

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

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

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

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

OVERVIEW OF GENERAL ASSISTANCE PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

When the department conducted statewide cross-program training for financial workers, it became obvious that there were extensive differences between the cash assistance programs that were neither necessary nor reasonable. It is a major objective of this rulemaking effort to attain consistency with other public assistance program where there are no legal or other compelling reasons to differ. This effort is consistent with Minnesota Statutes, section 256D.04, clause (2) which states the commissioner shall promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state.

The current general assistance rules make separate provisions for general assistance and work readiness assistance. In 1989 the legislature eliminated the time limitation for work readiness assistance that applied to employable persons. As a result, there is no longer any need to have separate rule provisions for the assistance grants of employable persons and unemployable persons. Since the assistance payment distinction is no longer necessary, neither is the current rule format which establishes separate rule provisions for general assistance and work readiness assistance. The proposed rules amend, repeal, and add new rule parts to reflect the integrated nature of general assistance and work readiness assistance.

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

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

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

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

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

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

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

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

SMALL BUSINESS CONSIDERATION IN RULEMAKING

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

RULE DEVELOPMENT PROCEDURES

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

A list of the advisory committee members is attached.

JUSTIFICATION FOR INDIVIDUAL RULE PROVISIONS

9500.1202 PURPOSE OF GENERAL ASSISTANCE PROGRAM.

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

9500.1205 [See repealer.]

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

9500.1206 PROGRAM DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1213 APPLICATION REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1215 DOCUMENTING, VERIFYING, AND REVIEWING ELIGIBILITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1219 ASSISTANCE UNIT ELIGIBILITY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1221 PROPERTY LIMITATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1223 EXCLUDED INCOME.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1225 EARNED INCOME.

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

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

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

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

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

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

9500.1226 UNEARNED INCOME.

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1231 ASSISTANCE STANDARDS.

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

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

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

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

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

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

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

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

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

9500.1232 STATE PARTICIPATION.

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

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

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

9500.1233 FINANCIAL ELIGIBILITY TESTS.

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

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

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

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

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

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

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

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

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

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

9500.1237 AMOUNT OF ASSISTANCE PAYMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1239 PAYMENT PROVISIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1243 BUDGETING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1245 APPLICANT AND RECIPIENT RESPONSIBILITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1248 DETERMINATION OF COUNTY OF FINANCIAL RESPONSIBILITY.

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

9500.1250 LOCAL AGENCY REPORTS.

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

9500.1251 WORK READINESS EXEMPTIONS.

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

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

Item A. This item is necessary to implement the provisions of Minnesota Statutes, section 256D.05, subdivision 1, paragraph (a), clause (1). It is a reasonable combination of the provisions found in the current rule at part 9500.1258, subpart 1, items A and B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1254 REFERRAL TO OTHER MAINTENANCE BENEFIT PROGRAMS.

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

9500.1256 SPECIAL SERVICES FOR SSI APPLICANTS.

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

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

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

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

9500. 1259 COUNTY AGENCY RESPONSIBILITY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9500.1261 EMERGENCY ASSISTANCE.

Minnesota Statutes, section 256D.06, subdivision 2 requires that grants of emergency general assistance (EGA) be made to eligible individuals, married couples, or families for emergency needs. It further requires the commissioner to promulgate rules defining those needs. The current general assistance rule addresses EGA under part 9500.1238 in extremely broad terms, with the result that there has been considerable confusion and inconsistent application among the counties. It is, therefore, necessary to specify the terms and conditions under which a grant of EGA will be issued to conform to the commissioner's duties set forth in Minnesota Statutes, section 256D.04, subdivision 2 (to promulgate uniform rules consistent with law for carrying out and enforcing the provisions of sections 256D.01 to 256D.21 to the end that general assistance may be administered as uniformly as possible throughout the state). The proposed rule was developed based on input from the department, counties, and client advocacy groups.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

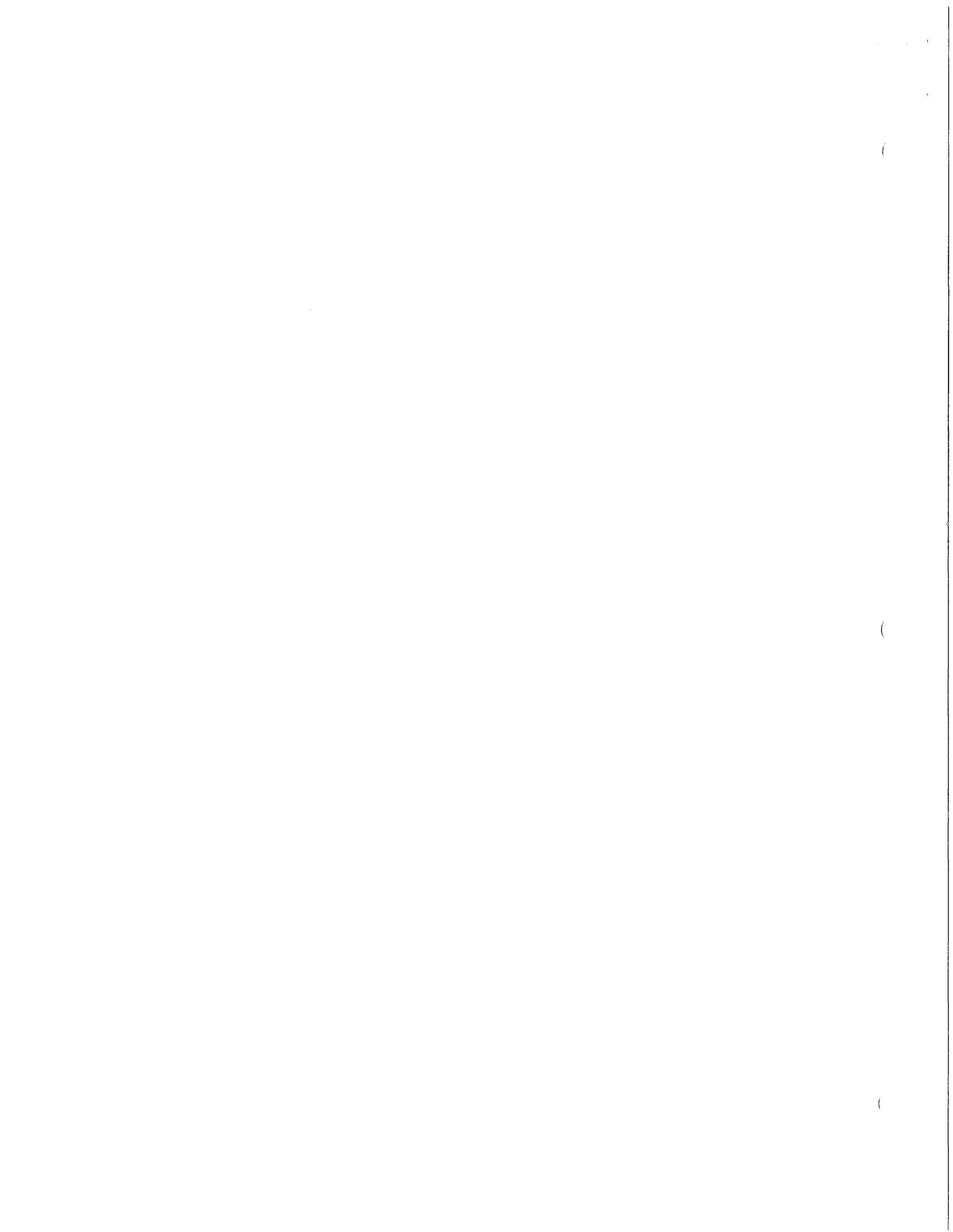
EXPERT WITNESS:

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

DATE: 8-27-90



ANN WYNIA
Commissioner



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