonable to state the purpose in the rule parts in order to assist the public in determining the relevance of, and their interest in, the rule parts.

Subpart 2. Applicability. This subpart states the applicability of parts 9500.1300 to 9500.1318. It is necessary to state the applicability of the rule parts in the beginning of the rules in order to inform interested parties of the scope and subject matter of the rules, and to give them notice of rule provisions which may affect their rights and interests. Describing to whom and how the parts in this section apply allows interested parties to ascertain their roles and responsibilities under these rules.

Minnesota Statutes, sections 256D.01 to 256D.21, and Minnesota Rules, parts 9500.1200 to 9500.1270, establish the requirements of the general assistance program in Minnesota. It is reasonable to refer to other Minnesota Rules that govern the general assistance program in order to inform interested parties that it is their responsibility to have knowledge of these rules prior to determining the meaning of parts 9500.1300 to 9500.1318 because the rules in total govern the work readiness program.

#### PART 9500.1302 DEFINITIONS.

This rule part defines words and phrases that have a meaning specific to parts 9500.1300 to 9500.1318, that may have several possible interpretations, or that need exact definitions to be consistent with statute. Terms used in a manner consistent with common use in the income maintenance or human services fields are not defined unless a definition is needed to clarify the rule.

Minnesota Statutes, section 256D.04, clause (2), requires the commissioner to "Promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...." The definitions provided in the rule parts help to insure that the general assistance rules established by the commissioner will be administered as uniformly as possible throughout the state.

Subpart 1. Scope. This provision is needed to clarify that the definitions apply to the entire sequence of parts 9500.1300 to 9500.1318.

Subpart 2. Borderline mental retardation. This definition is necessary because the term "borderline mental retardation" has a specific meaning as used in parts 9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 5, specifies that registrants who have "borderline mental retardation" are eligible for work readiness for a maximum of six months in any consecutive 12-month period. This definition is also necessary because the term "borderline mental retardation" is not specifically defined in statute. "Borderline mental retardation" commonly refers to the condition of an individual whose intelligence and adaptive behavior falls between "normal" and "mentally retarded" levels of functioning.



Normal intellectual functioning falls between one standard deviation below the mean and one standard deviation above the mean of a professionally recognized standardized test. Mental retardation, as defined in part 9500.1206, subpart 22, means the condition of a person who has demonstrated deficits in adaptive behavior and intellectual functioning which is two or more standard deviations below the mean of a professionally recognized test and the condition severely limits the person in obtaining, performing, or maintaining suitable employment.

This definition is reasonable because it identifies the limitations of adaptive behavior and intellectual functioning that falls between "normal" functioning and "mental retardation." This definition is also reasonable because it identifies individuals whose ability to obtain, perform, or maintain suitable employment is affected by borderline mental retardation. Eligibility for extended services for such individuals under part 9500.1312, subpart 1, may enable the individual to obtain employment and increase his or her self-sufficiency.

Subpart 3. Distressed county. This definition is necessary because the term "distressed county" requires a specific definition to be consistent with statute. Minnesota Statutes, section 256D.051, subdivision 5, clause (3), specifies that a registrant shall be eligible for work readiness services for a maximum of six months in any consecutive 12-month period if the person "is certified by the commissioner of economic security as being unable to secure suitable employment because the person lives in a distressed county". This definition is reasonable because it is consistent with the statute, which defines a distressed county as a county or a contiguous portion of a county that has "...an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made."

Subpart 4. Employment assistance programs. This definition is necessary because the term "employment assistance programs" has a specific meaning as used in parts 9500.1300 to 9500.1318. This definition is reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (2), which specifies that a registrant must be referred "...to available employment assistance programs including the Minnesota employment and economic development program."

Subpart 5. Misconduct. It is necessary to define this term because it has a specific meaning as used in parts 9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 8, specifies that a person who is otherwise eligible to receive work readiness assistance under subdivision 1 must be terminated from work readiness if he or she "is fired for misconduct." During development of the emergency rules for work readiness, Steve Swanson, of the Legal Services Advocacy Project, recommended that the definition of misconduct used in the Unemployment Insurance program should be adopted in work readiness. The department adopted Mr. Swanson's suggestion, and found that it is reasonable because it adopts a definition of misconduct in the context of the workplace which is already in existence in statute. This definition has been effectively used under the emergency rules, and the department has received no negative comments regarding its reasonableness.

Subpart 6. Qualified professional. This definition is needed because the term "qualified professional" has a specific meaning as used throughout parts

9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 5, clause (2), specifies that a registrant shall be eligible for six months of work readiness assistance in any consecutive 12-month period if he or she "exhibits perceptible symptoms of mental illness as certified by a qualified professional" (emphasis added). It is reasonable to specify that a social worker employed by the local agency, a social worker with a master's degree in social work, a licensed consulting psychologist, a licensed psychologist, a licensed physician or psychiatrist, or a public health nurse are "qualified professionals" because such persons are qualified by reason of training or experience to assess whether or not a person is exhibiting perceptible symptoms of mental illness.

Subpart 7. Registrant. This definition is needed because the term "registrant" has a specific meaning as used throughout parts 9500.1300 to 9500.1318. Part 9500.1306, subdivision 3, specifies the eligibility requirements which must be met by an applicant. Minnesota Statutes, section 256D.051, subdivision 1, specifies that, "Upon registration, a registrant is eligible..." (emphasis added). Because work readiness assistance is time limited under Minnesota Statutes, section 256D.051, subdivisions 4 and 5, the eligible applicant must elect when to receive the time-limited assistance. Therefore, an applicant for work readiness assistance must meet the eligibility conditions of part 9500.1306, subpart 3, and must elect to receive such assistance. It is reasonable to specify in the rule parts that a registrant is an individual who has applied for and been found eligible for work readiness services and payments, and who has elected to begin receiving those services and payments in order to create consistency within the rule parts, and to promulgate statewide uniform rules as required by Minnesota Statutes, section 256D.04, clause (2). Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), requires adult family members to participate in work readiness services. It is reasonable to specify that a registrant also means a general assistance recipient who must participate in and comply with the work readiness program in order to assure that the rule parts clearly apply to such recipients.

Subpart 8. Vocational advisor. This definition is needed because the term "vocational advisor" has a specific meaning as used throughout parts 9500.1300 to 9500.1318. Minnesota Statutes, section 256D.051, subdivision 2, requires the local agency to provide an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment, to provide a job search program, and to provide other activities designed by the local agency to prepare the registrant for permanent employment. Part 9500.1310, subpart 2, requires the local agency to conduct an employability assessment and development plan which considers the registrant's education, training, prior work experience, suitable employment that is or may become available, the registrant's barriers to employment, and must prepare the registrant for suitable employment. This definition of "vocational advisor" is reasonable because it requires the person conducting this assessment to be knowledgeable in the specific areas addressed by the assessment. Minnesota Statutes, section 256D.051, subdivision 5, clause (3), specifies that a registrant is eligible for a maximum of six months of work readiness assistance if the registrant is unable to secure suitable employment because the local agency has determined that no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform. It is reasonable

to specify that the person conducting the determination of the registrant's eligibility for an additional four months of work readiness assistance must have sufficient education, training, and experience to permit these activities to be adequately carried out in order to assure that the registrant receives the services mandated by Minnesota Statutes, section 256D.051, and parts 9500.1300 to 9500.1318, and that those services are meaningfully designed to help the registrant find employment. It is reasonable to specify that such person be employed by or under contract to the local agency because the local agency is the entity charged with the responsibility to provide a work readiness program under Minnesota Statutes, section 256D.051, subdivision 2.

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

This part requires the local agency to provide a work readiness program to eligible persons, to develop a work readiness program description, to distribute the program description to applicants and interested persons, and to file a copy of the description and any modifications or changes to the description with the commissioner.

Subpart 1. Requirement to provide a work readiness program. This subpart requires the local agency to provide a work readiness program to all eligible applicants residing in the county, and to certain adult recipients of general assistance. This subpart also permits the local agency to provide work readiness services and payments to certain other general assistance recipients.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that a person or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under Minnesota Statutes, section 256D.05, subdivision 1, are eligible for a work readiness program. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), specifies that "The local agency shall provide to registrants under subdivision 1 a work readiness program." (emphasis added). This subpart is necessary because it establishes the requirement that each local agency must provide a work readiness program to eligible registrants. This requirement is reasonable because it is consistent with statute, and because it establishes a statewide uniform rule for carrying out and enforcing the provisions of Minnesota Statutes, sections 256D.01 to 256D.21, as required by Minnesota Statutes, section 256D.04, clause (2). This provision is also reasonable because it facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Minnesota Statutes, section 256D.05, subdivision 1, clause (11), specifies that a family with minor children is eligible for general assistance, but that the adult members must participate in and comply with the requirements of the work readiness program. Such adult family members are eligible for work readiness services, but are not eligible for work readiness payments, and shall be included in the general assistance grant. Part 9500.1258, subpart 1, item L, provides eligibility for families with minor children. Part 9500.1262, subpart 1, item B, specifies the requirements for continuing general assistance eligibility for adults who must participate in and comply with the requirements of the work readiness program. It is reasonable to

specify in this subpart that the local agency must provide work readiness services to adult recipients who are provided for under part 9500.1262, subpart 1, item B, because it is consistent with statute, and because it informs affected parties of program policies and procedures which may affect them.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that eligible persons who have borderline mental retardation or who exhibit perceptible symptoms of mental illness, and who have registered for and completed six months in a work readiness program, are eligible for general assistance for a maximum of six months during any consecutive 12-month period. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (b), specifies that the local agency may provide a work readiness program to recipients who are categorically eligible for general assistance under Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b). Parts 9500.1258, subpart 2, and 9500.1262, subpart 2, implement these statutory provisions. It is reasonable to specify in this subpart that the local agency may continue to provide work readiness services to recipients of general assistance who are provided for under part 9500.1262, subpart 2, because it is consistent with statute and because it establishes a uniform statewide rule as required by Minnesota Statutes, section 256D.04, clause (2). This provision is also reasonable because it facilitates the employment and training of participants as required under Minnesota Statutes, section 256D.051, subdivision 14.

Subpart 2. Preparation of work readiness program description. This subpart requires the local agency to develop a written work readiness program description and specifies certain content that must be included in the description.

In order to assure that the applicant or registrant has sufficient information with which to make an informed decision as to whether or not to apply for work readiness assistance, it is necessary to require that the local agency develop a program description to provide information to applicants and registrants about the program and the requirements that must be complied with. Historically, public assistance programs in Minnesota have worked to assure that participants have been properly informed of the services available, the rights and responsibilities of the local agency and the participant, and the consequences of certain actions or inactions. This process allows the participant to make an informed choice regarding whether to accept or reject such services and benefits, and to appeal actions that are felt to be unfair or incorrect. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may affect them. It is also reasonable to include this provision in the rule parts in order to create a uniform statewide rule as required in Minnesota Statutes, section 256D.04, clause (2).

Item A. Part 9500.1252 specifies that written materials provided to general assistance clients must be clear and easily understood. It is necessary to specify in this item that the program description be written in accordance with part 9500.1252 in order to clarify that the requirements of part 9500.1252 apply to this rule part also. It is reasonable to include this provision in the rule parts in order to assure that applicants and registrants can understand the written material being provided to them, and to create a uniform, statewide rule as required in Minnesota Statutes, section 256D.04, clause (2).

Item B. It is necessary to specify that the program description must include a statement regarding the purpose, service components, operating procedures, and service provider for the local agency work readiness program because each local agency program may be different from other local agency programs, and the applicant or registrant must be cognizant of the services and requirements of the program in which he or she is to participate. It is reasonable to include this provision in the rule parts in order to provide information which will enable the applicant to make an informed decision about accepting or rejecting such services, and to create a uniform statewide rule as required in Minnesota Statutes, section 256D.04, clause (2).

Item C. Minnesota Statutes, section 256D.051, subdivision 2, requires the local agency to provide a work readiness program to eligible registrants, and requires registrants to spend at least eight hours per week in job search or other work readiness activities. Minnesota Statutes, section 256D.051, subdivision 3, requires registrants to cooperate with all aspects of the work readiness program and to accept any suitable employment. The work readiness program imposes several requirements on registrants which are different from the requirements imposed by the general assistance program. It is reasonable to inform the registrant of the different nature of the work readiness program so the registrant can differentiate between the programs. It is reasonable to require that the work readiness program description contain a summary of the requirements which must be complied with in order to assure that the applicant or registrant has sufficient information with which to make an informed decision regarding acceptance or rejection of work readiness services and can anticipate the services or actions that will take place in the program.

Item D. Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant must cooperate with the local agency in all aspects of the work readiness program, and that the local agency may terminate assistance to a registrant who fails to cooperate. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may affect them, and to assure that they understand the consequences of failure to comply with program requirements.

Subpart 3. Distribution of work readiness program description. This subpart specifies that the local agency must provide a copy of its program description to each applicant for work readiness, and to any individual upon request.

In order to assure that an applicant or registrant has sufficient information with which to make an informed decision regarding acceptance or rejection of work readiness services and benefits and the requirements which must be complied with, it is necessary to require that the local agency provide a copy of its work readiness program description to each applicant at the time of application for general assistance or work readiness. It is reasonable to require that the local agency provide this information at the time of application for general assistance because the applicant automatically will be considered a candidate for work readiness under part 9500.1306, subdivision 3, if the applicant is determined ineligible for general assistance. It is reasonable to require that the local agency provide this information to an applicant at the time of application for work readiness because that is the time the applicant must make a choice about whether or not to accept or reject work readiness services or payments. Moreover, it is reasonable to require that the local agency provide a copy of this information to any individual

upon request in order to provide information which may influence an individual's decision about whether or not to apply for the work readiness program.

Subpart 4. Filing of program description. This subpart requires the local agency to file a copy of its work readiness program description with the commissioner annually on January 1, and whenever it amends the description.

Minnesota Statutes, section 256D.051, subpart 14, specifies that the commissioner may adopt permanent and emergency rules to implement the provisions of the work readiness statute. It is necessary to require that the local agency file a copy of its program description with the commissioner so the commissioner can monitor the local agency's compliance with the requirements of the work readiness program. It is reasonable to require the local agency to file a copy of the description annually on January 1 because this date assures that local agencies are aware of one uniform date by which a copy of program descriptions must be provided. It is reasonable to require that local agencies file a copy of their program descriptions whenever the description is amended because this assures that the commissioner can monitor modifications to such descriptions for compliance with this part.

#### PART 9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

This part specifies that the local agency must determine an applicant's eligibility for general assistance prior to determining the applicant's eligibility for work readiness, specifies the date on which the work readiness application is considered complete, and outlines the eligibility criteria for the work readiness program.

Subpart 1. Assessment of general assistance eligibility. This subpart specifies that the local agency must determine an applicant's need for emergency assistance and the applicant's eligibility for general assistance before determining the applicant's eligibility for work readiness, and that the local agency must notify an ineligible applicant of the ineligibility determination.

Minnesota Statutes, section 256D.051, specifies that a person or family whose income and resources are less than the standard of assistance established by the commissioner but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for work readiness. Part 9500.1209 provides for the determination of eligibility for general assistance. It is reasonable to specify that the local agency must determine an applicant's eligibility for general assistance under part 9500.1209 before determining the applicant's eligibility for work readiness because only those persons who are categorically ineligible for general assistance are eligible for work readiness under Minnesota Statutes, section 256D.051, and because inclusion of this provision in the rule parts will inform affected parties of program policies and procedures which may effect them.

Minnesota Statutes, section 256D.07, specifies that on the date that general assistance is first requested, the local agency shall inquire and determine whether the person requesting assistance is in immediate need of food,

shelter, clothing, assistance for necessary transportation, or other emergency assistance pursuant to section 256D.06, subdivision 2. A person in need of emergency assistance shall be granted emergency assistance immediately, and necessary emergency assistance shall continue until either the person is determined to be ineligible for general assistance or the first grant of general assistance is paid to the person. It is reasonable to specify that the local agency must determine an applicant's eligibility for emergency assistance under Minnesota Statutes, section 256D.07 in addition to determining the applicant's eligibility for general assistance because this provision is consistent with statute, and because an emergency need must immediately be dealt with to prevent harm to the person. It is also reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may affect them.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family must have income and resources less than the standard of assistance established by the commissioner and be ineligible for general assistance in order to be eligible for work readiness. It is both necessary and reasonable to specify in the rule parts that if the applicant is eligible for general assistance he or she is ineligible for work readiness in order to implement the provisions of statute, and to inform affected parties of program policies and procedures.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), specifies that adult members of a family with minor children must register for and cooperate in the work readiness program. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that persons who are eligible for general assistance due to having borderline mental retardation or exhibiting perceptible symptoms of mental illness must continue to cooperate with work and training requirements as determined by the local agency. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (b), specifies that the local agency may provide a work readiness program to recipients under section 256D.05, subdivision 1, paragraph (b). Part 9500.1262, subparts 1 and 2 implement these statutory provisions. It is reasonable to state that applicants who are provided for in part 9500.1262, subparts 1 and 2, are not ineligible for work readiness services as a result of their eligibility for general assistance, since those persons may, and in some cases must, participate in work readiness services even though they are eligible for general assistance payments.

Minnesota Statutes, section 256D.051, subdivision 13, provides for notice and hearings of adverse actions according to section 256D.10. That provision further specifies that a determination of ineligibility for general assistance shall be considered an appealable adverse action for purposes of notice, appeal, and hearing requirements. An applicant must be afforded the right to appeal the determination of his or her ineligibility for general assistance, even if he or she is found eligible for work readiness, since work readiness benefits are time-limited by law. (See Chu Drua Chay v. Noot, 696 F. 2d 594 (8th Cir. 1982). Part 9500.1260 implements the notice and appeal provisions of statute. It is both necessary and reasonable to specify in this subdivision that the local agency must inform an applicant of his or her ineligibility for general assistance and the right to appeal as provided in part 9500.1260 in order to implement the provisions of statute and to provide applicants with their rights under the due process clause to appeal the adverse determination regarding their general assistance eligibility.

Subpart 2. Work readiness application. This subpart specifies that the work readiness application is considered complete on the date that the local agency determines the applicant ineligible for general assistance, and that a new general assistance application is not required when determining a work readiness registrant's eligibility under part 9500.1316, subpart 2, or 9500.1258, subpart 2.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family must have income and resources less than the standard of assistance established by the commissioner and be ineligible for general assistance in order to be eligible for work readiness. Therefore, the local agency must determine the applicant's eligibility for general assistance before determining the applicant's eligibility for work readiness. Part 9500.1310, subpart 1, states that work readiness services and payments must both be received during a month in order for the month to count towards the two or six month limitation on work readiness eligibility. It is necessary to specify in this subpart that the general assistance application is considered a completed work readiness application only when the applicant is determined ineligible for general assistance in order to implement Minnesota Statutes, section 256D.051, subdivision 1, and in order to specify the earliest date that work readiness services and payments may begin. It is reasonable to state that the application is considered a complete application on the date that the local agency determines the applicant ineligible for general assistance in order to create consistency and uniformity with part 9500.1310, subpart 1. If the application were considered complete retroactively to the date of application for general assistance, the local agency would be able to provide payments retroactively, but would be unable to provide services retroactively. Thus, the time for which retroactive work readiness payments were made but no services were provided could not be counted towards the two or six month limit on work readiness eligibility as required by Minnesota Statutes, section 256D.051, subdivisions 4 and 5. Therefore, the local agency would not be able to properly implement the eligibility limitations of statute. It is more reasonable to consider the general assistance application a completed application for work readiness on the date that the local agency determines the applicant ineligible for general assistance since that is the first date that work readiness services and payments can both be provided as required in Minnesota Statutes, section 256D.051.

Minnesota Statutes, section 256D.101, subdivision 2, requires the local agency to determine a registrant's eligibility for general assistance prior to disqualification for failing to comply with work readiness requirements. Part 9500.1316, subpart 2, implements that statutory requirement. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that persons who have borderline mental retardation or who exhibit perceptible symptoms of mental illness and who have registered for and completed six months of work readiness are eligible for six months of general assistance. Part 9500.1258, subpart 2, implements this statutory requirement. It is necessary to specify that a new general assistance application is not required for registrants for whom the local agency is determining general assistance eligibility under the provisions of parts 9500.1316, subpart 2, and 9500.1258, subpart 2, in order to prevent delaying the local agency decision and to prevent the collection of duplicative data. It is reasonable to include this provision in the rule parts in order to create a uniform statewide rule as required by Minnesota Statutes, section 256D.04, clause (2). It is also



reasonable to include this provision in the rule parts in order to facilitate the employment and training of participants as required under Minnesota Statutes, section 256D.051, subdivision 14.

Subpart 3. Eligibility criteria. This subpart requires the local agency to determine an applicant's work readiness eligibility after the applicant has been determined ineligible for general assistance, and states the criteria which must be met in order for an applicant or registrant to be determined eligible for work readiness services and payments.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Subpart 1 requires the local agency to determine a work readiness applicant's eligibility for general assistance before determining eligibility for work readiness. It is therefore reasonable to specify that when the local agency determines the applicant ineligible for general assistance, the local agency must determine the applicant's eligibility for work readiness in order to create consistency and uniformity among the rule parts, and in order to provide a mechanism whereby the applicant is assessed for eligibility for work readiness.

Items A and B. These items are necessary because they inform affected parties of statutory criteria which must be met in order to receive work readiness services and payments. Minnesota Statutes, section 256D.051, subdivision 1, states that a person or family whose income and resources are less than the standard of assistance established by the commissioner but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Minnesota Statutes, section 256D.05, subdivision 1, specifies that "Each individual or family whose income and resources are less than the standard of assistance established by the commissioner shall be eligible for and entitled to general assistance if the person or family..." meets one or more of 14 categories of eligibility. Part 9500.1209, subpart 3, item A, implements these statutory provisions by requiring the local agency to determine if the individual or family meets one or more of the categories of eligibility as part of the general assistance eligibility determination. It is reasonable to include the provisions of these items in the rule parts because they are consistent with Minnesota Statutes, section 256D.051, subdivision 1, and because they create consistency and uniformity among the rule parts.

Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), specifies that each person or family must have income and resources less than the standard of assistance established by the commissioner to be eligible for general assistance. Minnesota Statutes, section 256D.06, subdivision 1, specifies the income limits, and Minnesota Statutes, section 256D.08 specifies the resource limits to be used when determining an individual's or family's eligibility for general assistance. The commissioner has established the income and resource limits in part 9500.1209, subpart 4. Minnesota Statutes, section 256D.051, subdivision 1, specifies that the income and resource standards used to determine eligibility in the general assistance program must also be used in the work readiness program. In order to clarify for the local agency and for applicants and registrants how a married couple's income and

resources must be treated in the work readiness program, it is necessary to state that if the applicant or registrant is married and lives with his or her spouse, the income and resources of the applicant or registrant and his or her spouse shall be considered in accordance with part 9500.1209, subpart 4, when determining the applicant's or registrant's eligibility and monthly payment amounts. It is reasonable to consider such income and resources in accordance with part 9500.1209, subpart 4, because this policy requires the local agency to treat a work readiness applicant's or registrant's income and resources in the same manner in which such income and resources would be treated in the general assistance program, and the policy is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

Item C. This item is necessary because it informs affected parties of statutory criteria which must be met in order to receive work readiness services and payments. Minnesota Statutes, section 256D.051, subdivisions 4 and 5, state that a registrant will be eligible for either two months during any 24-month period, or for six months out of any consecutive 12-month period. A registrant who has exhausted his or her period of eligibility is not eligible for additional work readiness services and payments until the next 12 or 24-month period begins. It is reasonable to include the provisions of this item in the rule parts because they are consistent with and implement the provisions of Minnesota Statutes, section 256D.051, subdivisions 4 and 5.

Item D. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (6), specifies that a person who is unable to secure suitable employment due to the inability to communicate in the English language is eligible for general assistance if he or she participates in a language skills program if so assigned by the local agency. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (11), specifies that a family with minor children is eligible for general assistance and that the adult members of such family must register for and cooperate in the work readiness program. If the adult does not cooperate with the work readiness program, the local agency shall not take the person's needs into account when making the grant determination. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (b), specifies that a person who has completed six months in the work readiness program and who has borderline mental retardation or who exhibits perceptible symptoms of mental illness is eligible for general assistance, provided that such person continues to cooperate with work and training requirements as determined by the local agency. The person who exhibits perceptible symptoms of mental illness must also cooperate with social services, treatment, or other plans developed by the local agency to address the illness as a condition of continuing eligibility. The commissioner has implemented the provisions of these statutes in part 9500.1266 by providing for disqualification from receiving general assistance for failure to meet program requirements.

Minnesota Statutes, section 256D.051, subdivision 3, specifies that a work readiness registrant shall cooperate with the local agency in all aspects of the work readiness program, and that the local agency may terminate assistance to a registrant who fails to cooperate with these requirements. The period of ineligibility for failure to cooperate is two months. The commissioner has implemented these statutory provisions in part 9500.1316 by providing for disqualification of a noncompliant registrant.

Minnesota Statutes, section 256D.06, subdivision 5, specifies that an applicant for general assistance must apply for maintenance benefits from other maintenance benefit sources for which he or she is potentially eligible as a condition of general assistance eligibility. The commissioner has implemented the provisions of this statute by adopting Minnesota Rules, part 9500.1254. That rule provides for disqualification if the individual fails to comply.

Each of the above mentioned rules (parts 9500.1266, 9500.1316, and 9500.1254) provide for the disqualification from receiving general assistance or work readiness for a registrant who failed to comply with program requirements. The intent of such disqualification is to encourage compliance with program requirements by providing a negative consequence for the failure to comply. During disqualification, the applicant, recipient, or registrant is ineligible to receive general assistance or work readiness payments. If the disqualified person were permitted to circumvent the consequences of his or her action or inaction by receiving work readiness services and payments during the disqualification period, the disqualification would be of no effect. That result is not reasonable and conflicts with the various statutory provisions requiring ineligibility or disqualification. It is more reasonable to specify that persons disqualified from receiving general assistance or work readiness under the provisions of parts 9500.1264, 9500.1316, or 9500.1254, are, during the disqualification period, ineligible to receive work readiness services and payments because such policy is consistent with statute and the policy provides a consequence for failing to cooperate or comply with program requirements. It is also reasonable to include this provision in the rule parts in order to create consistency among rule parts and to create a uniform, statewide rule.

#### PART 9500.1308 REQUIREMENT TO INFORM APPLICANTS.

This part requires the local agency to inform work readiness applicants of the determination of their eligibility or ineligibility, and if eligible, of the time limits on eligibility, the right to choose when to receive work readiness, and the disqualification that will be imposed for failing to comply with certain requirements.

Subpart 1. Duty to inform applicants of ineligibility for the work readiness program. This subpart requires the local agency to inform ineligible applicants of the ineligibility determination and of the right to appeal the determination.

Minnesota Statutes, section 256D.051, subdivision 13, specifies that the local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. Minnesota Statutes, section 256.045, specifies that any person applying for public assistance pursuant to Minnesota Statutes, Chapter 256D, whose application for assistance is denied may contest that action or decision by submitting a written request for a hearing. Part 9500.1318 provides for notification of adverse actions and the right to appeal those actions. It is both necessary and reasonable to inform an applicant that he or she has been determined ineligible for work readiness and of the appeal rights as provided in part 9500.1318 so the applicant is aware of the decision and can choose whether or not to exercise his or her right to appeal the decision.

Subpart 2. Duty to inform eligible applicants of work readiness requirements. This subpart requires the local agency to inform an eligible applicant of the eligibility determination, of the work readiness program, the limitations on work readiness eligibility, the right to choose when to receive work readiness services and payments, and the disqualification that will be imposed for failure to comply with certain program requirements.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that an individual or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. It is reasonable to inform the registrant of the determination so the registrant can plan for the future with the knowledge that he or she may receive services and payments. It is also reasonable to provide the registrant with another copy of the work readiness program description so the registrant's knowledge of the program operation and requirements can be refreshed.

Item A. As provided in part 9500.1306, the local agency must determine a work readiness applicant ineligible for general assistance before the registrant can be determined eligible for work readiness services and payments. Minnesota Statutes, section 256D.051, subdivision 13, specifies that the local agency must notify the person that the determination of ineligibility for general assistance will result in a limit on the number of months of assistance for which the person will be eligible. It is necessary to include this provision in the rule parts in order to comply with the statute. Unlike general assistance benefits which are not time-limited by law, work readiness benefits are only available to an eligible registrant for either two out of 24 months or for six out of 12 months. Because work readiness benefits are only available for a limited period of time, it is reasonable to require the local agency to notify registrants of the fact so they can decide when to receive the benefits and plan for the future.

Item B. It is necessary in this item to specify that an applicant has the right to choose the months during which he or she will receive work readiness services and payments so the applicant is aware that he or she can exercise the right. Minnesota Statutes, section 256D.051, subdivisions 4 and 5, provide for work readiness eligibility for either two months out of any consecutive 24-month period, or for six months in any consecutive 12-month period. Because the period of eligibility is limited, an applicant will only be eligible for some part of each year. An applicant's need for assistance may differ depending on the time of year, the availability of employment, the need for shelter, or other factors. Because the applicant must plan for a method of supporting him or herself during the entire year, the applicant must plan the months during which work readiness services and payments are most needed and the months during which other means of support may be used. In addition, an applicant is under no obligation to accept assistance simply because he or she is eligible for it. Therefore, it is reasonable to specify in this item that the registrant has a right to choose the months during which he or she will receive work readiness assistance, including the right to receive such assistance immediately.

Item C. Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant must cooperate with the local agency in all aspects of the work

readiness program and shall accept any suitable employment. Minnesota Statutes, section 256D.051, subdivision 8, specifies that a person who is otherwise eligible to receive work readiness assistance under subdivision 1 must be terminated from work readiness assistance if he or she quits work without good cause, is fired for misconduct, or refuses to accept an offer of suitable employment. It is necessary to specify in this item that the local agency must inform an applicant of such requirements so the applicant is aware of program expectations and requirements and can plan to accept or reject work readiness services. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it provides advance notice of the applicant's obligations.

PART 9500.1310 WORK READINESS SERVICES AND PAYMENTS.

This part specifies the work readiness services and payments which an eligible applicant may receive, and specifies that the services and payments must be received in the same month in order for the month to count towards the two or six month limit on eligibility.

Subpart 1. Requirement of concurrent services and payments. This item clarifies the relationship between services, payments, and compliance with program requirements that must exist in order for a month to be counted towards the two or six month limitation on eligibility.

Minnesota Statutes, section 256D.051, subdivisions 4 and 5, specify that a registrant may receive work readiness assistance for two or six months. Subdivision 1 states that a registrant, upon application, is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivisions 3, 4, and 5. Subdivision 2, paragraph (a), specifies that the local agency shall provide to registrants under subdivision 1 a work readiness program and states certain services which must be provided. The statute, therefore, entitles an eligible registrant to receive both services and payments to help him or her find suitable employment. Work readiness services are essential to help the registrant find employment before his or her limited period of eligibility expires. In some situations, a registrant may receive a payment for the month but no services. It is necessary to specify that the registrant must receive both services and payments during a month for the month to count towards the two or six month limitation on eligibility in order to implement the provisions of Minnesota Statutes, section 256D.051. This provision is reasonable because it insures that a registrant will receive the services he or she is entitled to receive before his or her period of eligibility expires, thereby maximizing the registrant's chances of finding suitable employment.

An applicant is permitted by statute to receive work readiness assistance for only part of a year. In order to permit the applicant to choose to accept or reject assistance, and to permit the applicant to choose the period of time when work readiness assistance is most needed, it is necessary to state that the local agency must provide work readiness services and payments upon an eligible applicant's election to begin receiving such assistance. It is reasonable to include this provision in the rule parts to create clarity and to specify when assistance must begin.

Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (1), specifies that the local agency must provide an employability assessment and development plan to eligible registrants. Subpart 2, items A and B of this part implement the statutory requirements, and require that the assessment and plan be completed within the first 30 days that work readiness services and payments are provided to a registrant. In some instances, however, the employability assessment and development plan will not be completed in the first 30 days of work readiness assistance. For example, a local agency may have too many clients at a given time to provide an assessment and plan to all, or a registrant may fail to show up for the assessment and plan development. This provision is necessary to clarify whether the first 30 days of assistance will count towards the registrant's two or six month limitation on eligibility when the employability assessment and development plan are not completed. It is reasonable to specify that the month generally must not be counted toward the registrant's two or six month limitation on eligibility because it is consistent with the statutory requirement to provide both services and payments. The assessment and employability development plan are essential tools to assist the registrant in his or her efforts to find employment, and must be provided at an early stage of the program to allow the registrant sufficient time to use the employability assessment and development plan in his or her job search. It is also reasonable to specify that the month will count toward the eligibility limitation if the registrant failed, without good cause, to cooperate or comply when the local agency was developing the employability assessment and development plan because this policy prevents a registrant from willfully extending the length of time he or she may receive benefits by simply refusing to cooperate with development of the assessment and plan. The rule parts require the assessment to be completed "in consultation with the registrant." Participation in the employability assessment and development process, therefore, is a requirement of the program. The local agency cannot complete the assessment or plan until the registrant cooperates. If the local agency were required to disregard a month when a registrant failed to comply with the assessment and plan, the registrant could continue to receive benefits indefinitely. That outcome is not consistent with the limitations on eligibility specified in Minnesota Statutes, section 256D.051, subdivisions 4 and 5.

Minnesota Statutes, section 256D.051, subdivisions 4 and 5, specify that a registrant may receive two or six months of work readiness assistance. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), specifies the work readiness services which must be provided. Generally, services and payments must be provided during the same month for that month to count against the two or six month eligibility limitation. Minnesota Statutes, section 256D.051, subdivision 3, specifies that in order to receive work readiness assistance, a registrant shall cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment. A registrant may, however, fail to comply with the work readiness requirements. When the registrant fails to comply, confusion is created regarding whether or not to count the months against the two or six month eligibility limitation because services and payments were not concurrently received. In order to create clarity, it is necessary to specify the answer to this question. It is reasonable to specify that a month during which a registrant fails to comply with work readiness requirements but for which a work readiness payment was made shall be counted towards the two or six month

eligibility limitation because such policy prevents the registrant from willfully extending his or her eligibility beyond the two or six month limitation on eligibility as stated in Minnesota Statutes, section 256D.051, subdivisions 4 and 5. Without this provision, a registrant could extend his or her eligibility indefinitely by simply refusing to cooperate with work readiness requirements and claiming that services and payments were not both provided during the month. This outcome is not consistent with the eligibility limitations of Minnesota Statutes, section 256D.051, subdivisions 4 and 5. It is more reasonable to count such month against the time limitations on eligibility because the registrant could have received work readiness services by simply complying with the local agency. This provision is also reasonable because it provides incentive for the registrant to attend required sessions and workshops. The registrant's active participation is necessary to maximize the registrant's chances of finding suitable employment.

Subpart 2. Work readiness services. This subdivision specifies the work readiness services which a local agency must provide to a work readiness registrant, and authorizes the local agency to contract for the provision of such services.

Item A. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), states that "The local agency shall provide to registrants under subdivision 1 a work readiness program. The work readiness program must include:

(1) an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment";

This item is necessary because it clarifies who must complete the employability assessment, and because it explains what factors must be taken into consideration when developing the assessment. It is reasonable to specify that the assessment must be completed in consultation with a vocational advisor because such requirement assures that an individual who has necessary education, training and experience will assess the registrant's capacity to secure employment. It is reasonable to require that the assessment be completed in consultation with the registrant in order to permit the vocational advisor to gain information that is not available from any source other than the registrant and to permit the vocational advisor to assess the registrant's ability to present him or herself well when searching for suitable employment. It is reasonable to specify that the assessment must include an examination of the registrant's education, training, prior work experience, and suitable employment that is or may become available because these factors directly affect a registrant's ability to secure or retain employment, and will dictate the level of employment which the registrant can perform. This information will also assist the vocational advisor in identifying the registrant's barriers to employment. Moreover, it is reasonable to specify that the assessment must identify barriers to the registrant seeking and securing suitable employment in order to plan the type and duration of services needed, to identify the length of time it will take the registrant to obtain suitable employment, and to assure that the vocational advisor can develop a realistic plan for helping the registrant overcome the barriers and find realistic job possibilities.

Item B. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a),

states that "The local agency shall provide to registrants under subdivision 1 a work readiness program. The work readiness program must include:

(1) an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment";

This item is necessary because it identifies who must complete the written employability development plan, and because it specifies the content required in the plan. It is reasonable to specify that a vocational advisor must develop the written employability development plan because the vocational advisor has the education, training, and experience needed to determine the services necessary to assist the registrant to seek and obtain suitable employment. Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (4), specifies that the purpose of the employability development plan is to design services and activities "to prepare the registrant for permanent employment." It is reasonable to specify that the plan must be based on the employability assessment provided under item A and the vocational advisor's knowledge of the level of competition for employment that is or may become available, and must be designed to address the registrant's barriers to employment and prepare the registrant for suitable employment because such provisions are consistent with the statutory intent of helping the registrant to prepare for employment.

It is necessary to specify that a copy of the registrant's plan must be given to the registrant so that affected parties are aware of program procedures which must be complied with. It is reasonable to specify that a copy of the plan must be given to the registrant in order to assure that the registrant is informed of the plan of services which the local agency has designed to help the registrant find suitable employment and so the registrant is informed of the requirements which he or she must comply with. This provision is also reasonable because it enables the registrant to question the plan of services identified in the intended service plan.

Subitem (1). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (1), specifies that the local agency must provide an employability assessment and development plan in which the local agency estimates the length of time it will take the registrant to obtain employment. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant program policies and procedures.

Subitem (2). Minnesota Statutes, section 256D.051, subdivision 3, specifies that the registrant shall cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant program policies and procedures.

Subitem (3). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), clause (2), specifies that the employability plan must include referral to available employment assistance programs including the Minnesota employment



and economic development program. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant policies and procedures.

Subitem (4). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), specifies that the local agency shall not require an individual to participate in the work readiness program for more than 32 hours a week, and that the local agency shall require an individual to participate at least eight hours a week in job search or other work readiness program activities. It is reasonable to include this provision in the rule parts because it is consistent with statute, and because it informs affected parties of relevant program policies and procedures.

Subitem (5). Minnesota Statutes, section 256D.051, and this proposed rule give local agencies considerable flexibility when determining the job search activities which must be complied with by a registrant. It is necessary to assure that the registrant is not expected to comply with arbitrary or meaningless requirements by stating that the registrant's job search requirements must be limited to the local labor market, must be reasonable, and must be based upon the assessment performed under item A. It is reasonable to include this provision in the rule parts in order to create a statewide, uniform rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14, and which at the same time affords local agency flexibility in designing job search requirements which are reasonable for that county or area.

Subitem (6). Minnesota Statutes, section 256D.051, subdivision 2, paragraph (a), requires the local agency to provide "other activities designed by the local agency to prepare the registrant for permanent employment." It is reasonable to include this provision in the rule parts because it is consistent with statute and because it informs affected parties of relevant program policies and procedures. This provision is also reasonable because it affords the local agency flexibility in designing its work readiness program so that it can respond to local concerns and needs.

Subitem (7). This provision is necessary because it provides a mechanism for assessing whether the services being provided are having the intended effect, and whether the plan of services needs to be amended. It is reasonable to include this provision in the rule parts in order to assure that services are provided which facilitate the employment and training of participants as specified in Minnesota Statutes, section 256D.051, subdivision 14.

Item C. A registrant who is required to participate in work readiness services and who receives a work readiness payment or general assistance payment will have a limited amount of funds available with which to provide for all daily living needs. Because the standards of assistance which are used to determine the monthly payment amount provide only for basic necessities, the monthly payment cannot be assumed sufficient to provide for other, nonsubsistence needs. For example, a registrant who has employment-related travel expenses cannot be expected to pay such travel costs and his or her daily living needs from the same monthly payment. A registrant who must pay his or her own transportation costs instead of daily living needs will not be able to effectively participate in the work readiness program. It is

therefore reasonable to specify that the local agency cannot require the registrant to travel for work readiness reasons unless travel expenses are provided for through other funds, transportation is otherwise available to the registrant without cost, or unless transportation is unnecessary. It is reasonable to include this provision in the rule parts in order to create a uniform, statewide rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14.

Item D. Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), specifies that adults in a family with minor children are eligible for general assistance, and that if the children are over the age of 6, all adults must register for and participate in the work readiness program. The statute assumes that children over the age of six attend school, and that child care will not be needed during school hours. Therefore, parents whose children are in school are assumed to be free to participate in the work readiness program. However, there are certain situations when the child will not be in school during the hours when the parent would be required to participate in the work readiness program. For example, children often have days off for holidays or school vacations but the parents do not have the same time periods free from work or training. During these times, child care is necessary. This can be a major problem when the family consists of only one parent since the parent would then have to arrange child care for the times the child is not in school. This problem would be made more difficult if the parent was also expected to pay for child care out of the general assistance or work readiness payment since the monthly payment provides only for basic subsistence needs. In order to create a rule which facilitates the employment and training of work readiness participants as required by Minnesota Statutes, section 256D.051, subdivision 14, it is necessary to specify how a one-parent family's need for child care will be resolved. It is reasonable to require the local agency to provide child care funds (when the registrant has children under the age of 12) in addition to the monthly program payment, unless child care is otherwise available to the recipient without cost, because this policy will assure that the recipient is not required to use his or her monthly program payment for needs other than basic subsistence items. Children over the age of 12 are commonly considered able to care for themselves, and therefore are not likely to need outside care. This provision is also reasonable because it provides for administration of the general assistance program in a uniform, statewide manner as required by Minnesota Statutes, section 256D.04, clause (2).

Item E. Minnesota Statutes, section 256D.113, governs employment experience programs for work readiness participants. Subdivision 3 of that statute states that work performed through this program must not displace persons currently employed or fill an established vacant position. It is reasonable to specify that the local agency must require that its employment experience program meet the standards established in the statute and that work to be done is not work ordinarily performed by a regular public employee because it is consistent with Minnesota Statutes, section 256D.113, and because it informs interested parties of program provisions which may affect them.

Item F. Minnesota Statutes, section 256D.051, subdivision 14, authorizes the commissioner to adopt permanent rules to implement the work readiness program. Minnesota Statutes, section 256D.051, subdivision 9, authorizes the local

agency to contract for the provision of work readiness services. It is necessary to include this provision in the rule parts in order to inform interested parties of policies and procedures which may effect them. It is reasonable to require in this item that the entity contracted with must be able to document that it has the resources and expertise necessary to perform the services in order to create a rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14, and to assure that contracted services meet the service requirements of both statute and rule. It is reasonable to require that the contract describe the services to be performed under contract so all parties to the contract are aware of what is expected of each. It is necessary to specify that the local agency must monitor the entity with whom it has contracted to assure that services to be performed under contract are being provided. It is reasonable that the local agency monitor the entity under contract because, under Minnesota Statutes, section 256D.051, subdivision 1, and under part 9500.1308, it is the local agency's responsibility to provide a work readiness program. It is reasonable to require the local agency to provide a copy of the contract and a description of the resources and expertise of the entity under contract to the commissioner so the commissioner can monitor the implementation of these rules under Minnesota Statutes, section 256D.051, subdivision 14.

It is necessary to specify that the local agency must monitor the entity under contract in order to assure that the entity is providing the services in accordance with statute and rules. It is reasonable to include this provision in the rule parts because it assures that the registrant receives the services and benefits which he or she is entitled to.

Subpart 3. Work readiness payments. This subpart specifies who must receive work readiness payments, the method of determining eligibility for and the amount of the payments, establishes the periods which the payments are intended to cover, and specifies that emergency general assistance is available to a registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that "A person or family whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible to receive general assistance under section 256D.05, subdivision 1, are eligible for a work readiness program. Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivisions 3, 4, and 5. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration." Minnesota Statutes, section 256D.051, subdivision 14, authorizes the commissioner to adopt permanent and emergency rules to implement the work readiness program.

The commissioner has proposed part 9500.1306, subpart 3, to implement the criteria for work readiness eligibility which are specified in Minnesota Statutes, section 256D.051, subdivision 1. It is necessary to specify that registrants who meet the eligibility requirements of part 9500.1306, subpart 3, shall receive work readiness payments during the applicable period of work readiness eligibility in order to implement the payment provisions of

Minnesota Statutes, section 256D.051, subdivision 1, and to create consistency among the rule parts. It is reasonable to include this provision in the rule parts in order to inform interested persons of program procedures and policies which may affect them.

Because Minnesota Statutes, section 256D.051, subdivision 1, specifies that the work readiness payment amount must be equal to general assistance, it is necessary to specify how to make payments to both single registrants, and registrants with a family. Part 9500.1209 specifies that eligible family members form a "filing unit" and an "assistance unit" for purposes of determining the standard of assistance applicable to the family, the amount of resources, eligibility, and payment amounts. Families with minor children will be eligible for general assistance under part 9500.1258, subpart 1, item L, and will not receive work readiness payments. Therefore, only single persons or married couples will receive work readiness payments. The payment amount for single persons has already been provided for. It is therefore necessary to specify how to determine the payment amount for married registrants.

It is reasonable to consider a married registrant who lives with his or her spouse to be a filing unit comprised of two individuals because this couple would be considered a filing unit for general assistance purposes. This implies that the spouses will be obligated to provide support to each other, when possible. It is also reasonable to specify that when the registrant's spouse is also receiving work readiness, that the couple will comprise an assistance unit composed of two individuals because this policy will require that the standard of assistance applicable to the couple will be the same amount that would be received under general assistance. It is reasonable to include these provisions in the rule parts in order to inform interested parties of program policies and procedures which may effect them, and to create a statewide, uniform rule.

It is necessary to specify that the work readiness payment amount must be equal to the amount of assistance that would be paid to the registrant's assistance unit if the registrant was eligible for general assistance under part 9500.1209 in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 1, and to create consistency among rule parts. It is reasonable to include this provision in this item in order to inform interested persons of program policies and procedures which may affect them.

When the registrant's spouse receives general assistance, the couple will receive payments from two programs. The registrant will receive a work readiness payment, and the spouse will receive a general assistance payment. Minnesota Statutes, section 256D.051, subdivision 1, states that the work readiness payment must be equal to the amount of general assistance the registrant would receive under section 256D.05, subdivision 1. It is reasonable to specify that when the registrant's spouse resides with the registrant and the spouse receives general assistance that the amount of the registrant's work readiness payment must equal the increase that would result if he or she were added to the spouse's general assistance grant because that is the amount which would be paid to the registrant under general assistance. This provision is also reasonable because it is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

Minnesota Statutes, section 256D.051, subdivision 1, specifies that the local agency shall pay work readiness in monthly payments. Confusion exists, however, when a registrant is determined eligible mid-month concerning the amount of assistance which must be paid that month. For example, a registrant may be found eligible for work readiness on the 15th of the month, and the monthly standard of assistance for the registrant is \$201 monthly. The local agency must determine if the registrant should receive \$201 for the 15 days left in the month, or whether the payment must be prorated based upon the number of days for which assistance is paid. Minnesota Statutes, section 256D.051, subdivision 1, specifies that a registrant is eligible to receive work readiness assistance upon registration. It is therefore reasonable to require the first payment to be made immediately upon electing to receive work readiness, even if the election is made mid-month. Minnesota Statutes, section 256D.051, subdivision 1, specifies that the amount of work readiness paid must be equal to the amount of assistance which the registrant would have received under the general assistance program. The general assistance program prorates the amount of assistance from the date of application to the end of the month. Therefore, it is reasonable to specify that the first work readiness payment must be prorated for the period beginning with the effective date of the completed application, the date that the applicant is determined eligible for work readiness services and payments, or the date that the eligible applicant elects to begin receiving work readiness services or payments, whichever is later, and ending with the last day of that month because this policy is consistent with the policy used in the general assistance program, and because this provision is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

It is necessary and reasonable to specify that subsequent work readiness payments must be made monthly on the first day of the month because this policy is consistent with the method of payment in general assistance, and is consistent with Minnesota Statutes, section 256D.051, subdivision 1.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency shall terminate assistance to a registrant after two months in the work readiness program if the local agency determines the registrant is not eligible for a maximum of six months of work readiness assistance under subdivision 5. In order to create clarity, it is necessary to specify how long a registrant must receive work readiness payments. It is reasonable to specify that the registrant must receive work readiness payments during the months that he or she elects to receive work readiness services and payments and meets the eligibility requirements of part 9500.1306 because this provision implements the limitations on work readiness eligibility imposed by Minnesota Statutes, section 256D.051, subdivisions 1, 4, and 5. This provision is also reasonable because it permits the registrant to elect the months during which he or she will receive services and payments, thereby allowing the use of assistance during the months in which the registrant feels the greatest need.

Minnesota Statutes, section 256D.051, subdivisions 1, 4, and 5, limit the period of time that a registrant may receive work readiness services and payments. A registrant will be eligible for two or six full months of assistance. If the first payment covers only part of the first month, the final payment must cover only part of that final month. This will assure that a registrant receives either two or six full months of assistance. It is

therefore reasonable to specify that the last payment must be prorated to cover the number of days in the registrant's first month which were not covered by the first payment. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which affect them, and to create a rule which assures the provision of the benefits to which a registrant is entitled as provided in Minnesota Statutes, section 256D.051.

Because general assistance and work readiness are two separate programs, confusion exists concerning whether or not emergency general assistance is available to a work readiness registrant. It is necessary to create clarity by specifying that such assistance is available to a registrant. Minnesota Statutes, section 256D.06, subdivision 2, specifies that emergency general assistance is available to an eligible individual or family for an emergency need where the recipient requests temporary assistance not exceeding 30 days. A registrant of work readiness must meet the same income and resource limits for work readiness as those used in general assistance. Therefore, a registrant meets the initial income and resource limits for emergency assistance. Because a registrant may have emergency needs equal to a general assistance recipient, it is reasonable to specify that the local agency may provide emergency assistance to the registrant in accordance with Minnesota Statutes, section 256D.06, subdivision 2.

PART 9500.1312 ASSESSMENT DURING SECOND MONTH; NOTICE OF TERMINATION.

This part requires the local agency to assess registrants during the second month of work readiness to determine the registrants' eligibility for four additional months of services and payments; requires the local agency to notify registrants of the determination; requires a new second month assessment if the registrant moves to another county; and requires the local agency to notify registrants who are in the last month of his or her two or six months of work readiness of his or her termination from the work readiness program.

Subpart 1. Required assessment. This subpart requires the local agency to assess the registrant's progress in securing suitable employment and to complete an assessment of the registrant's eligibility for four additional months of work readiness services and payments during the registrant's second month of work readiness participation.

Part 9500.1310, subpart 2, item B, requires the local agency to develop an employability development plan designed to prepare the registrant for employment. It is necessary to specify in this subpart that the local agency must assess the registrant's progress in securing suitable employment in order to determine if changes are needed in the registrant's employability plan, and to serve as the basis of determining if "no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform," as required by Minnesota Statutes, section 256D.051, subdivision 5, clause (3). It is reasonable to include this provision in the rule parts in order to develop a rule which facilitates the employment and training of participants as required in Minnesota Statutes, section 256D.051, subdivision 14, and in order to implement the provisions of statute.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that during the second month of work readiness assistance, the local agency must assess the registrant's eligibility under subdivision 5 and inform the registrant of the outcome of the assessment. It is necessary to specify that the local agency must assess the registrant's eligibility for four additional months of work readiness during the registrant's second month of work readiness services and payments under part 9500.1310 in order to implement the provisions of the statute. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them. It is both necessary and reasonable to exclude persons eligible under part 9500.1262 from the required second month assessment under this subpart because such persons are eligible for general assistance, and the assessment of eligibility for four additional months of work readiness services and payments will have no effect on their general assistance eligibility.

It is necessary to specify that the local agency must offer the registrant an opportunity to meet with the local agency and to provide information relevant to the second month assessment in order to give the registrant an opportunity to provide information that the local agency may not have. Under the emergency rule which implemented this provision, the local agency was required to complete the assessment "in consultation with the registrant." The local agencies reported that this provision created considerable difficulty in completing the second month assessment because they found that a very high percentage of registrants scheduled to meet and "consult" regarding the assessment did not show up for the assessment. If the registrant's presence would be required but the registrant failed to show up for the assessment, the local agency would be unable to complete the assessment. This creates considerable confusion regarding whether to continue work readiness payments and services after two months have elapsed but the registrant's eligibility for four additional months of assistance has not been determined. Providing the registrant an opportunity to meet with the local agency regarding the assessment without requiring his or her presence permits the registrant to provide relevant information to the local agency and permits the second month assessment to be completed without the confusion about payment of benefits beyond the second month. It is reasonable to include this provision in the rule parts because it helps insure that the local agency is informed of all factors which may influence the decision regarding the registrant's eligibility for four additional months of work readiness services and payments, permits the registrant to provide relevant information, and eliminates confusion about payment of benefits that should only be paid after the registrant is determined eligible for four additional months of work readiness assistance.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency must assess the registrant's eligibility for four additional months of work readiness assistance under subdivision 5 during the registrant's second month of work readiness assistance. It is both necessary and reasonable to specify that the local agency must complete the second month assessment based on information in the registrant's case file if the registrant does not meet with the local agency or provide relevant information in order to assure that the statutory requirement is complied with, and to insure that the assessment is not avoided by the registrant failing to meet with the local agency or failing to provide relevant information during the registrant's second month.

Subpart 2. Notice of Assessment. This subpart requires the local agency to inform the registrant of the second month assessment of the registrant's eligibility for additional work readiness assistance.

It is necessary to specify that the notice must meet the standards established under part 9500.1252 in order to clarify that the provisions of part 9500.1252 are applicable. It is reasonable to specify that the provisions of part 9500.1252 apply because it insures that registrants will be informed of their upcoming assessment in a clearly written notice which they are capable of understanding. It also creates consistency among the rule parts, since part 9500.1252 applies to all written material provided to applicants and recipients.

Item A. It is necessary to require that the local agency's notice of the upcoming assessment include the conditions which must be met in order for the registrant to be found eligible for four additional months of work readiness services and payments because this practice insures that the registrant is knowledgeable of the factors which will provide four additional months of assistance. It is reasonable to include this provision in the rule parts in order to permit the registrant to determine which information may be relevant to the assessment, and so the registrant can provide such information to the local agency.

Item B. Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency shall terminate a registrant after two months in the work readiness program if the local agency determines that the registrant is not eligible for four additional months of work readiness assistance as provided by subdivision 5. Registrants cannot qualify for more than two months of work readiness assistance unless they have been assessed and found eligible for four additional months as specified in Minnesota Statutes, section 256D.051, subdivisions 4 and 5. Therefore, it is reasonable to specify that the registrant will not receive work readiness payments beyond the second month until the assessment has been completed and the registrant has been found eligible for four additional months in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivisions 4 and 5. It is also reasonable to include this provision in the rule parts in order to provide advance notice of the importance of the assessment and to allow the registrant to plan for the length of time that he or she will likely receive assistance.

Item C. It is necessary to specify that the registrant must be notified that an opportunity exists to meet with the local agency in order to provide information relevant to the assessment because such notification enables the registrant to choose whether or not to use this opportunity. It is reasonable to specify that the local agency must offer the registrant an opportunity to meet and provide relevant information because this provision insures that a mechanism exists whereby the local agency can obtain data known only to the registrant.

Item D. It is necessary to specify that the registrant may submit information to the local agency that is relevant to the determination because this practice insures that the registrant has a voice in the determination and that the registrant's evidence will be considered. It is reasonable to include this provision in the rule parts in order to assure that the registrant's rights and interests are protected, and to permit the registrant to provide material information which the local agency may not have.



The assessment of the registrant's eligibility must be conducted during the registrant's second month of work readiness assistance. The provisions of this part require that the registrant be informed of the upcoming assessment, that the assessment be scheduled during the month, and that the registrant be notified of the results of the determination. Part 9500.1318 requires that the notification of ineligibility for four additional months be mailed or given to the registrant at least 10 days before reducing, suspending, or terminating assistance. Implementation of these provisions will use up the majority of the second month. Therefore, it is necessary to require the registrant to provide information to the local agency relevant to the second month determination within a set time period. It is reasonable to specify that the information be provided within 10 days of the date the notice of the upcoming assessment is mailed or given to the registrant in order to assure that sufficient time remains in the month to conduct the assessment and to notify the registrant of the determination. This 10-day period was implemented through emergency rule (part 9500.1216 [EMERGENCY], subpart 1) without problems being reported.

Subpart 3. Assessment of additional eligibility. This subpart specifies the conditions which must be met in order for the registrant to be eligible for four additional months of work readiness assistance.

Minnesota Statutes, section 256D.051, subdivision 5, specifies that a registrant is eligible for work readiness assistance for a maximum of six months in any consecutive 12-month period if the registrant:

- (1) has borderline mental retardation;
- (2) exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under section 256D.05, subdivision 1, because the mental illness interferes with the medical certification process;
- (3) is certified by the commissioner of economic security as being unable to secure suitable employment because the person lives in a distressed county; and
- (4) is unable to secure suitable employment because the local agency has determined that no jobs are available that a person with the registrant's work history, skills, and ability has the physical and mental ability to perform.

Items A to D. It is necessary to specify the provisions of items A to D in order to implement the provisions of the statute. It is reasonable to include these provisions in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

Part 9500.1206, subpart 20, specifies that medical certification means a statement about a person's illness, injury, or incapacity that is signed by a licensed physician, licensed consulting psychologist, or licensed psychologist whose professional training and expertise qualifies him or her to diagnose or certify the person's condition. It is necessary to require medical certification of the registrant's borderline mental retardation when the local agency believes or the registrant or a representative of the registrant asserts that the registrant has borderline mental retardation because such determination requires specialized, professional training and expertise. Persons qualified to complete a medical certification have the necessary training and expertise to make the determination.

It is necessary to require that the local agency seek medical certification of the registrant's condition when the registrant's behavior, mood, conduct, or appearance suggests or demonstrates that the individual has a mental illness, or when the registrant or a representative of the registrant asserts that the registrant has a mental illness in order to determine if the registrant may be eligible for general assistance. If the registrant is eligible for general assistance the registrant is ineligible for work readiness as provided by Minnesota Statutes, section 256D.051, subdivision 1. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

In some cases, the registrant's mental illness may prevent the medical certification of the condition. For example, a registrant may refuse to go to a professional, or may deny the existence of the condition. In such cases, the condition will most likely effect the registrant's ability to secure employment. It is necessary to specify that if the registrant's mental illness interferes with the medical certification the local agency shall seek an assessment of the registrant's condition from a qualified professional in order to implement the provisions of Minnesota Statutes, section 256D.051, subdivision 5, clause (2). It is reasonable to include this provision in the rule parts because it is consistent with the statute and because it informs interested parties of program policies and procedures which may effect them. Inclusion of this provision in the rule parts also will provide extended eligibility for work readiness assistance to individuals affected by mental illness, and will permit more time to work with the person to see if employment can be obtained. Furthermore, this provision is reasonable because it facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Subpart 4. Notice of Determination. This subpart requires the local agency to notify the registrant of the results of the second month assessment and the length of time that the registrant may receive work readiness services and payments.

Minnesota Statutes, section 256D.051, subdivision 4, specifies that the local agency shall terminate a registrant after two months in the work readiness program if the local agency determines that the registrant is not eligible for assistance under subdivision 5, requires the local agency to assess the registrant during the second month as to his or her eligibility under subdivision 5, and requires that the local agency inform the registrant of the outcome of the assessment. The statute also specifies that a registrant who is not found eligible under subdivision 5 is eligible for a maximum of two months of work readiness assistance in any consecutive 24-month period. Subdivision 5 specifies the conditions which must be met in order for the registrant to be eligible for work readiness assistance for a maximum of six months in any consecutive 12-month period. The provisions of this subpart are both necessary and reasonable in order to implement the provisions of the statute. Moreover, this provision is reasonable because it provides the registrant with notice of the outcome of the assessment, so the registrant can decide whether or not to appeal the decision if found ineligible or make plans for the use of the extended benefits in the future if found eligible for additional assistance.

Subpart 5. Registrant moves to another county after second month assessment is completed. This subpart specifies that the new county of residence must

complete another second month assessment and determine the registrant's eligibility for additional work readiness services and payments when the registrant moves from one county to another and the local agency in the first county has completed a second month assessment.

Minnesota Statutes, section 256D.051, subdivision 5, specifies the conditions which must be met for a registrant to be eligible for an additional four months of work readiness assistance. That statute is implemented through subpart 1. The outcome of the second month assessment required by subpart 1 will be different depending on the county in which the assessment is conducted because the employment conditions and unemployment rate may vary from county to county. Eligibility for extended benefits will therefore depend on: (1) whether the county of residence is distressed, and; (2) the local labor market of the county of residence. Confusion exists about the amount of work readiness assistance a registrant may receive when the registrant is assessed as being ineligible for four additional months of work readiness assistance in a non-distressed county but then moves to a distressed county and applies for work readiness. Is the registrant then eligible for additional assistance because he or she now lives in a distressed county? Confusion is also present about how much assistance a registrant may receive when the registrant has been determined eligible for four additional months of work readiness assistance in a distressed county but the registrant then moves to a non-distressed county. Does the registrant remain eligible for the additional assistance even though living in a non-distressed county? In order to create clarity and eliminate confusion, it is necessary to specify that when a registrant who has been assessed for four additional months of work readiness assistance as required in subpart 1 moves to another county that the new county of residence must complete another second month assessment. It is reasonable to include this provision in the rule parts because it is consistent with the conditions necessary for the provision of four additional months of work readiness as specified in Minnesota Statutes, section 256D.051, subdivisions 4 and 5. The criteria in this statute specify that a registrant who resides in a distressed county or who is determined by a vocational advisor to be unable to secure suitable employment is eligible for additional work readiness assistance. The determination of eligibility based upon both of these criteria is dependent on the county of residence. When the county of residence changes, the registrant's eligibility may change. Therefore, it is reasonable to require a new determination when the registrant moves to another county.

Subpart 6. Notice of termination. This subpart requires the local agency to notify a registrant who is in the last month of his two or six months of work readiness assistance of the termination of services and payments and of the appeal rights as provided in part 9500.1318.

Minnesota Statutes, section 256D.051, subdivision 13, requires the local agency to provide notice and opportunity for hearings for adverse actions according to sections 256D.10 and 256D.101. The commissioner has implemented this statute by proposing part 9500.1318. It is necessary to specify that the local agency must notify a registrant who is in the last month of his or her two or six months of work readiness assistance of the termination of services and payments and of the appeal rights in accordance with the procedures specified in part 9500.1318 in order to create consistency and uniformity among the rule parts, and to permit the registrant to exercise his or her

right to appeal the adverse action. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

#### PART 9500.1314 REGISTRANT DUTIES

This part specifies that a registrant must comply with all requirements of the local agency work readiness program, and that a registrant who fails to comply with such requirements is disqualified from the receipt of work readiness services and payments.

Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant must "cooperate with the local agency in all aspects of the work readiness program and shall accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options. The local agency may terminate assistance to a registrant who fails to cooperate in the work readiness program. A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible." Parts 9500.1308, subpart 2, and 9500.1310, subpart 2, provide notification to the registrant of the work readiness requirements which the registrant must comply with. Minnesota Statutes, section 256D.101, specifies that the local agency must provide notice of the determination that the registrant has failed to cooperate, and terms the subdivision "Disqualification." It is necessary to specify in this part that a registrant must comply with all requirements of the local agency work readiness program as explained under parts 9500.1308, subpart 2, and 9500.1310, subpart 2, in order to clarify the requirements which must be complied with, and to implement the provisions of Minnesota Statutes, section 256D.051, subdivisions 3 and 8. It is reasonable to include this provision in the rule parts because it is consistent with the statute, and because it creates consistency among the rule parts.

Part 9500.1316 implements the disqualification procedures specified in Minnesota Statutes, sections 256D.051, subdivision 3, and 256D.101. It is reasonable to specify that a registrant, other than a registrant participating in work readiness under part 9500.1262, who fails without good cause to comply with the local agency work readiness requirements is disqualified from the receipt of work readiness services and payments under part 9500.1316 because this procedure is consistent with Minnesota Statutes, sections 256D.051, subdivision 3, and 256D.101. A registrant who is participating in work readiness under part 9500.1262 is a general assistance recipient who, if he or she fails to comply with work readiness requirements, must be disqualified from general assistance in accordance with part 9500.1266.

#### PART 9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

This rule part establishes the procedures a local agency must follow when it determines that a registrant has failed to comply with the requirements of the work readiness program, specifies the period of disqualification that must be

imposed on the registrant who fails to comply, and states the procedure for terminating assistance. The provisions in this rule part are authorized by Minnesota Statutes, sections 256D.051, subdivision 3, and 256D.101.

Subpart 1. Determination and notice of failure to comply. This subpart specifies what information the local agency must provide to a registrant when the local agency has determined that the registrant has failed to comply with the requirements of the work readiness program. The requirements in this subpart are needed to comply with the statutory requirements in Minnesota Statutes, section 256D.101, subdivision 1, which states that "If the local agency determines that a registrant has failed to comply with the requirements of section 256D.051, the local agency shall notify the registrant of the determination. The notification shall be in writing; shall state the facts that support the local agency's determination; shall specify the particular actions that must be taken by the registrant to achieve compliance; shall state that the recipient must take the specified actions by a date certain, which must be at least 15 days following the date the notification is mailed or delivered to the registrant; shall explain the ramifications of the registrant's failure to take the required actions by the date specified; and shall advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification." It is necessary to include the requirements in these rules to insure that notices of failure to comply will be consistent with statute and uniform throughout the state, as required under Minnesota Statutes, section 256D.04, paragraph (2), which requires the commissioner to "Promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...."

It is necessary to require the local agency to provide a notice that meets the standards in part 9500.1252, because part 9500.1252 establishes the standards for clarity and language that all general assistance written materials and notices must meet. It is reasonable to require notices of failure to comply to meet the standards under part 9500.1252 because it insures that the registrant will be able to understand the information contained in the notice. It is also reasonable to include this provision in this rule subpart because it insures that interested and affected parties are aware that the standards established in part 9500.1252 must be complied with when the local agency notifies a registrant that he or she has failed to comply with work readiness requirements.

Item A. Item A specifies that the notice must state the specific work readiness requirement the registrant has failed to meet, and the facts that support the local agency's determination. It is necessary to require the notice to contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notice must "...state the facts that support the local agency's determination...." It is reasonable to require this information in the notice, because the registrant must be informed of the specific requirement he or she has failed to meet and the facts the local agency has based its determination of failure to comply on if the registrant is to understand what actions he or she was expected to take. This information also enables the registrant to explain why he or she may have had good cause for failure to comply with a specific requirement or to explain why he or she believes, that he or she was in compliance.

Item B. Item B specifies that the notice must specify the particular action the registrant must take to meet the requirements. It is necessary to require that the notice contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notification must "...specify the particular actions that must be taken by the registrant to achieve compliance...." It is reasonable to require that the notice contain this information because it enables the registrant to understand what he or she is expected to do, and increases the likelihood that the registrant will comply with the requirements before disqualification is imposed.

Item C. Item C specifies that the notice must specify a certain date by which the action must be taken, and further specifies that the registrant must be given a minimum of 15 calendar days to take the required action following the date the notice is mailed or given to the registrant. These requirements are necessary to comply with Minnesota Statutes, section 256D.101, subdivision 1, which specifies that the notice "...shall state that the recipient must take the specified actions by a date certain, which must be at least 15 days following the date the notification is mailed or delivered to the registrant...." It is reasonable to require that the notice specify the date by which the required actions must be taken because it informs the registrant of how much time he or she has in which to comply and increases the likelihood that the registrant will comply.

Item D. Item D specifies that the notice must explain that the registrant will be disqualified from receiving work readiness services and payments if he or she fails to take the required actions by the specified date. It is necessary to require that the notice contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notice must "...explain the ramifications of the registrant's failure to take the required actions by the specified date...." It is reasonable to require that the notice contain this information because it insures that the registrant understands the consequences of his or her failure to comply, and increases the likelihood that the registrant will comply.

Item E. Item E specifies that the notice must advise the registrant that he or she may request and shall be granted a conference to discuss the notice with the local agency. It is necessary to require that the notice contain this information because Minnesota Statutes, section 256D.101, subdivision 1, specifies that the notification "...shall advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification." It is reasonable to inform the registrant that he or she has a right to discuss the notice with the local agency because it insures that if the registrant does not understand the notice provisions the registrant will know that he or she can seek clarification from the local agency.

Subpart 2. Disqualification. This subpart prescribes the actions a local agency must take after notifying a registrant of its determination that the registrant has failed to comply, as required under subpart 1. The provisions in this subpart are authorized under Minnesota Statutes, section 256D.101. It is necessary to include these provisions in these rules to insure that periods of disqualification are administered uniformly throughout the state, as required under Minnesota Statutes, section 256D.04, paragraph (2), which requires the commissioner to "Promulgate uniform rules consistent with law for

carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...."

Subpart 2 specifies that if the registrant who is notified of failure to comply under subpart 1 complies with the specified work readiness program requirements by the date specified in the notice the local agency shall not impose a period of disqualification on the registrant. This provision is necessary to be consistent with the statute which states that disqualification will be imposed only if the registrant fails to take the required actions by the date specified in the notice. This provision is reasonable because it is consistent with the purpose of the notice provisions: to encourage registrants to comply. If a registrant were to be disqualified even after complying with the specified requirements there would be no incentive for compliance. Furthermore, if a registrant who is notified under subpart 1 complies with the requirements stated in the notice prior to the date specified in the notice, the registrant is technically in compliance with the work readiness requirements and disqualification is no longer necessary. Specifying that in such cases a disqualification must not be imposed is reasonable because it insures that compliant registrants are not disqualified from the receipt of work readiness services and payments.

Subpart 2 also specifies that before the local agency may disqualify a registrant for failure to comply with work readiness requirements by the date specified in the notice, the local agency must assess the registrant's eligibility under part 9500.1209, and determine that the registrant is not eligible for general assistance. Proposed part 9500.1209 is the rule part which specifies how local agency determinations of general assistance eligibility must be made. Part 9500.1209 is authorized by and consistent with the requirements of Minnesota Statutes, sections 256D.01 and 256D.05. The requirement that the local agency assess general assistance eligibility is necessary to comply with Minnesota Statutes, section 256D.101, subdivision 2, which states that "No notice of grant reduction, suspension, or termination on the grounds that a registrant has failed to comply ... shall be given by the local agency until ... the local agency has, subsequent to giving the notification, assessed the registrant's eligibility for general assistance under section 256D.05 and determined that the registrant is not eligible under that section." (Emphasis added.) Minnesota Statutes, section 256D.051, subdivision 1, specifies that individuals eligible for general assistance are not eligible for work readiness assistance. If, during the disqualification process, the local agency determines that a registrant is eligible for general assistance, the registrant must be found ineligible for work readiness. It is necessary to specify that the registrant must be terminated from work readiness in such cases and be placed on general assistance in order to create consistency with statute. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may effect them.

Finally, subpart 2 provides that a registrant who has failed to comply with work readiness requirements shall be disqualified from receiving work readiness services and payments if the local agency determines that the registrant is not eligible for general assistance. It is necessary to specify that if the registrant has failed to comply with work readiness requirements, has subsequently been properly notified of the requirements and the

consequences for failure to comply within the time period specified, still does not comply, and has been found ineligible for general assistance, that the registrant be disqualified from receiving work readiness services and payments in order to implement the requirements of Minnesota Statutes, sections 256D.051 and 256D.101. Including these provisions in the rule insures that the affected parties are informed of the requirements, and insures that disqualifications will be administered uniformly throughout the state, as required by Minnesota Statutes, section 256D.04, paragraph (2). These provisions are reasonable because they are consistent with the statutory requirements specified in Minnesota Statutes, section 256D.101, subdivisions 1 and 2.

Subpart 3. Notice of disqualification. This subpart specifies that the local agency must notify a registrant who is being disqualified and that the notice must inform the registrant of his or her right to appeal the disqualification. Under Minnesota Statutes, section 256.045; section 256D.051, subdivision 13; section 256D.101, subdivision 2; and section 256D.10, a registrant whose grant is being reduced, suspended or terminated must receive notice of the local agency's intended action and must be given an opportunity for a hearing prior to the reduction, suspension, or termination. The provisions in subpart 3 are needed to comply with these statutory requirements. It is reasonable to include these provisions in the rules because it helps insure that affected parties are aware of the requirements and it insures uniform administration of the disqualification process, as required under Minnesota Statutes, section 256D.04, paragraph (2).

Subpart 4. Period of disqualification. Subpart 4 establishes certain requirements for the period of disqualification that must be imposed on a registrant for failure to comply with work readiness program requirements. It is necessary to specify these requirements in the rules to insure that periods of disqualification are administered uniformly throughout the state, as required under Minnesota Statutes, section 256D.04, paragraph (2). The need for and reasonableness of the provisions in items A to F are established as follows.

Item A. This item specifies that the period of disqualification shall be two months. This provision is necessary to comply with Minnesota Statutes, section 256D.051, subdivision 3, which specifies that "A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible." It is reasonable to include this provision in the rules because it insures that affected parties are aware of the length of a period of disqualification.

Item B. It is necessary to include this item in the rule parts in order to clarify when the disqualification period must begin. Historically, the notice informing a registrant of an upcoming suspension, reduction, or termination is issued indicating that the action will take place the first day of the next month. It is reasonable to specify that the disqualification must begin on the first day of the month following the date on which the determination was made because this policy follows past practice with public assistance. The disqualification process specified in this part and in part 9500.1318 specifies that the registrant must receive the following: 1) a notice, at the



time of the eligibility determination, which specifies the program requirements which must be complied with; and 2) a notice of the requirements which the local agency determines that the registrant has not complied with and at least 15 days within which to comply with the requirements listed in the notice. After the 15 days have elapsed, a determination of GA eligibility must be made. If ineligible for general assistance, a 10-day notice of upcoming reduction, suspension or termination of work readiness services and payments, including notice of the right to appeal must be sent to the registrant and, if no appeal is filed, disqualification will be imposed and benefits stopped. The disqualification cannot begin until the notice of suspension, reduction or termination required by part 9500.1318 has been issued and the required minimum 10-day period has elapsed. The minimum 10-day period permits the registrant to appeal the decision before action is actually taken.

A registrant who must be disqualified as provided in subpart 2 will already have received a work readiness payment for the month in which the disqualification decision is made. If the disqualification period started during that month, the registrant would have received a payment for the part of the month in which he or she was disqualified (and during which he or she was ineligible to receive assistance). The payment for those days would have to be returned to the local agency, a payment most likely already spent. In addition, since the disqualification must be for two months, the local agency would have to issue a partial payment for the portion of the second month of disqualification when the registrant's disqualification period ends. This policy would create an unnecessary burden on the local agency and the registrant. It is more reasonable to begin the disqualification period on the first day of the month following the date on which the determination is made because that time period will permit two full months of disqualification without the need to recover portions of a payment already made, and will eliminate the need to make a partial payment for the final days of the second month.

Minnesota Statutes, section 256D.051, subdivision 13, states that the local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. Minnesota Statutes, section 256D.10, specifies that no grant of general assistance except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the local agency. These statutes require the local agency to provide advance notice to work readiness registrants of any adverse action before implementing the action, and specify that the procedures used in general assistance apply to work readiness. The general assistance program requires that the notice of adverse actions be provided by the local agency to the registrant at least 10 days prior to the adverse action. This process must, therefore, be used in the work readiness program.

In some instances, the notice of disqualification may be issued so late in a month that 10-day prior notice cannot be given before the next payment is issued. It is necessary to specify when the disqualification period must begin in such cases in order to create clarity and to inform affected parties of relevant program policies and procedures. It is reasonable to specify that the disqualification period in such cases must begin on the first day of the

second work readiness payment period following the date the determination was made because this policy affords the registrant the full amount of time to respond to an advance notice of adverse action. This policy is also reasonable because it eliminates the hardship that would occur for the local agency and the registrant if disqualification were to begin mid-month.

Minnesota Statutes, section 256.045, subdivision 3, specifies that any person applying for, receiving or having received any of the forms of public assistance described in subpart 2 whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision. When a registrant appeals a local agency determination that the registrant is ineligible because of disqualification for failing to comply with work readiness requirements, a final determination of the registrant's eligibility or ineligibility is not arrived at until the commissioner issues an order deciding the appeal. Minnesota Statutes, section 256D.10 states that the registrant must be afforded an opportunity to be heard before the local agency takes any adverse action against the registrant's grant. In order to comply with this requirement and ensure that the registrant is not deprived of his or her constitutional right to due process as defined in Goldberg v. Kelly and its progeny, it is both necessary and reasonable to continue a registrant's work readiness services and payments when the registrant has filed a timely appeal.

If the registrant loses the appeal, the decision to disqualify the registrant is upheld and the registrant's benefits must be reduced, suspended, or terminated. It is reasonable to specify that the disqualification period must begin on the first day of the next work readiness payment period because this policy insures that only future benefits are affected, and that benefits already received need not be repaid to the local agency. It is reasonable to include this provision in the rule parts in order to inform affected parties of program policies and procedures which may effect them, and because it creates consistency within the rule parts.

Item C. Minnesota Statutes, section 256D.051, subdivision 3, states that a registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible. It is necessary to specify that the local agency shall deny eligibility for work readiness services and payments for a disqualified registrant who applies for work readiness during the disqualification period in order to implement the provisions of the statute. It is reasonable to include this provision in the rule parts in order to create clarity and consistency among the rule parts.

Item D. Minnesota Statutes, section 256D.03, specifies the eligibility criteria for the general assistance medical care program. Such program does not require compliance with work readiness requirements. The general assistance program, under part 9500.1262, requires certain general assistance recipients to comply with the requirements of the work readiness program. The disqualification provisions which apply to a general assistance recipient who

fails to comply with the work readiness requirements are provided in part 9500.1266. The disqualification provided for under this part applies only to work readiness registrants who fail to comply, and does not apply to general assistance recipients. Thus, eligibility for general assistance or general assistance medical care is not affected by disqualification under subpart 2. It is both necessary and reasonable to specify that disqualification under subpart 2 must not affect a registrant's eligibility for general assistance or general assistance medical care in order to assure that the registrant's rights are protected and to assure that affected parties are informed of relevant program policies and procedures.

Item E. Minnesota Statutes, section 256D.051, subdivision 3, specifies that a registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible. The statute is ambiguous concerning whether or not the disqualification period must be subtracted from the two or six months of work readiness assistance for which the registrant is eligible. It is necessary to specify whether or not the disqualification period must be subtracted from the registrant's eligibility period in order to create clarity. The disqualification period is imposed as a negative consequence for failing to comply with program requirements, not as a method of shortening the registrant's period of eligibility. The loss of assistance payments for two months during disqualification is sufficient penalty for failure to comply with work readiness requirements. Subtracting the two months from the two or six months of work readiness eligibility would be an excessive penalty. The purpose of the work readiness program is to assist registrants to secure suitable employment. The registrant may still need the full amount of work readiness payments and services available after disqualification to help him or her secure suitable employment. It is therefore reasonable to specify that the disqualification period must not be counted against the registrant's eligibility period in order to create a rule which facilitates the employment and training of participants as required by Minnesota Statutes, section 256D.051, subdivision 14.

Once a disqualification period has ended, the registrant may be eligible for additional or remaining months of work readiness assistance. This provision is necessary in order to inform the local agency and a registrant of the process to be followed when a disqualification period ends. As provided in part 9500.1306, subpart 3, the registrant must have income and resources less than the standard of assistance established for general assistance, must be ineligible for general assistance, must not have exhausted his or her period of eligibility, and must not be in a disqualification period. During the two months of disqualification, the registrant's income, resources, or eligibility for general assistance may have changed. It is reasonable to require the applicant to reapply for work readiness in order to examine the registrant's current situation. It is reasonable to require the local agency to determine if the registrant remains eligible for work readiness services in order to assure that work readiness services and payments are provided to an individual who still meets the eligibility criteria of Minnesota Statutes, section 256D.051, and parts 9500.1300 to 9500.1318. Under the Aid to Families with Dependent Children (AFDC), a recipient who is sanctioned or disqualified must reapply for AFDC before benefits can be continued. This provision is reasonable because it creates consistency among income maintenance programs.

Item F. Minnesota Statutes, section 256D.111, subdivision 5, clause (b), specifies that the commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for the disqualification from the receipt of general assistance or work readiness for a recipient who has been finally determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a recipient described in clause a or section 256D.09, subdivision 4.

This statute specifies that the commissioner shall provide rules governing the use of voucher or vendor payments for the family of a registrant who is disqualified from the receipt of work readiness assistance. It is reasonable to include this item in the rule parts in order to implement the provisions of statute.

Since the standard of assistance applicable to the assistance unit of a registrant who is married is based on the needs of two persons, it is necessary to specify how to determine the standard of assistance applicable to the assistance unit when the registrant is removed due to disqualification. Under the provisions of Minnesota Statutes, section 256D.051, subdivision 1, the standard of assistance applicable to the registrant's assistance unit is based upon general assistance provisions, which state that the standard is determined on the basis of the number of assistance unit members. If one member is removed, the standard of assistance for the remaining members is based upon the number of remaining members. This procedure assures equality between the general assistance and work readiness program monthly payments. It is reasonable to include this provision in the rule parts in order to inform interested parties of program policies and procedures which may effect them.

PART 9500.1318 NOTICE OF ADVERSE ACTION AND APPEAL RIGHTS.

This rule part defines the specific adverse actions which require the local agency to provide the applicant or registrant with advance notice prior to taking the action, what information notices of adverse action are required to contain, and the appeal rights of an applicant or registrant. The provisions in subparts 1 to 3 of part 9500.1318 are authorized by Minnesota Statutes, section 256.045, section 256D.051, subdivisions 4 and 13, section 256D.10, and section 256D.101, subdivision 2. The need for and reasonableness of these provisions is established as follows.

Subpart 1. Actions requiring notice. This subpart is needed to identify the actions that require a local agency to provide notice to an applicant or registrant before taking the action. It is reasonable to identify these actions in the rules to insure that all affected parties are aware of the notice requirements, and to insure that notices are provided consistent with statute.

Item A. Item A requires notice of a determination of ineligibility for work readiness services or payments. This notice is needed to comply with Minnesota Statutes, section 256.045, subdivision 2, which states that "...any person applying for ... public assistance granted by a local agency pursuant to Minnesota Statutes, ... Chapters ... 256D, ... whose application for assistance is denied ... may contest that action or decision before the local welfare referee by submitting a written request for a hearing to the local agency within 30 days after receiving written notice of the action or decision ...." (emphasis added) A denial of work readiness eligibility is clearly a decision adverse to the applicant. It is therefore reasonable to require an applicant to be notified of that determination.

Item B. Item B requires notice of a determination of ineligibility for four additional months of work readiness services and payments. This notice is needed to comply with Minnesota Statutes, section 256D.051, subdivision 4, which states that "During the second month of work readiness assistance, the local agency must assess the registrant's eligibility under subdivision 5 [for four additional months of work readiness assistance] and inform the registrant of the outcome of the assessment." It is reasonable to require local agencies to provide registrant's with advance notice of this determination in order to allow the registrant to appeal that decision before his or her benefits are terminated.

Item C. Item C requires notice of a determination of disqualification for failure to comply with work readiness program requirements. This notice is needed to comply with Minnesota Statutes, section 256D.101, subdivision 1, which states that "If the local agency determines that a registrant has failed to comply with the requirements of section 256D.051, the local agency shall notify the registrant of the determination." (emphasis added) Since a determination of disqualification may result in suspension of a registrant's benefits, it is reasonable to provide the registrant with advance notice of that decision so that he or she may appeal the determination before benefits are suspended.

Item D. Item D requires notice of a determination that the registrant has exhausted eligibility to receive work readiness services or payments. This notice is needed to comply with Minnesota Statutes, section 256D.051, subdivision 4, which limits work readiness eligibility to two months or six months, and subdivision 13, which states that "The local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101." (emphasis added) Minnesota Statutes, section 256D.10, states that "No grant of general assistance except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded the opportunity to be heard prior to any action by the local agency."

Subpart 2. Notice requirements. This subpart establishes what information the notice of adverse action must contain. It is necessary to provide standards for notices of adverse action to insure that all notices contain sufficient information and are provided in a timely manner that guarantees the registrant's constitutional rights to due process. It is reasonable to establish the standards in these rules because Minnesota Statutes, section 256D.04, paragraph (2), requires the commissioner to "Promulgate uniform rules

consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state...."

Under subpart 2, notices are required to meet the standards established under part 9500.1252. Part 9500.1252 specifies that any written material given or mailed to a general assistance recipient must be written in clear and easily understood English and other languages that the commissioner designates. This provision insures that the registrant will receive notices which he or she is capable of understanding. Because work readiness clients may face problems understanding written material, it is necessary to specify that the notice be written to meet the standards established in part 9500.1252. It is reasonable to include this provision in the rule parts in order to assist registrants to understand the written notices.

Item A. Item A requires notices of adverse action to be on a form prescribed by the commissioner. Minnesota Statutes, section 256.01, subdivision 4, paragraph (4) authorizes the commissioner to "Prescribe the form of and print and supply to the county agencies blanks for applications, reports, affidavits, and such other forms as it may deem necessary and advisable." Each of the 87 local agencies in Minnesota must provide a work readiness program. If each local agency were to develop its own notice, the content and quality of the notices would vary considerably from county to county. In order to assure that all components required in the notice and required to protect a registrant's appeal rights are uniformly presented, it is both necessary and reasonable to require that the notice be in writing on a form prescribed by the commissioner.

Item B. Minnesota Statutes, section 256D.051, subdivision 13, specifies that the local agency shall provide notice and opportunity for hearings for adverse actions under this section according to sections 256D.10 and 256D.101. Minnesota Statutes, section 256D.10, specifies that no grant of general assistance (or work readiness) except one made pursuant to sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall be reduced, terminated or suspended unless the recipient receives notice and is afforded an opportunity to be heard prior to any action by the local agency. It is therefore necessary to require the local agency to provide notice in advance of any adverse action.

Item B requires that the notice be mailed or given to the applicant or recipient at least ten days prior to the proposed adverse action. It is necessary to prescribe a time period for this notice to be given to insure that the applicant or recipient is given adequate time to respond or appeal. The 10-day advance notice requirement is reasonable because it is consistent with the requirements of due process and it is the time period historically required for notices of adverse action under the general assistance program and other public assistance programs. Ten days is a reasonable time period because it has proven adequate for this purpose in the past, it is consistent with the time period for a variety of assistance payment programs (such as general assistance and AFDC) and is therefore less complicated to adhere to than if a different time period were selected.

Item C. A registrant whose benefits are being denied, reduced, suspended or terminated must understand what is taking place in order to determine if he or she wishes to appeal. It is therefore necessary to specify that the notice

contain sufficient information to ensure that the registrant understands the action being taken and his or her rights in the process. It is reasonable to specify that the notice must specify the action being taken so the registrant understands that his or her benefits will not be paid after a certain date and can plan accordingly. It is reasonable to specify the reasons for the action being taken so the registrant can challenge the basis for a decision that he or she feels was made in error. It is reasonable to specify that the notice must inform the registrant of his or her right to appeal the action so the registrant can exercise his or her rights under Minnesota Statutes, section 256.045. It is reasonable to specify that the notice must state the conditions under which the work readiness services and payments can continue pending an appeal so the registrant can appeal soon enough to continue benefits during the appeal process.

Subpart 3. Appeal of adverse action. Minnesota Statutes, sections 256D.10 and 256D.101, state that a registrant must receive notice and be afforded an opportunity to be heard prior to a reduction, suspension, or termination of his or her work readiness grant. The statute further states that a registrant has the right to a full administrative and judicial review of an order or determination of a local agency under Minnesota Statutes, section 256.045.

To provide consistency with these statutes, it is necessary to provide that an applicant or registrant who receives notice of an adverse action under subpart 1 may appeal the determination by submitting a written request for a hearing in accordance with Minnesota Statutes, section 256.045.

When a registrant files an appeal of a local agency determination, a final determination of eligibility or ineligibility is not made until the commissioner issues an order deciding the appeal. Minnesota Statutes, section 256D.10 states that an individual must be afforded an opportunity to be heard before the local agency takes any adverse action. In order to comply with this requirement and insure that the registrant is not deprived of his other constitutional right to due process, as defined in Goldberg v. Kelly and its progeny, it is both necessary and reasonable to continue a registrant's work readiness assistance when the registrant has filed a timely appeal.

If the registrant's benefits continue during the appeal and the registrant loses the appeal, the registrant will have received benefits to which he or she was not entitled under Minnesota Statutes, section 256D.051. In order to create clarity, it is necessary to specify how the local agency must regard the payments to which the registrant was finally determined to be ineligible for. It is reasonable to state that the registrant must pay back such benefits to the local agency because he or she was not legally entitled to those benefits. See Steere v. State, Department of Public Welfare, 243 N.W.2d 112,116 (1976).

OUTSIDE EXPERT WITNESSES

The Department of Human Services will not be using outside expert witnesses to testify in support of parts 9500.1200, 9500.1206, 9500.1258 to 9500.1270, and 9500.1300 to 9500.1318.

CONCLUSION

The foregoing statements and information demonstrate the need for and the reasonableness of proposed modifications to parts 9500.1200 and 9500.1206, and of proposed parts 9500.1258 to 9500.1270 and 9500.1300 to 9500.1318. To a great extent, the need for and reasonableness of the proposed rules are prescribed expressly in state statute and the inherent responsibility of the Minnesota Department of Human Services to exercise prudent management of public funds.

Date: 4-10-86



LEONARD W. LEVINE, Commissioner  
Minnesota Department of Human Services