

1/24/94

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed
Permanent Rules of the Department
of Human Services Governing the
Minnesota Family Investment Plan;
Minnesota Rules, Parts 9500.4000
to 9500.4340

**STATEMENT OF NEED
AND REASONABLENESS**

INTRODUCTION

Minnesota Statutes, sections 256.031 to 256.0361 establish the Minnesota Family Investment Plan (MFIP) which is a welfare reform demonstration program. Under Laws of Minnesota 1991, chapter 292, article 5, section 85, subdivision 1, and Laws of Minnesota 1992, chapter 513, article 8, section 58, the Commissioner is directed to implement the MFIP field trials beginning April 1, 1994.

MFIP builds upon recent research findings, previous welfare reform initiatives, and community participation. Why is MFIP needed? Many families with children are living below the poverty level.

- Real hourly wages have fallen since 1972. Many jobs do not provide a wage high enough to support a family. When possible, families have responded by putting both parents in the work force.

- Families with only one parent have increased markedly. In Minnesota, single-mother families rose from 37,561 in 1970 to 95,862 in 1990. These families lack a second wage-earner to offset declining wages. The poorest half of these families have experienced a major decline in real income and the welfare system has not adequately responded to the needs of these families.

- Aid to Families with Dependent Children (AFDC) rules discourage work; only 14 percent of Minnesota's AFDC families are employed.

- Although the majority of families use welfare only temporarily, some use welfare for a longer term. These long-term cases are significant contributors to AFDC program costs.

- The welfare system's sense of purpose has been undermined by extensive processes and encumbered by overlapping programs and inconsistent policies.

- Welfare benefits have not kept pace with inflation. In Minnesota, AFDC benefits declined 41 percent in purchasing power between 1972 and 1991.

The welfare system needs to be restructured to serve low-income families more effectively. As a start, Minnesota needs to critically re-evaluate the current system with its overlapping programs, cumbersome eligibility

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procedures, and policies that act as barriers to self-support. Three specific themes express what is needed.

1. Reward work. Common sense tells us that when a parent goes to work the family should be better off financially.

Under MFIP, going to work will always increase a family's income. The jobs that exist in today's labor market become a realistic opportunity. Income that falls short of a "family wage" can be combined with continued, though reduced, public assistance.

2. Support the family. In our culture the family is the basic institution for the support and care of children. Program policies should encourage and support a family's effort to carry out these responsibilities.

MFIP eliminates rules that make it difficult for two parent families to stay together.

Work and study expectations for single parents are reasonable and take into account support needs such as child care and medical care.

3. Revive the "social contract." Government can't solve a family's problems without participation of the family; nor can many families improve their circumstances without the help of government. Responsibility must be viewed as mutual.

Under MFIP, parents are expected to move in the direction of maximum support for their families. Government is obliged to support this effort with needed services. Targeted families are required to sign binding agreements. Non-compliance results in reduced assistance.

Four goals shape the design of MFIP. These four goals are to:

- A. simplify administration of the welfare system;
- B. support families in their self-support efforts;
- C. prevent long-term dependence on welfare as the primary source of family income; and
- D. help families increase their income.

MFIP simplifies the welfare system by consolidating three programs into a single program. The three programs are AFDC, family general assistance, and Food Stamps. Under MFIP, a family will encounter only one program with a single set of rules and procedures. Eligibility is based primarily on income and resources and not on family structure and work history.

MFIP contains strong employment incentives. The treatment of earned income has been significantly changed so that working will be more profitable than not working. MFIP uses two mechanisms to ensure that work is rewarded: (1) a disregard of 38 percent of gross earned income, and (2) a "two-tier" payment standard. Under the two-tier payment standard families will receive one of two payment standards.

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One payment standard is the transitional standard which is the basic standard for nonworking families. The transitional standard is equal to the sum of the AFDC grant plus the full value of food stamps.

The other payment standard is the family wage level standard which is equal to 120 percent of the transitional standard. The family wage level standard applies to families who have earned income. Only after non-disregarded earnings have raised family income to this level would earnings begin to reduce the amount of cash aid to the family.

MFIP enables families, who otherwise would have had income from welfare alone, to combine paid work with reduced welfare assistance. Underlying this design is a recognition that many people may need to enter the labor market in part-time or low-wage jobs.

MFIP expects families to pursue increased self-support and provides case management to help targeted families. Most families are likely to use MFIP for temporary, short-term help. These transitional users encounter a much simpler program. They benefit from the restructured treatment of earnings, reduced paperwork, and child care services.

Caregivers are expected to move towards self-support under MFIP. Families who are long-term welfare recipients or potentially long-term recipients will be contacted by a case manager to help them develop an individually tailored employability plan. Built on the Project STRIDE program, the focus is mainly on employment and training services. Caregivers will develop a holistic plan called the employability plan which outlines mutually agreed upon activities to help them provide support to their family. In recognition that families have needs which go beyond employment and training, staff will be available to facilitate skill-building focusing on overcoming personal barriers to successful employment.

The timing for case management by type of family:

Families headed by minor parents or by 18 or 19-year-olds who have not completed high school: These parents must develop a family support agreement immediately upon entering MFIP, with the completion of high school or a general educational development (GED) certificate as the primary goal.

Single parent families: Single parents are expected to develop a family support agreement by their 25th month of MFIP participation.

Two-parent families: Families with two parents are expected to develop a family support agreement by their seventh month of assistance.

The family support agreement is a sub-part of the overall employability plan and is a binding agreement which only includes employment and/or education related activities. Caregivers who do not develop a family support agreement or who, without good cause, do not comply with the activities in the agreement, will have their grant reduced by 10 percent of the transitional standard.

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Child care is guaranteed for employed caregivers who need child care to enable the caregiver to work. Child care for other activities will be provided to caregivers as authorized in the employability plan. Child care will be subsidized at the prevailing provider rate according to the rate set forth in the current child care fund rule, parts 9565.5000 to 9565.5200.

Case management and support services will be available to volunteers as resources permit.

Field trials to assess the costs and benefits of MFIP will take place in metropolitan and rural counties. Metropolitan counties included in the field trials are Anoka, Hennepin and Dakota counties. Rural counties included in the field trials are Mille Lacs, Morrison, Sherburne and Todd counties.

Assistance units in the field trial counties assigned to the MFIP participation group will be randomly selected from the pool of applicants and recipients of AFDC, family general assistance, and Food Stamps. For purposes of MFIP evaluation, some assistance units in the field trial counties receiving or applying for AFDC, family general assistance, or Food Stamps will be randomly assigned to a comparison group. Assistance units in a comparison group will receive assistance under AFDC, family general assistance, or Food Stamps as long as the assistance unit remains eligible for assistance.

The 1992 legislature and federal law authorized field trials to run from April 1994 through March 1999.

MFIP will be evaluated by an independent research organization to measure attainment of its goals and to assess costs and benefits. Benefits for families participating in MFIP can be identified and measured through the four MFIP goals:

1. To Support Families' In Their Movement Toward Self-Support.

It is anticipated that nearly two-thirds of the MFIP case load will either be working in the paid labor force (37 percent) or cooperating with a signed agreement which includes activities leading to greater self-support (26 percent). It is also anticipated that another 21 percent will be short-term cases assumed to be pursuing self-support independently.

2. To Prevent Long-Term Dependence on Welfare as the Primary Source of Family Income.

Among long-term cases (5 or more years on assistance), 44 percent of the MFIP case load is projected to work, tripling the rate found in the AFDC program.

3. To Help Families Increase Their Income.

It is projected that over three-quarters (78 percent) of MFIP families will experience an increase in income:

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26 percent of families currently receiving welfare will gain income by going to work in the paid labor force or increase earnings from current work;

12 percent of families are currently working in the paid labor force and will experience an increase in cash aid and the introduction of medical assistance; and

40 percent of families will receive increased aid while pursuing greater self-support either independently or under a family support agreement with the welfare agency.

4. To Simplify the Administration of the Welfare System.

Most families receive assistance from more than a single program on a short-term basis. Within the framework of simplification, MFIP will provide these families with temporary assistance with fewer hassles because of program consolidation and fewer eligibility tests. It is expected that MFIP will simplify the administration by focusing energy and resources on helping families rather than programmatic red-tape.

While substantial benefits are expected from MFIP, state costs will also increase. Projected programs costs are identified below.

	FY 1994	FY 1995
Program Totals		
Redirected: Federal	\$3,261,000	\$34,410,000
Redirected: State	2,042,000	21,560,000
New: State	822,000	7,756,000
Administration & Evaluation		
New: State	\$1,110,000	\$ 1,369,000
New: Federal	649,000	280,000
Totals		
Redirected	\$5,303,000	\$55,970,000
New state	1,932,000	9,125,000
New federal	649,000	280,000
Grand Total	\$7,884,000	\$65,375,000

The estimated costs are based on the most recent cost projections. The projected costs include county case conversion costs, cash assistance, medical care, supporting services (case management, child care), operations, and evaluation.

PROJECTED COSTS:

MFIP has two kinds of state costs:

- 1) New funds which must be appropriated by the legislature; and
- 2) Redirected funds that come from other programs like AFDC, Family General Assistance, Food Stamps, Project STRIDE, etc. The figures above

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show the breakdown from the most recent forecast and include federal funds.

It should be noted that Section 4 of the Terms and Conditions governing the federal waiver which allows the MFIP field trial requires federal cost neutrality. Section 4.1 states:

4.1 "Except for costs for evaluating this project, beginning with the start of the evaluation period, the operation of this demonstration is to be cost-neutral, each Federal fiscal year or part thereof (each of which shall constitute a "budget period" as described in section 1.3 above), for each of the following category of cost:

- 1) total administrative and program costs for programs under parts A and F of title IV of the Social Security Act, (including AFDC, AFDC and non-AFDC child care, and JOBS);
- 2) total program costs for Food Stamps;
- 3) total administrative costs for Food Stamps; and
- 4) total program costs for Medicaid under title XIX of the Social Security Act, excluding costs associated with individuals whose basis of eligibility is old age, blindness or disability (administrative costs are not included in determining cost neutrality for Medicaid because the waivers the Departments are granting are not expected to significantly affect Medicaid administration)."

Estimated new state costs are projected to be \$1,932,000 and \$9,125,000 over the next two years. A separate breakdown is not provided for county costs since those costs will be reimbursed by the state and are included in the new state costs.

While benefits for the participants are considerable, there is no guarantee that field trials will yield benefits for participants, or federal and state governments, and for society as a whole which will exceed the expected additional investment.

MFIP requires a commitment of time (five years) and resources, possibly at the expense of other initiatives.

Rewards under MFIP

MFIP is expected to improve the condition of most participating families. Families receiving welfare for a long period will be especially affected. Many will become working families.

Families among the "working poor" will receive increased aid, especially health care coverage.

Short term welfare families will experience a simpler and easier to use program.

Children in families receiving welfare will have a better chance for improved health, safety and self-esteem.

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Minnesota has obtained a package of federal waivers which allow broad and comprehensive change to welfare programs. The field trials will provide the opportunity to carefully evaluate this new approach to family self-sufficiency.

LEGISLATIVE HISTORY OF MFIP

May 1989	State legislation affirms principles of MFIP and authorizes pursuit of Congressional authority to proceed
November 1989	Congress authorizes a demonstration and defines a waiver process
September 1990	Submittal of formal waiver application to federal agencies
January through May 1991	State legislature considers approval of field trials and appropriation of funds
June 1991 through March 1994	Preparation of the project Finish the research design, select research sites, develop a contract with an independent evaluator Develop program structure and operations: manuals, forms, computer systems, work procedures, etc. Prepare project implementation: Develop implementation plan, train staff, convert cases and operations, etc.
April 1994	MFIP field trials begin
March 1999	Five-year demonstration ends

The MFIP concept was developed from past recommendations of the bipartisan Governor's Commission on Welfare Reform (1986). In fact, the three broad categories of change found in MFIP (simplification of the system, rewards for work, intervention among long term cases) were major recommendations of the commission.

The early planning of MFIP also included consultation on issues with focus groups. Eight focus group meetings were held around the state in 1988, including three composed of recipients. Later that year, several advocacy organizations reviewed drafts of the initial MFIP legislation and provided helpful suggestions.

Since the initial MFIP legislation was introduced in 1989, many Minnesotans have contributed to the development of MFIP. Work groups

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have met regularly to develop the proposed design for many policies and procedures. The work groups addressed employability plans, due process issues, case management procedures and practices, and budget and verification issues. The work groups included recipients, former recipients, county human services staff, employment and training case managers, legal aid professionals, community organizations, and others.

Three advisory councils also reviewed the proposals developed by the work groups. One council represented state agencies. A second council was composed of county human services directors and county commissioners. The third council included representatives of a broad spectrum of organizations and perspectives: local elected officials, foundations, advocates, business and industry, recipients, academia, human service professionals, labor, and local schools.

Following the extensive work by the work groups and advisory councils, the Department created a rule advisory committee to assist the Department during development of the proposed rule. The rule advisory committee consisted of 24 individuals representing county agencies in the field trial counties, three legal aid organizations, the Children's Defense Fund, the Minnesota Food Education and Resource Center, an employment and training coordinator for the Minnesota Chippewa Tribe, and parents receiving assistance. The rule advisory committee met on February 3, 1993; March 3, 1993; April 7, 1993; May 5, 1993; and June 16, 1993.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minnesota Statutes, section 14.115 requires state agencies, when proposing a new rule or an amendment to an existing rule, to consider ways of reducing the impact of the rule on small businesses unless exempt under Minnesota Statutes, section 14.1115, subdivision 7.

The proposed rule is exempt from the small business consideration requirement under Minnesota Statutes, section 14.115, subdivision 7, clause (2). Under clause (2) the small business consideration requirement does not apply to 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 MFIP rule relates to county administration of state and federal programs. MFIP is a welfare reform demonstration project that combines AFDC, family general assistance, and Food Stamps. MFIP is not a statewide project; the project is limited to the seven field trial counties identified in the rule.

IMPACT ON AGRICULTURAL LANDS

Minnesota Statutes, section 14.111, subdivision 2 requires agencies proposing rules that have a direct and substantial adverse impact on agricultural land to comply with additional statutory requirements. The proposed rule does not impact agricultural land and, therefore, the additional statutory provisions do not apply.

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FISCAL NOTE DISCUSSION

There are administrative and program costs associated with the implementation of the MFIP field trials. Estimated new state costs are projected to be \$1,932,000 and \$9,125,000 over the next two years. The legislature appropriated funds to address those costs. A fiscal note has been prepared on the rule. The Department does not anticipate costs beyond those identified in the legislative authorization.

STATUTORY AUTHORITY FOR THE RULE

The legislature has directed the Commissioner to implement MFIP in the field trial counties beginning April 1, 1994. Statutory authority for the rule is Minnesota Statutes, sections 256.031, subdivision 3 and 256.01, subdivisions 2 and 4.

RULE DEVELOPMENT PROCEDURES

In the development of the proposed rule, the Department followed the procedures mandated by the Administrative Procedure Act (APA) and internal Department policies that ensure maximum public input. Public input was sought through a Notice of Solicitation of Outside Information or Opinions published November 16, 1992, in the State Register (17 S.R. 1246) and establishment of a rule advisory committee. The rule advisory committee consisted of 24 individuals representing county agencies in the field trial counties, three legal aid organizations, the Children's Defense Fund, the Minnesota Food Education and Resource Center, an employment and training coordinator for the Minnesota Chippewa Tribe, and parents receiving assistance. The rule advisory committee met on February 3, 1993; March 3, 1993; April 7, 1993; May 5, 1993; and June 16, 1993.

MINNESOTA FAMILY INVESTMENT PLAN

Section 1.0 of the Special Terms and Conditions governing MFIP approved by the United States Department of Health and Human Services states:

"The Department of Agriculture and the Department of Health and Human Services (hereinafter referred to as the Department) will grant waivers sought by the State of Minnesota (hereinafter referred to as the State) under Section 8015 of the Omnibus Budget Reconciliation Act of 1989 (Public Law Number 101-239), as amended by the Omnibus Budget Reconciliation Act of 1990 (Public Law Number 101-508), and Public Law Number 101-202 (which adds a Section 22 to the Food Stamp Act of 1977, as amended), to operate the Minnesota Family Investment Plan (MFIP) in accordance with 1989 Minnesota Laws, Sections 6 through 11, 13, 130 and 132 of article 5 of Chapter 282, and all such amendments to the Laws of Minnesota, to the extent such laws and amendments are consistent with the goals of the project and meet the Federal requirements set forth in the above laws. Each Department reserves the right, in its sole discretion, to

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withdraw any and all waivers, in accordance with Section 8015(b)(11) of Public Law Number 101-239 and Section 22(b)(14)(B) of the Food Stamp Act of 1977, at such time as the Department determines that the State has materially failed to meet the requirements set forth in such laws or in these Special Terms and Conditions. The State also retains the right to terminate the demonstration."

Perhaps the greatest single change offered by MFIP is that AFDC, family general assistance, and Food Stamps will be consolidated into a single, unified program with a single set of rules. Food stamps will be cashed out for families and they will receive a single cash grant. However, families may elect to receive a portion of their grant in the form of food stamps.

There will be one set of eligibility rules, income standards, property standards, verification requirements, etc. Some of the MFIP standards are derived from the AFDC rule, some from the Food Stamp program, and some are new. Having made the decision to combine the family assistance programs into a single program, great effort has gone into simplifying the financial assistance parts within MFIP. However, the ability to create a new program does not mean all the requirements of the former programs can be eliminated.

Many of the MFIP requirements and standards are the same as those in the AFDC program. There are a number of reasons for retaining AFDC rule language.

1. The Department's ability to modify AFDC requirements is limited to the extent of federal waivers approved under the Special Terms and Conditions governing MFIP.

Public Law Number 101-239, Section 8015(b)(8) states:

"(8) AFDC RULES TO APPLY GENERALLY --

(A) IN GENERAL. - Except where inconsistent with this subsection, the requirements of the State plan approved under section 402(a) of the Social Security Act will apply to the project, unless waived by the Secretary of Health and Human Services in accordance with subsection (d)."

2. Under the AFDC program, many terms have acquired commonly accepted and understood meanings. Terms familiar to county agencies and public assistance recipients have been retained where possible in MFIP to eliminate unnecessary confusion.
3. The AFDC rule language has met the need and reasonableness standards of the Minnesota Administrative Procedure Act (APA). The AFDC standards are based on federal requirements and have had careful public review and have met the tests of the APA. It is appropriate to use those standards when MFIP requirements are the same or similar.
4. Finally, although the MFIP program is a field trial, it is still a program providing aid to families with dependent children.

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Unless a federal requirement has been waived, MFIP must comply with the standards governing the AFDC program set forth in Title 45 of the Code of Federal Regulations. Numerous references will be made regarding the reasonableness of program requirements based on federal regulations. It is reasonable to comply with federal requirements in order to qualify for federal grants-in-aid as set forth in Minnesota Statutes, section 256.011, subdivision 1.

9500.4000 SCOPE AND APPLICABILITY.

Subpart 1. **Scope.** This subpart is necessary to clarify that the entire sequence of parts 9500.4000 to 9500.4340 apply to MFIP. Defining the scope of the rule is reasonable because it inform persons consulting the rule of the range of MFIP rule parts.

Subp. 2. **Applicability, field trial counties.** This subpart is necessary to identify the counties participating in the MFIP demonstration program. Under the Special Terms and Conditions governing MFIP, the State will operate a demonstration of MFIP that will consist of two field trials, one urban and one rural. Minnesota Statutes, section 256.031, subdivision 3, paragraphs (b) and (c) state:

"(b) The field trials shall be conducted as permitted under federal law, for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.

(c) The commissioner shall select the counties which shall serve as field trial or comparison sites based on criteria which ensure reliable evaluation of the program."

This subpart is reasonable because it identifies the counties participating in the MFIP field trials and is consistent with Minnesota Statutes, section 256.031, subdivision 3, paragraphs (b) and (c).

9500.4010 MFIP SELECTION.

This part is necessary to establish a process for assigning individuals to participate in MFIP or a comparison group in the field trial counties. Assistance units assigned to the MFIP participation group will be randomly selected from the pool of eligible applicants and recipients of AFDC, family general assistance, and Food Stamps. It is necessary to randomly select participants in order to evaluate the effectiveness of MFIP versus other public assistance programs. Authority to assign families to participate in MFIP or a comparison group is set forth in Minnesota Statutes, section 256.031, subdivision 3, paragraph (d).

The first paragraph in this part is necessary to inform assistance units and local agencies that MFIP participants will be randomly selected from the pool of eligible applicants and recipients of AFDC, family general assistance, and Food Stamps. Once an assistance unit is assigned to the MFIP participation group, that assistance unit remains assigned to MFIP

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for the duration of the field trial. If an assistance unit assigned to the MFIP participation group is temporarily ineligible for assistance, the assistance unit will not receive assistance but will retain its MFIP participation group designation. It is necessary to require assistance units assigned to MFIP to retain their MFIP designation throughout the duration of the field trial to permit evaluation of MFIP. If participants are allowed to move between designated groups, it will be impossible to evaluate MFIP because the results can not be attributed solely to a particular program. This paragraph is reasonable because it informs potential participants of the MFIP selection process and is consistent with Minnesota Statutes, section 256.031, subdivision 3, paragraph (d).

The second paragraph in this part is necessary to inform assistance units selected to the MFIP participation group of the possibility that the assistance unit may be assigned a special status and will not receive case management services under Minnesota Statutes, section 256.035, subdivision 6a. However, the assistance unit is eligible for employment and training programs to the same extent as families receiving AFDC. In addition, this paragraph identifies a child care entitlement for assistance units assigned to a special status. When an assistance unit assigned to a special status needs child care to enable the caregiver to work, the assistance unit is entitled to child care. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.031, subdivision 3, paragraph (d), clause (ii).

The third paragraph in this part is necessary to inform assistance units receiving AFDC, family general assistance, or Food Stamps that they may be assigned to a comparison group. Once an assistance unit is assigned to a comparison group, it will remain in the comparison group for the duration of the field trial. If the assistance unit loses eligibility for assistance but later reapplies for assistance and is found eligible, that assistance unit will be reassigned to the comparison group. This paragraph is reasonable because it provides a means of evaluating the effectiveness of MFIP versus other programs and is consistent with Minnesota Statutes, section 256.031, subdivision 3, paragraph (d).

The final paragraph in this part is necessary to inform assistance units that assignment to MFIP, a special status within MFIP, or a comparison group is not subject to appeal under Minnesota Statutes, section 256.045. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.031, subdivision 3, paragraph (d), clause (i).

9500.4020 **PROGRAM DEFINITIONS.**

Subpart 1. **Scope.** This subpart is necessary to inform persons consulting the rule that terms used in this part apply to the entire sequence of parts 9500.4000 to 9500.4340. It is reasonable to include this subpart so persons consulting the rule will know the terms in this part apply to parts 9500.4000 to 9500.4340.

Subp. 2. **Absent parent.** This subpart is necessary to clarify a term used in the rule. The definition of "absent parent" is necessary because the term is used with rule parts governing child support pass

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through and physical presence and temporary absence. The definition is reasonable because it is consistent with the definition in the AFDC rule in part 9500.2060, subpart 2 and Title 45 CFR, section 233.90(c)(1)(iii).

Subp. 3. **ACCESS program.** This subpart is necessary to clarify a term used in the rule. The definition of "ACCESS program" is necessary because the term is used with rule parts governing child care assistance. The definition is reasonable because it is consistent with Minnesota Statutes, section 256H.05, subdivision 6.

Subp. 4. **Agency error.** This subpart is necessary to clarify a term used in the rule. Under MFIP, it is necessary to distinguish between an agency error and a client error because local agencies will not recoup overpayment due to agency error. An agency error is an error that is not caused by the applicant's or participant's failure to provide adequate, correct, or timely information. Participants will not be penalized for agency mistakes. This subpart is reasonable because the definition is consistent with the definition in the AFDC rule in part 9500.2060, subpart 5.

Subp. 5. **Aid to families with dependent children or AFDC.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.034, subdivision 1 states: "Under the Minnesota family investment plan, assistance previously provided to families through AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program." Due to numerous references in MFIP statutes and rules to the AFDC program, it is reasonable to define AFDC. The definition is reasonable because it identifies the program authorized under Title IV-A of the Social Security Act which provides financial assistance and social services to needy families with dependent children and because it is consistent with the definition in the AFDC rule in part 9500.2060, subpart 6.

Subp. 6. **Appeal.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.045, subdivision 3 grants individuals whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or incorrectly paid the right to contest that action or decision before the state agency by submitting a written request for a hearing to the state agency. Minnesota Statutes, section 256.036, subdivision 5 states, in part:

"Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045."

The written request for a hearing is the appeal. This subpart is reasonable because it is consistent with Minnesota Statutes, sections 256.036, subdivision 5 and 256.045, subdivision 3.

Subp. 7. **Applicant.** This subpart is necessary to clarify a term used in the rule. An applicant is a person who submits an application for

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assistance to a local agency whose application has not been acted upon, denied, or voluntarily withdrawn. It is necessary to state that the applications have not been acted upon, denied, or voluntarily withdrawn to make it clear that a determination of eligibility has not yet been made on the application. It is reasonable to define the term "applicant" because certain rights and responsibilities are attributed to applicants in part 9500.4290. This subpart is reasonable because it is consistent with Title 45 CFR, sections 206.10(a)(8) and 206.10(b)(1).

Subp. 8. Application. This subpart is necessary to clarify a term used in the rule. 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. This subpart is reasonable because it is consistent with Title 45 CFR, section 206.10(b)(2).

Subp. 9. Assignment of support. This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.034, subdivision 3, paragraph (b), states, in part:

"An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan."

The definition is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 3, paragraph (b).

Subp. 10. Assistance unit or MFIP assistance unit. This subpart is necessary to clarify a term used in the rule. An MFIP assistance unit is a group of individuals who receive or apply for MFIP benefits together. The definition of "assistance unit" is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a.

Subp. 11. Authorized representative. This subpart is necessary to clarify a term used in the rule. The definition is necessary to identify individuals permitted to act on behalf of the applicant or participant in matters regarding MFIP. It is reasonable to only include a person specifically designated in writing by the applicant or participant because the authorized representative must have sufficient knowledge of the applicant's or participant's circumstances to provide necessary information, may exercise all the rights and responsibilities of an applicant or participant, and must assure that private information concerning the individual is not released in violation of Minnesota Statutes, chapter 13. This subpart is reasonable because it is consistent with Title 45 CFR, section 205.10(a)(3)(iii).

Subp. 12. Basic needs. This subpart is necessary to clarify a term used in the rule. The term is necessary to distinguish needs that are necessary to maintain a subsistence reasonably compatible with decency and health from other needs that may be desirable or beneficial but are

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not necessary for subsistence. The term is used in the determination of an emergency situation and whether or not a vendor payment can be made to someone other than the caregiver in the assistance unit. It is reasonable to define basic needs in a restrictive manner to maximize participants' right to manage their own affairs by limiting the use of protective payees. This subpart is reasonable because it is consistent with the definition of basic needs used in the general assistance program rule in part 9500.1206, subpart 7a.

Subp. 13. **Budget month.** This subpart is necessary to clarify a term used in the rule. It is necessary to define "budget month" because the amount of the assistance payment is based upon income received and circumstances that occur during the calendar month designated as the budget month. This definition is reasonable because it is consistent with the AFDC definition of budget month in part 9500.2060, subpart 19 and Title 45 CFR, section 233.31(b)(3).

Subp. 14. **Caregiver.** This subpart is necessary to clarify a term used in the rule. The term "caregiver" has a specific meaning in MFIP. The definition is reasonable because it references the definition of "caregiver" in Minnesota Statutes, section 256.032, subdivision 2.

Subp. 15. **Case management.** This subpart is necessary to clarify a term used in the rule. The term "case management" has a specific meaning in MFIP. The definition is reasonable because it references the definition of "case management" in Minnesota Statutes, section 256.032, subdivision 3.

Subp. 16. **Child support pass through.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.033, subdivision 1a, paragraph (d) states that the first \$50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance. The first \$50 of child support paid to the family and disregarded in determining eligibility and the amount of assistance is commonly referred to as the "child support pass through." This definition is reasonable because it is consistent with Title 45 CFR, section 302.51(b)(1) and Minnesota Statutes, section 256.033, subdivision 1a, paragraph (d).

Subp. 17. **Client error.** This subpart is necessary to clarify a term used in the rule. A local agency will determine program eligibility and the amount of assistance based on information provided by an applicant or participant. If the information is incorrect, an overpayment or underpayment may result. MFIP has a federal waiver of Title 42 United States Code, chapter 7, section 602(a)(22) which allows recoupment of overpayment due to client error only. It is reasonable to define "client error" in the rule because it is a factor in determining whether or not recoupment will occur. The local agency will recoup overpayment due to client error but will not recoup overpayment due to agency error. This subpart is reasonable because it distinguishes a client error from an agency error.

Subp. 18. **Collateral contacts.** This subpart is necessary to clarify a term used in the rule. To determine eligibility or continued

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eligibility for MFIP, it may be necessary to contact individuals outside the assistance unit to confirm information provided by the assistance unit. Individuals outside of the assistance unit who may be contacted to confirm information provided by an assistance unit are referred to as "collateral contacts." Collateral contacts are necessary to ensure program accountability and integrity. It is reasonable to use a generic term to identify individuals outside of the assistance unit who may be contacted by a local agency because it is impossible to identify in rule every potential individual a local agency may need to contact to confirm information provided by a caregiver.

Subp. 19. **Commissioner.** This subpart is necessary to clarify a term used in the rule. Since Minnesota Statutes, sections 256.031 to 256.0361 assign specific duties and responsibilities governing MFIP to the commissioner, it is necessary to define "commissioner." It is also necessary to include within the definition of commissioner persons to whom the commissioner has the authority to designate the commissioner's responsibility because it is impossible for the commissioner herself to perform all the tasks assigned to her in Minnesota statutes. It is reasonable to shorten the term "Commissioner of the Department of Human Services or the commissioner's designated representative" to "commissioner" to shorten the length of the rule.

Subp. 20. **Conciliation conference.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.035, subdivision 6e requires that a conciliation procedure be available. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6e.

Subp. 21. **Corrective payment.** This subpart is necessary to clarify a term used in the rule. The definition is necessary because Title 45 CFR, section 233.20(a)(13)(ii) requires the issuance of a corrective payment to a participant who has received less than the assistance payment to which he or she was eligible. This subpart is reasonable because it is consistent with the above cited federal regulation governing the AFDC program.

Subp. 22. **Countable income.** This subpart is necessary to clarify a term used in the rule. MFIP eligibility is restricted to assistance units who meet certain income limits after allowable exclusions and disregards. Earned and unearned income that remains after allowable exclusions and disregards is countable income. This subpart is reasonable because it identifies income that remains after authorized exclusions and disregards which is then used to determine program eligibility. The term "countable income" is reasonable because it reduces the length of the rule since the term replaces the phrase "the earned and unearned income that remains after allowable exclusions and disregards."

Subp. 23. **Counted earnings.** This subpart is necessary to clarify a term used in the rule. MFIP consists of two assistance standards; the transitional standard and the family wage level standard. The family wage level standard is used when an assistance unit has earned income. Counted earnings is the earned income that remains after applicable disregards have been subtracted from gross earned income. This subpart is reasonable because it identifies the earned income that remains after

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appropriate disregards and is used to determine the amount of the assistance payment.

Subp. 24. **County board.** This subpart is necessary to clarify a term used in the rule. This subpart is reasonable because it is consistent with the definition of "county board" in Minnesota Statutes, section 256.032, subdivision 5b.

Subp. 25. **County of financial responsibility.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, chapter 256G establishes standards governing county financial responsibility when an individual who has been receiving assistance in one county moves to another county. The definition of "county of financial responsibility" is reasonable because it references the standard set forth in Minnesota Statutes, chapter 256G.

Subp. 26. **County of residence.** This subpart is necessary to clarify a term used in the rule. Although the county of residence and the county of financial responsibility are usually the same, this is not always the case. Minnesota Statutes, chapter 256G establishes standards governing county financial responsibility when an individual who has been receiving assistance in one county moves to another county. In the first two months following a caregiver's move from one county to another, the county of residence and the county of financial responsibility are different. It is reasonable to define "county of residence" to distinguish the county of residence from the county of financial responsibility.

Subp. 27. **Date of application.** This subpart is necessary to clarify a term used in the rule. A definition for "date of application," is necessary because Title 45 CFR, section 206.10(b)(2) and (3) require that the "date of application" be fixed as of the date "... an individual indicates in writing to an agency administering public assistance his desire to receive assistance." It is reasonable to include this definition because it conforms with federal regulations and is necessary to determine the amount of assistance for the initial month of assistance.

Subp. 28. **Deem.** This subpart is necessary to clarify a term used in the rule. This term is necessary to identify income of a non-assistance unit member that must be considered when determining eligibility and the amount of the payment for the MFIP assistance unit. This subpart is reasonable because it provides a general term which is used in the AFDC program to describe the treatment of income of financially responsible household members not in the assistance unit.

Subp. 29. **Department.** This subpart is necessary to clarify a term used in the rule. Under MFIP statutes and rules, a number of responsibilities are imposed upon the Department of Human Services. The term "department" is used in the rule rather than "Department of Human Services" to reduce the length of the rule.

Subp. 30. **Disregard.** This subpart is necessary to clarify a term used in the rule. MFIP eligibility is contingent on meeting certain income limits. Employment disregards are allowed under Minnesota Statutes, section 256.033, subdivision 1, paragraph (c) and subdivision 1a,

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paragraph (a). Those disregards are identified in part 9500.4150. It is reasonable to define the term "disregard" because the application of disregards to earned income affect both eligibility and the amount of the assistance payment.

Subp. 31. **Documentation.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 206.10(a)(8) requires that each decision regarding eligibility or ineligibility be supported by facts in the applicant's or recipient's case record. This is done by obtaining, to the extent possible, objective data to support the assertions made by an applicant or participant with regard to his or her eligibility. It is necessary to define "documentation" so a consistent standard is applied under MFIP. The definition is reasonable because it is consistent with the AFDC definition of "documentation" in part 9500.2060, subpart 42.

Subp. 32. **Earned income.** This subpart is necessary to clarify a term used in the rule. It is necessary to define "earned income" because families with earned income have their assistance standard determined based on the family wage level rather than the transitional standard. The definition is reasonable because it identifies income generated by one's effort or labor.

Subp. 33. **Earned income credit.** This subpart is necessary to clarify a term used in the rule. The federal government and Minnesota allow low income families tax credits on earned income. These tax credits are usually in the form of payments. Since MFIP excludes those payments from countable income under part 9500.4080, subpart 2, item H, it is necessary to define the term "earned income credit." The definition is reasonable because it references the federal and state laws that authorize the earned income credits.

Subp. 34. **Emergency.** This subpart is necessary to clarify a term used in the rule. The term "emergency" is subject to numerous interpretations. The ordinary dictionary meaning of "emergency" is "an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action." See The American Heritage Dictionary, Second College Edition, Houghton Mifflin Company, Boston, 1982) s.v. "emergency." For purposes of MFIP, an emergency is "a situation that causes or threatens to cause a lack of a basic need item when there are insufficient resources to provide for that need." It is necessary to relate an emergency to a lack of a basic need item and the resources to provide for that need in order to place reasonable limits on possible emergency situations. The reference to basic needs ties the emergency to a need for food, clothing, shelter, utilities, and other items that the lack of poses a direct, immediate threat to the physical health or safety of the applicant or participant. This subpart is reasonable because it provides a practical standard for determining the existence of an emergency.

Subp. 35. **Employability plan.** This subpart is necessary to clarify a term used in the rule. The definition is reasonable because it references the statutory definition of "employability plan" in Minnesota Statutes, section 256.032, subdivision 6a.

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Subp. 36. **Encumbrance.** This subpart is necessary to clarify a term used in the rule. The definition of "encumbrance" is necessary because the value of real or personal property cannot be determined until any lien or claim upon the property is subtracted from its fair market value. It is reasonable to define the term encumbrance because the value of available resources is used to determine program eligibility and a lien or claim on the property reduces the actual value of the resource available to the individual.

Subp. 37. **Equity value.** This subpart is necessary to clarify a term used in the rule. The definition of "equity value" in this subpart is the same as the definition in the AFDC rule in part 9500.2060, subpart 50. Since there may be outstanding debt on property, it is necessary to identify the real value of the property. Equity value provides a means of determining the real value of property held by an individual. This subpart is reasonable because it identifies the value of property based on fair market value minus any lien or claim on the property. It is reasonable to identify the value of property because MFIP eligibility is limited to families with resources of \$2,000 or less.

Subp. 38. **Excluded time.** This subpart is necessary to clarify a term used in the rule. Excluded time is used to determine the county of financial responsibility when individuals reside in certain facilities. The definition of "excluded time" is reasonable because it is the definition in Minnesota Statutes, section 256G.02, subdivision 6.

Subp. 39. **Excluded time facility.** This subpart is necessary to clarify a term used in the rule. The term excluded time is used with respect to residence in a facility identified in Minnesota Statutes, section 256G.02, subdivision 6. The term "excluded time facility" is necessary to identify the county of financial responsibility when an individual resides in a particular facility. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256G.02, subdivisions 4 and 6.

Subp. 40. **Expedited issuance of food stamps assistance.** This subpart is necessary to clarify a term used in the rule. Under Minnesota Statutes, section 256.036, subdivision 8, provisions for expedited benefits under MFIP may not be less restrictive than provisions for expedited benefits under the Food Stamp Act of 1977, as amended, and state food stamp policy. The definition is reasonable because it identifies the expedited issuance of food stamps assistance requirement under Minnesota Statutes, section 393.07, subdivision 10a.

Subp. 41. **Fair hearing or hearing.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.045 establishes a hearing process that allows applicants and participants to appeal a local agency's action or failure to act. Minnesota Statutes, section 256.036, subdivision 5 reiterates the right of applicants and participants to a hearing. This subpart is reasonable because it identifies the hearing process authorized in Minnesota Statutes, section 256.045.

Subp. 42. **Fair market value.** This subpart is necessary to clarify a term used in the rule. The definition of "fair market value" in this subpart is the same as the definition in the AFDC rule in part

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9500.2060, subpart 52. In order to determine the equity value of property, encumbrances are subtracted from the fair market value of the property. It is reasonable to use the same definition found in the AFDC rule because that definition is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and the AFDC definition has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 43. **Family.** This subpart is necessary to clarify a term used in the rule. The definition is reasonable because it references the definition given "family" in Minnesota Statutes, section 256.032, subdivision 7.

Subp. 44. **Family support agreement.** This subpart is necessary to clarify a term used in the rule. The definition is reasonable because it references the definition given "family support agreement" in Minnesota Statutes, section 256.032, subdivision 7a.

Subp. 45. **Family wage level.** This subpart is necessary to clarify a term used in the rule. The definition is reasonable because it references the definition given "family wage level" in Minnesota Statutes, section 256.032, subdivision 8.

Subp. 46. **Federal Insurance Contribution Act or FICA.** This subpart is necessary to clarify a term used in the rule. FICA is income withheld for tax purposes. The term is used in the rule with respect to self-employment as both a standard for determining whether an individual is self-employed i.e., an employer does not withhold FICA from the individual's payments, and to identify expenses which may be deducted as business expenses. The term is reasonable because it identifies the federal law that authorizes the withholding of income.

Subp. 47. **Financial case record.** This subpart is necessary to clarify a term used in the rule. Part 9500.4290, subpart 8 grants participants and former participants the right to review the participant's or former participant's financial case records. Therefore, it is necessary to define the term. This subpart is reasonable because it identifies information compiled to determine program eligibility. That information is the assistance unit's financial case record.

Subp. 48. **Financially responsible household members.** This subpart is necessary to clarify a term used in the rule. A definition for "financially responsible household member" is necessary because Title 45 CFR, section 233.20(a)(3)(vi), (a)(3)(xiv), and (a)(3)(xviii), assign financial responsibility to specific persons who live together when they live with dependent children. It is reasonable to include this definition because it complies with federal regulations.

Subp. 49. **Full-time student.** This subpart is necessary to clarify a term used in the rule. The definition of full-time student accepts as a standard the standard adopted by the school the student attends rather than arbitrarily selecting a standard to apply to all schools. This definition is reasonable because it is the standard used for the AFDC rule in part 9500.2060, subpart 58.

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Subp. 50. **General education development or GED.** This subpart is necessary to clarify a term used in the rule. Since the definition for full-time student and half-time student recognizes attendance in GED courses as equivalent to secondary school attendance, it is necessary to identify what is meant by general education development or GED. The definition is reasonable because it identifies the general equivalency certificate issued by the State Board of Education under part 3500.3100, subpart 4.

Subp. 51. **Gross earned income.** This subpart is necessary to clarify a term used in the rule. Under Minnesota Statutes, section 256.033, subdivision 1a the AFDC disregards are replaced with a single disregard of not less than 35 percent of earned income to cover taxes and other work-related expenses and to reward the earning of income. Therefore, it is necessary to define the term gross earned income. The term is reasonable because it includes all earned income before taxes and other deductions. It is reasonable to include this definition because gross earned income is used to determine eligibility for MFIP and the amount of the assistance payment under MFIP.

Subp. 52. **Gross income.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.032, subdivision 11 defines significant change to mean a decline in "gross income" of 38 percent or more from the income used to determine the grant for the current month. Since the legislature did not define the term "gross income," and the term is used to determine when an assistance payment will be recalculated, it is necessary to define the term in the rule. Gross income is the sum of all income, i.e., gross earned income and unearned income. The definition is reasonable because it identifies income used to determine the amount of the assistance payment.

Subp. 53. **Gross receipts.** This subpart is necessary to clarify a term used in the rule. The definition is necessary because treatment of self-employment income affects program eligibility and the amount of the assistance payment. The definition of "gross receipts" in this subpart is the same as the definition in the AFDC rule in part 9500.2060, subpart 64. It is reasonable to use the same definition found in the AFDC rule because that definition is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and the AFDC definition has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 54. **Half-time student.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.033, subdivision 2 states that all earned income of a minor child receiving assistance through MFIP is excluded when the child is attending school at least half-time. Therefore, it is necessary to define the term "half-time student." Since different types of educational programs and institutions may have different standards for what constitutes half-time, the definition of half-time student accepts the standard adopted by the school rather than arbitrarily selecting a standard to apply to all schools. Since the school's standard is accepted for full-time students under the AFDC rule, it is reasonable to accept the school's standard for half-time student.

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Subp. 55. **Home.** This subpart is necessary to clarify a term used in the rule. The definition of "home" in this subpart is the same as the definition in the AFDC rule in part 9500.2060, subpart 66. It is reasonable to use the same definition found in the AFDC rule because that definition is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and the AFDC definition has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 56. **Homeless individual.** This subpart is necessary to clarify a term used in the rule. The definition of "homeless individual" is the same as the definition of "homeless individual" in the Food Stamp regulations under Title 7 CFR, section 271.2. This definition is reasonable because it is consistent with federal food stamp regulations.

Subp. 57. **Homestead.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.033, subdivision 3, clause (1) excludes a homestead from the property limit when determining a family's resources. Therefore, it is necessary to define the term. The definition uses the standard in the AFDC rule under part 9500.2060, subpart 67 and part 9500.2340, subpart 2. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 58. **Household.** This subpart is necessary to clarify a term used in the rule. This subpart is necessary to distinguish individuals who live together from a family as defined in Minnesota Statutes, section 256.032, subdivision 7. The definition is reasonable because it is consistent with the ordinary meaning of "household" which is "a domestic establishment including the members of a family and others who live under the same roof." See The American Heritage Dictionary, Second College Edition, Houghton Mifflin Company, Boston, 1982) s.v. "household."

Subp. 59. **Income.** This subpart is necessary to clarify a term used in the rule. The definition of income is necessary because an assistance unit's income affects eligibility and the amount of the assistance payment. The definition is reasonable because it is consistent with the AFDC definition in part 9500.2060, subpart 71. It is reasonable to use the standard the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 60. **Initial eligibility.** This subpart is necessary to clarify a term used in the rule. MFIP uses different income tests for initial eligibility and ongoing eligibility. Therefore, it is necessary to define the term "initial eligibility."

Subp. 61. **Initial income test.** This subpart is necessary to clarify a term used in the rule. MFIP uses different income tests for initial eligibility and ongoing eligibility. Initial eligibility is determined according to the initial income test and ongoing eligibility is determined according to the monthly income test. The definition is

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reasonable because it compares countable income to the transitional standard as required in Minnesota Statutes, section 256.033, subdivision 1, paragraph (c).

Subp. 62. **In-kind income.** This subpart is necessary to clarify a term used in the rule. The definition is reasonable because it is consistent with the AFDC definition in part 9500.2060, subpart 72. The definition is necessary because in-kind income is excluded from countable income in part 9500.4080, subpart 2, item M. It is reasonable to include this definition since it affects eligibility and the amount of the assistance payment.

Subp. 63. **Inquiry.** This subpart is necessary to clarify a term used in the rule. The definition of "inquiry" is necessary because Title 45 CFR, section 206.10(b)(2) distinguishes between an "inquiry" (which is a request for information about the program) and an "application," each of which affixes certain obligations and responsibilities. The definition is reasonable because it is consistent with the AFDC definition of "inquiry" in part 9500.2060, subpart 73. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 64. **Legally available.** This subpart is necessary to clarify a term used in the rule. The definition of "legally available" is necessary to comply with the concept set forth in Title 45 CFR, section 233.20(a)(3)(ii)(D) which establishes that income and resources must be considered when both are actually and legally available. The term is necessary because it identifies income and resources that are available to an applicant or participant which affect eligibility and the amount of assistance.

Subp. 65. **Local agency.** This subpart is necessary to clarify a term used in the rule. Under Title 45 CFR, section 205.120(a)(1), states are permitted the option of administering AFDC (MFIP is an AFDC welfare reform demonstration project) through a system of local offices or on a statewide basis. Minnesota has elected to administer AFDC through a system of local offices pursuant to Minnesota Statutes, sections 393.01, subdivision 7, and 393.07, subdivision 2. This subpart is reasonable because it is consistent with federal regulations and state statutes.

Subp. 66. **Low-income home energy assistance program or LIHEAP.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 233.53 permits states to exclude home energy assistance from income and resource limits. It is reasonable to include this definition because it clarifies an assistance unit's eligibility for MFIP and the amount of the assistance payment. This subpart is reasonable because it is consistent with federal regulations.

Subp. 67. **Lump sum.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 233.20(a)(3)(ii)(F) requires income received in a "lump sum" to be treated differently than recurring income. The definition is consistent with the AFDC definition of "lump sum" in part 9500.2060, subpart 85. It is reasonable to use the standard set forth in the AFDC rule because the standard is consistent

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with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 68. **Maximum shelter deduction.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.032, subdivision 13 sets forth a transitional standard under MFIP. Calculation of the transitional standard includes a reference to the "maximum shelter deduction" allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. Since the "maximum shelter deduction" is used to determine the amount of the transitional standard, it is reasonable to define the term.

Subp. 69. **Medical assistance.** This subpart is necessary to clarify a term used in the rule. The definition of "medical assistance" is necessary because persons eligible for MFIP are eligible for the medical assistance program authorized under Title XIX of the Social Security Act and Minnesota Statutes, chapter 256B. In addition, certain persons who lose MFIP eligibility may be eligible for extended medical assistance. It is reasonable to define "medical assistance" to identify the federal/state health program available to MFIP participants.

Subp. 70. **MFIP household report form.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, sections 233.36, 233.37, and 233.38 require the use of a mandatory reporting system for AFDC recipients. In Minnesota, the instrument for meeting this requirement is the household report form. MFIP uses the same reporting system but refers to the report form as the "MFIP household report form." Persons with earned income are required to report on a monthly basis. Persons without earned income are required to report on a six month basis. It is reasonable to include this definition because it identifies a report form necessary to determine continued program eligibility.

Subp. 71. **Minnesota family investment plan or Minnesota family investment program or MFIP.** This subpart is necessary to clarify a term used in the rule. Although the term "Minnesota Family Investment Plan" is used in Minnesota Statutes, sections 256.031 to 256.0361, the Department generally refers to this welfare reform demonstration program as the "Minnesota Family Investment Program." Both terms are included in this subpart so that it is clear to persons consulting the rule that the terms are synonymous. The acronym "MFIP" is used to shorten the length of the rule. This definition is reasonable because it is consistent with Minnesota Statutes, sections 256.031 to 256.0361.

Subp. 72. **Minnesota supplemental aid or MSA.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.033, subdivision 4 requires that monthly benefits and any other income received through the SSI or MSA program and any real or personal property of an assistance unit member who receives SSI or MSA be excluded in determining the family's eligibility for MFIP and the amount of assistance. Therefore, it is necessary to define the term "Minnesota supplemental aid" (MSA). The definition is reasonable because it references the program authorized under Minnesota Statutes, sections 256D.33 to 256D.54.

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Subp. 73. **Minor caregiver.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.035, subdivision 1, paragraph (b) identifies the transitional status of a family with a minor parental caregiver. However, the term "minor parental caregiver" is not defined in the MFIP statutes. The term "minor caregiver" is used in the rule and means a minor parental caregiver. The term combines the concept of a minor child (person under the age of 18) and a parental caregiver (parent of a minor child). The definition is reasonable because it is consistent with the statutory definition of "minor parent" in Minnesota Statutes, section 256.736, subdivision 1a, paragraph (f).

Subp. 74. **Minor child.** This subpart is necessary to clarify a term used in the rule. The definition of "minor child" is necessary because a condition of MFIP eligibility is a family that includes a minor child. The definition is reasonable because it references the statutory definition of "minor child" in Minnesota Statutes, section 256.032, subdivision 8a.

Subp. 75. **Monthly income test.** This subpart is necessary to clarify a term used in the rule. Ongoing program eligibility is determined using a monthly income test. The monthly income test is a computation that compares earned income, after a 38 percent income disregard, and unearned income with the transitional standard. The term is reasonable because it clarifies a process used to determine eligibility and the amount of assistance based on the requirement in Minnesota Statutes, section 256.033, subdivision 1a.

Subp. 76. **Nonrecurring income.** This subpart is necessary to clarify a term used in the rule. The definition is consistent with the AFDC definition of "nonrecurring income" in part 9500.2060, subpart 92. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 77. **Overpayment.** This subpart is necessary to clarify a term used in the rule. Under Title 45 CFR, section 233.20(a)(13) an overpayment is a financial assistance payment received by or for an assistance unit for the payment month which exceeds the amount for which that unit was eligible. The definition in this subpart is reasonable because it is consistent with federal regulations.

Subp. 78. **Parent.** This subpart is necessary to clarify a term used in the rule. The definition is reasonable because it is consistent with the AFDC definition of "parent" in part 9500.2060, subpart 96 and identifies an individual legally obligated to support a minor child.

Subp. 79. **Participant.** This subpart is necessary to clarify a term used in the rule. The term "participant" identifies a person receiving benefits through MFIP. Participant is similar to the term "recipient" used in the AFDC rule (9500.2060, subpart 113). The change in terms is a deliberate effort to make a subtle change in public assistance terminology. The term "participant" implies active participation whereas the term "recipient" implies that benefits are received without

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effort or contribution. This subpart is reasonable because it is consistent with comprehensive restructuring of the welfare system to include the active participation of the person on MFIP.

Subp. 80. **Payee.** This subpart is necessary to clarify a term used in the rule. Since the rule provides that the assistance grant may be paid to a protective payee when the caregiver has exhibited a continuing pattern of mismanaging funds, it is necessary to define the term "payee." The definition is reasonable because it is consistent with the ordinary dictionary meaning. See The American Heritage Dictionary, Second College Edition, Houghton Mifflin Company, Boston, 1982) s.v. "payee."

Subp. 81. **Payment month.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 233.31(b)(4) defines "payment month" as the fiscal or calendar month for which an agency shall pay assistance. This subpart is reasonable because it is consistent with federal regulations.

Subp. 82. **Personal property.** This subpart is necessary to clarify a term used in the rule. It is necessary to specify which items are personal property because it affects MFIP eligibility. Nonexcluded personal property is applied against the \$2,000 resource limit set forth in Minnesota Statutes, section 256.033, subdivision 1, paragraph (a), clause (2). The definition is reasonable because it is consistent with the AFDC definition of "personal property" in part 9500.2060, subpart 100. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 83. **Probable fraud.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 205.10(a)(4)(iv) provides that the timely notice requirements under Title 45 CFR, section 205.10(a)(4)(i)(A) do not apply when probable fraud exists. It is necessary to provide criteria for probable fraud because it provides the basis for providing a five day notice rather than a 10 day notice. This subpart is reasonable because it is consistent with the AFDC definition of "probable fraud" in part 9500.2060, subpart 102.

Subp. 84. **Project STRIDE.** This subpart is necessary to identify a term used in the rule. The definition of Project STRIDE is necessary because the term is used in the rule parts governing case intervention. The definition is reasonable because it shortens the length of the rule and it is consistent with Minnesota Statutes, section 256.736.

Subp. 85. **Prospective budgeting.** This subpart is necessary to clarify a term used in the rule. Under part 9500.4130, the local agency uses prospective budgeting to calculate the amount of the assistance payment. Title 45 CFR, section 233.31(b)(1), states:

"prospective budgeting" means that the agency shall determine eligibility (and compute the amount of assistance for the first one or two months) based on its best estimate of income and circumstances

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which will exist in that month. This estimate shall be based on the agency's knowledge of current, past, or future circumstances."

This subpart is reasonable because it is consistent with federal regulations.

Subp. 86. **Protective payee.** This subpart is necessary to clarify a term used in the rule. There are times when a caregiver may exhibit a continuing pattern of mismanaging funds and it is necessary to provide for the basic needs of the assistance unit by assigning the assistance grant to another individual who is responsible to provide for the basic needs of the assistance unit. This individual is the protective payee. The definition of "protective payee" is reasonable because it is consistent with the AFDC definition of "protective payee" in part 9500.2060, subpart 106. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 87. **Real property.** This subpart is necessary to clarify a term used in the rule. It is necessary to specify what real property is because the value of real and personal property affects MFIP eligibility. Nonexcluded real property is applied against the \$2,000 resource limit in Minnesota Statutes, section 256.033, subdivision 1, paragraph (a), clause (2). The definition is reasonable because it is consistent with the AFDC definition of "real property" in part 9500.2060, subpart 111. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 88. **Reasonable compensation.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 233.20(a)(3)(ii)(D) requires that income and resources be considered both when they are actually available or when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. Minnesota's income maintenance programs contain disclosure requirements about resources which may have been transferred for the purpose of creating program eligibility. Under part 9500.4070, an applicant or participant must disclose a transfer of resources which occurred within the preceding year when the equity in those resources exceeded the MFIP property limits. If reasonable compensation for that property was received, that transfer would not be considered as occurring for the purpose of creating MFIP or AFDC eligibility and, therefore, is not a barrier to eligibility. If reasonable compensation was not received, and the equity in that property exceeded program limits, the applicant or participant is required to take any necessary legal steps to make the property available or to obtain additional compensation so that either the property or the compensation is available to meet current need. The definition of "reasonable compensation" is reasonable because it is consistent with the AFDC definition of "reasonable compensation" in part 9500.2060, subpart 112.

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Subp. 89. **Recertification.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 206.10(a)(9) requires states to establish a process and standards for determining the continued eligibility of participants. The term for the process of reviewing eligibility factors for continued eligibility is recertification. The process for recertification is set forth in part 9500.4090. This subpart is reasonable because it is consistent with federal regulations.

Subp. 90. **Recoupment.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 233.20(a)(13)(i)(A)(2) mandates states to take all reasonable steps necessary to promptly correct any overpayment. Recoupment is the term used for the process of recovering an overpayment from a current participant. It is reasonable to include this definition to conform with federal regulations.

Subp. 91. **Recovery.** This subpart is necessary to clarify a term used in the rule. Title 45 CFR, section 233.20(a)(13)(i)(A)(2) mandates states to take all reasonable steps necessary to promptly correct any overpayment. Recovery is the term used for the process of recovering an overpayment from a former participant. It is reasonable to include this definition to conform with federal regulations.

Subp. 92. **Recurring income.** This subpart is necessary to clarify a term used in the rule. The term is reasonable because it is consistent with the AFDC definition of "recurring income" in part 9500.2060, subpart 116.

Subp. 93. **Retrospective budgeting.** This subpart is necessary to clarify a term used in the rule. The term is reasonable because it is consistent with the AFDC definition of "retrospective budgeting" in part 9500.2060, subpart 120.

Subp. 94. **Sanction.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.035, subdivision 3 authorizes a reduction in the assistance standard for nonexempt caregivers who are not developing or complying with the family support agreement. The reduction in the assistance standard is a "sanction." This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 3.

Subp. 95. **Secondary school.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.032, subdivision 8a uses the term "secondary level course" with respect to the definition of a minor child. Generally, a minor child is an individual under the age of 18. However, for purposes of MFIP, a "minor child" may include a child under the age of 19 years who is regularly attending as a full-time student and is expected to complete a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment before reaching age 19. The legislative reference to a secondary level course implies a "secondary school." The definition of secondary school is reasonable because it references the schools accredited as such by the Minnesota Department of Education.

Subp. 96. **Significant change.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.034, subdivision

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4 requires that the monthly amount of assistance provided by MFIP must be calculated by taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the local agency's best estimate of the family's income and circumstances for that month. Therefore, it is necessary to define the term "significant change." The definition is reasonable because it references the definition of significant change in Minnesota Statutes, section 256.032, subdivision 11.

Subp. 97. **Suitable employment.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.035, subdivision 2a provides "good cause" for not meeting the expectations of developing and complying with the terms of a family support agreement. One of the good cause reasons cited is the job does not meet the definition of suitable employment in section 256.032, subdivision 11a. The definition of "suitable employment" is reasonable because it references the definition of "suitable employment" in Minnesota Statutes, section 256.736, subdivision 1a, paragraph (h).

Subp. 98. **Supplemental Security Income or SSI.** This subpart is necessary to clarify a term used in the rule. Minnesota Statutes, section 256.033, subdivision 4 states that monthly benefits and any other income received through the "supplemental security income" or Minnesota supplemental aid program and any real or personal property of an assistance unit member who receives "supplemental security income" or Minnesota supplemental aid must be excluded in determining the family's eligibility for MFIP and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving "supplemental security income" or Minnesota supplemental aid must not be taken into account. Since MFIP excludes SSI assistance, it is necessary to define the term. The definition is reasonable because it identifies the program authorized under Title XVI of the Social Security Act which is the program referred to in Minnesota Statutes, section 256.033, subdivision 4.

Subp. 99. **Title IV-A of the Social Security Act.** This subpart is necessary to clarify a term used in the rule. This definition is reasonable because it references the United States Code, title 42, chapter 7, subchapter IV, part A, sections 601 to 617.

Subp. 100. **Title IV-D of the Social Security Act.** This subpart is necessary to clarify a term used in the rule. This definition is reasonable because it references the United States Code, title 42, chapter 7, subchapter IV, part D, sections 651 to 669.

Subp. 101. **Title IV-E of the Social Security Act.** This subpart is necessary to clarify a term used in the rule. This definition is reasonable because it references the United States Code, title 42, chapter 7, subchapter IV, part E, sections 670 to 679a.

Subp. 102. **Title XVI of the Social Security Act.** This subpart is necessary to clarify a term used in the rule. This definition is

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reasonable because it references the United States Code, title 42, chapter 7, subchapter XVI, sections 1381 to 1383d.

Subp. 103. **Title XIX of the Social Security Act.** This subpart is necessary to clarify a term used in the rule. This definition is reasonable because it references the United States Code, title 42, chapter 7, subchapter XIX, sections 1396 to 1396u.

Subp. 104. **Title XX of the Social Security Act.** This subpart is necessary to clarify a term used in the rule. This definition is reasonable because it references the United States Code, title 42, chapter 7, subchapter XX, sections 1397 to 1397f.

Subp. 105. **Transitional standard.** This subpart is necessary to clarify a term used in the rule. MFIP provides two different family standards depending on whether or not the family has earned income. A family that does not have earned income receives the transitional standard of assistance. This definition is reasonable because it references the definition of "transitional standard" in Minnesota Statutes, section 256.032, subdivision 13.

Subp. 106. **Transitional status.** This subpart is necessary to clarify a term used in the rule. This definition is reasonable because it references the definition of "transitional status" in Minnesota Statutes, section 256.032, subdivision 12.

Subp. 107. **Unearned income.** This subpart is necessary to clarify a term used in the rule. MFIP authorizes certain disregards for earned income. The disregards do not apply to unearned income. Therefore, it is necessary to define the term "unearned income." The definition is reasonable because it is consistent with Title 45 CFR, section 233.20(a)(6)(vi) and (vii) which excludes the income identified in this subpart from the definition of earned income. The definition is also consistent with the AFDC definition of "unearned income" in part 9500.2060, subpart 142.

Subp. 108. **Unemployment compensation.** This subpart is necessary to clarify a term used in the rule. Unemployment compensation is identified in subpart 100 as unearned income. Therefore, it is necessary to define the term. The definition is reasonable because it identifies the insurance benefit paid to unemployed workers under Minnesota Statutes, sections 268.03 to 268.231.

Subp. 109. **Vendor.** This subpart is necessary to clarify a term used in the rule. The term is necessary because it identifies to whom payments are directed. The definition is reasonable because it is consistent with the common dictionary meaning. See The American Heritage Dictionary, Second College Edition, Houghton Mifflin Company, Boston, 1982) s.v. "vendor."

Subp. 110. **Vendor payment.** This subpart is necessary to clarify a term used in the rule. The term is necessary because it identifies monies paid to a vendor. Child care assistance is often provided as a vendor payment where the local agency reimburses the vendor (provider) for services rendered rather than reimbursing the family for child care

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expenses. The definition is reasonable because it identifies a specific type of payment.

Subp. 111. **Verification.** This subpart is necessary to clarify a term used in the rule. It is necessary to define verification because the process is used to determine initial and ongoing MFIP eligibility. The definition is reasonable because it is consistent with the AFDC definition of "verification" in part 9500.2060, subpart 148. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 112. **Wrongfully obtaining assistance.** This subpart is necessary to clarify a term used in the rule. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.98, subdivision 1.

9500.4030 APPLICATION FOR ASSISTANCE.

This part is necessary to establish procedures governing the application for assistance. An applicant does not directly apply for MFIP. An applicant applies for public assistance and is randomly assigned to a MFIP participation group. The application process described in this part is the combined application form (CAF) process used for AFDC and other public assistance programs.

Subpart. 1. **Where to apply.** This subpart is necessary to inform applicants that they must apply for assistance in their county of residence. It is reasonable to require applicants to apply in their county of residence because public assistance programs are state supervised, county administered programs. This subpart is reasonable because it is consistent with county requirements imposed in Minnesota Statutes, sections 256.031 to 256.0361 and other public assistance programs.

Subp. 2. **Local agency responsibility to provide information.** This subpart is necessary to inform counties of their responsibility to provide to persons who inquire about assistance information about eligibility requirements and how to apply for assistance. This subpart is reasonable because individuals inquiring about assistance may not have enough knowledge about either the type of assistance available or the eligibility criteria to specifically request either assistance or an application for assistance.

Subp. 3. **Application form and accompanying advisory.** This subpart is necessary because Title 45 CFR, section 206.10(a)(1) requires that a person be given the opportunity to apply for assistance without delay. The second provision in the first paragraph is necessary to advise individuals who may submit an application that the date an application is submitted to the local agency is the starting point for computing assistance. The third provision in the first paragraph is necessary to inform applicants that they may submit an application before an interview appointment. The third provision is necessary because a time lapse can occur between an applicant's receipt of an application and the

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date an interview appointment can be scheduled due to the lack of staff resources to conduct interviews on the same day. The provisions in the first paragraph are reasonable because the date of application is essential to both the determination of eligibility and the amount of assistance. The first paragraph is also reasonable because it is consistent with Title 45 CFR, section 206.10(a)(1) which requires that a person be given the opportunity to apply for assistance without delay.

The second paragraph is necessary to inform applicants that to apply for assistance the person must submit a signed application to the local agency. The local agency is then required to stamp the date of receipt of the application. It is reasonable to require the local agency to stamp the date of receipt of the application as a means of verifying the date the application was received. Finally, this paragraph requires the local agency to process the application according to the time period set forth in subpart 8.

The final paragraph is necessary to establish a process for withdrawal of an application. The provision is reasonable because it is consistent with Title 45 CFR, section 206.10(a)(8)(i) which permits an applicant's voluntary withdrawal of the application. Title 45 CFR, section 206.10(a)(8)(i) also requires an entry in the case record that a notice has been sent to confirm the applicant's withdrawal of the application. The last sentence in this paragraph providing an applicant ten days to request reinstatement of the application is necessary to establish a procedure and standardize criteria for handling withdrawals and reinstatements. The last sentence is reasonable because it creates consistency with other "notices of agency action." The notice sent to confirm an applicant's withdrawal of the applicant's application is a ten day notice in terms of the effective date of the withdrawal. This ten day notice period is treated the same as other "notice" periods in terms of length of time and the results of the notice, i.e., if the individual acts before the notice period ends, the agency action will not occur.

Subp. 4. Assessment of and issuance for initial needs. This subpart is necessary because Minnesota Statutes, section 256.76, subdivision 1 requires:

"... on the date that assistance is first requested, the local agency shall inquire and determine whether the person requesting assistance is in immediate need of food, shelter, clothing or other emergency assistance."

Based on eligibility criteria, emergency assistance may be provided under the AFDC program or the general assistance program. The second paragraph is necessary to require local agencies to also assess eligibility for expedited food stamps assistance and references the subsequent subpart (subpart 5) which identifies the food stamp requirements in Title 7 CFR, section 273.2(i).

Subp. 5. Expedited issuance of food stamps assistance. This subpart is necessary to identify the expedited service requirements under the food stamp program in Title 7 CFR, section 273.2(i). This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.036, subdivision 8 which states:

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"Provisions for expedited benefits under the Minnesota family investment plan may not be less restrictive than provisions for expedited benefits under the Food Stamp Act of 1977, as amended, and state food stamp policy and include either expediting issuance of a predesignated portion of assistance provided through the Minnesota family investment plan or through the existing food stamp program."

Subp. 6. **Verification of information on application.** This subpart is necessary to inform counties that they must verify the information on the application. This subpart also alerts applicants that the information they provide on the application form will be verified. Verification of information is reasonable to ensure that program eligibility requirements are met.

Subp. 7. **Participation in MFIP field trial.** This subpart is necessary to inform applicants that they may be randomly selected to participate in the MFIP field trial. Applicants for public assistance complete a combined application form (CAF). Some applicants will be randomly selected to participate in MFIP and, if eligible, will need to comply with MFIP requirements. Other applicants who are not selected to participate in MFIP will have their application processed and, if eligible, will receive assistance under the AFDC, family general assistance, or Food Stamps programs. This subpart is reasonable because it informs applicants that they may be eligible for MFIP, AFDC, family general assistance, or Food Stamps and may receive assistance under those programs.

Subp. 8. **Processing application.** This subpart is necessary to inform the local agency that it must determine the applicant's eligibility for assistance and inform the applicant that the application has been either approved or denied. Minnesota Statutes, section 256.036, subdivision 4 requires that applications be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Title 45 CFR, section 206.10(a)(3) requires that a decision shall be made promptly on an application. Title 45 CFR, section 206.10(a)(4) requires adequate notice be sent to applicants or recipients to indicate that assistance has been authorized or that it has been denied. The notice provision for applicants is addressed in part 9500.4290, subpart 3. The standard in this subpart is reasonable because it is consistent with the AFDC standard under part 9500.2100, subpart 6, Minnesota Statutes, section 256.036, subdivision 4, and federal regulations.

Subp. 9. **Invalid reason for delay.** This subpart is necessary because Title 45 CFR, section 206.10(a)(3) requires that decisions on applications be made promptly.

Item A is necessary because Title 45 CFR, section 206.10(a)(3)(ii) states that the agency's standards of promptness for acting on application or redetermining eligibility shall not be used as a waiting period before granting aid. Item A is reasonable because it is consistent with federal regulations.

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Item B is necessary because Minnesota Statutes, section 256.76, subdivision 1 prohibits a delay "pending formal action of the county board." It is reasonable to use the same standard as the statutes governing the AFDC program because the public assistance needs of the family are the same.

Item C is necessary because Minnesota Statutes, section 256G.09, subdivision 1 states:

"If upon investigation the local agency decides that the application or commitment was not filed in the county of financial responsibility as defined by this chapter, but that the applicant is otherwise eligible for assistance, it shall send a copy of the application or commitment claim, together with the record of any investigation it has made, to the county it believes is financially responsible. The copy and record must be sent within 60 days of the date the application was approved or the claim was paid. The first local agency shall provide assistance to the applicant until financial responsibility is transferred under this section.

The county receiving the transmittal has 30 days to accept or reject financial responsibility. A failure to respond within 30 days establishes financial responsibility by the receiving county."

Item C is reasonable because it is consistent with Minnesota Statutes, section 256G.09, subdivision 1.

Subp. 10. Changes in residence during application. This subpart is necessary to address the handling of applications when there is a change in residence during the application. Part 9500.4330 address county financial responsibility and is based on the requirements in Minnesota Statutes, chapter 256G.

This subpart also addresses the movement of an applicant from an MFIP county to a non-MFIP county. MFIP is a seven county demonstration program; it is not a statewide program. It is reasonable to assume some applicants will move from MFIP counties to non-MFIP counties sometime during the duration of the field trial. Therefore, it is necessary to address this possibility in the rule. If an applicant moves to another MFIP county, the applicant will remain in MFIP. If an applicant moves to a non-MFIP county, the applicant will lose the applicant's MFIP designation and will not be eligible for MFIP services and benefits. It is reasonable to remove the MFIP designation for applicants who move to non-MFIP counties because non-MFIP county are not set up to provide MFIP services.

Subp. 11. Additional applications. This subpart is necessary to provide specific procedures for handling additional applications. The first sentence, which establishes that additional applications are void until the local agency has approved or denied the original application, is necessary because Title 45 CFR, section 206.10(a)(8) mandates that applications be disposed of by a finding of eligibility or ineligibility. This provision is reasonable because no gain to the

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applicant will result from a subsequent application which is redundant to the information contained in a pending application.

The second sentence is necessary because it identifies an exception to the first provision. It allows an application for monthly assistance and emergency assistance to exist concurrently. The exception is necessary because emergency assistance is a separate program. The third sentence allows an additional exception to the first sentence and allows concurrent applications to exist when an appeal is pending. This subpart is reasonable because it ensures a uniform standard governing the processing of additional applications and is consistent with the AFDC standard in part 9500.2100, subpart 9.

Subp. 12. **Addendum to an existing application.** This subpart is necessary to identify when an addendum to an existing application may be used. This subpart is reasonable because it is consistent with the process used in the AFDC program in part 9500.2100, subpart 9.

Subp. 13. **Applicants who do not meet eligibility requirements for MFIP.** This subpart is necessary to address the handling of public assistance applications for applicants who do not meet the eligibility requirements for MFIP. Minnesota Statutes, section 256.033, subdivision 5 states:

"A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources or has not been assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d), may apply for, and if eligible receive, benefits under the food stamp program."

This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 5.

Subp. 14. **Notice to applicant when not eligible for assistance.** This subpart is necessary to inform applicants of the right to notice and the local agency's obligation to provide notice when an application is denied. The notice requirements are set forth in part 9500.4290, subpart 3. This subpart is reasonable because it is consistent with Title 45 CFR, section 206.10(a)(4).

9500.4040 CONVERSION OF AFDC, FAMILY GENERAL ASSISTANCE, AND FOOD STAMP RECIPIENTS TO MFIP.

Under Minnesota Statutes, section 256.031, subdivision 3, paragraph (d), clause (i) the Commissioner may assign families who are currently receiving financial assistance from AFDC, family general assistance, or Food Stamps to a test group. Families assigned to the test group receive benefits and services through MFIP. This part is necessary to inform recipients of AFDC, family general assistance, and Food Stamps that they may be randomly assigned to participate in MFIP. It is necessary to randomly assign participation in MFIP to evaluate the effectiveness of MFIP. This part is reasonable because it is consistent with Minnesota Statutes, section 256.031, subdivision 3.

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9500.4050 MFIP ELIGIBILITY REQUIREMENTS.

This part is necessary to inform persons consulting the rule that eligibility requirements for MFIP are based on three separate standards: the standards in part 9500.4060 which govern general eligibility requirements; the standards in part 9500.4070 which govern property limitations; and the standards in part 9500.4080 which govern income limitations. It is reasonable to cross-reference those rule parts because they clarify specific eligibility requirements set forth in Minnesota Statutes, sections 256.031 to 256.0361.

9500.4060 GENERAL ELIGIBILITY REQUIREMENTS.

Subpart 1. **Citizenship.** This subpart is necessary to inform families that to be eligible for MFIP the family must verify citizenship or lawful non-citizen status. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1, paragraph (a), clause (3).

Subp. 2. **Minnesota residence.** This subpart is necessary because Minnesota Statutes, section 256.73, subdivision 1, paragraph (1), establishes Minnesota residency as an eligibility requirement for receiving assistance from this state. Additionally, it is necessary because Title 45 CFR, section 233.40 establishes criteria to which a state must adhere in applying state residency qualifications. The state residency requirements are consistent with the requirements in the AFDC rule in part 9500.2140, subpart 2. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 3. **Minor child in assistance unit.** This subpart is necessary to inform families that a requirement for MFIP eligibility is there must be an eligible minor child living together with the caregiver. It is also necessary to establish that a pregnant woman in the third trimester meets this requirement and that she can receive assistance without including other children in the assistance unit. MFIP will also include eligibility for a family with a child receiving supplemental security income or MSA, but such a child's needs and income must not be taken into account when the local agency determines the amount of the assistance payment to the unit. This subpart is reasonable because it is consistent with the AFDC program and Minnesota Statutes, section 256.73, subdivision 1, which describes an eligible child, Minnesota Statutes, section 256.73, subdivision 3a, paragraph (1) which describes the supplemental security income provisions, and Minnesota Statutes, section 256.73, subdivision 5, clause (a) which describes the eligibility of a pregnant woman in her third trimester.

Authority for the pregnant woman to keep other children off the grant is a clarification of DEFRA which was published in the Federal Register on July 8, 1992 (F.R. Vol. 57, No. 131 pg 30139). Authority for the pregnant woman to keep other children off the grant became effective on March 1, 1993.

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Subp. 4. **Physical presence.** This subpart is necessary to establish standards governing MFIP eligibility during temporary absences of caregivers and minor children. Applicants and participants will continue to be eligible for MFIP when they are temporarily absent from the home under certain circumstances that are identified in this subpart. This subpart is reasonable because the standards are consistent with the AFDC rules governing eligibility during temporary absences in part 9500.2140, subpart 5.

Item A is necessary to describe the requirements for temporary absence when a minor child is required to live away from the caregiver's home to meet the need for educational curricula that cannot be met by the local public school district. MFIP eligibility will continue when the caregiver continues to maintain responsibility for the support and care of the minor child. This item is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item A.

Item B is necessary to describe the requirements for temporary absence for an applicant caregiver and an applicant minor child when either must be away from the caregiver's home due to illness or hospitalization. MFIP eligibility will continue if it is expected that the absence will not last more than six months beyond the month of departure and the conditions of one of three subitems are met. Subitem (1) describes the requirement that the caregiver and minor child live together immediately prior to the absence and the caregiver must maintain responsibility for the support and care of the child as well as report the child's absence at the time of application. Subitem (2) describes the requirement for the pregnant mother that is hospitalized or out of the home due to the pregnancy. Subitem (3) describes the requirement for the newborn child and mother that are hospitalized at the time of birth. Item B is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item B.

Item C is necessary to describe the temporary absence requirements that must be met for MFIP eligibility to continue in the month of departure and the following months when the caregiver or minor child is absent from the home. MFIP allows eligibility in the month of departure when the caregiver or child received assistance for that month and lived together immediately prior to the absence. MFIP allows eligibility to continue past the month of departure when the home is maintained for the return of the absent family member, the caregiver continues to maintain responsibility for the support and care of the minor child and when one of subitems (1) to (7) is met.

Subitem (1) describes the absence of a participant caregiver or participant child due to illness or hospitalization. Subitem (1) is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item C, subitem (1).

Subitem (2) is reasonable because it is consistent with 1993 Laws of Minnesota, 1993 First Special Session, Chapter 1, article 6, section 28 which amends Minnesota Statutes, section 256D.02, subdivision 5 by stating, "A minor child who is temporarily absent from the applicant's or recipient's home due to placement in foster care paid for from state or local funds, but who is expected to return within six months of the

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month of departure, is considered to be residing with the applicant or recipient."

Subitem (3) describes the absence of a participant minor child due to a vacation. Subitem (3) is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item C, subitem (3):

Subitem (4) describes the absence of a participant minor child due to a visit or vacation with an absent parent. Subitem (4) is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item C, subitem (4).

Subitem (5) describes the absence of a participant caregiver due to a death or illness of a relative, incarceration, training, or employment search and suitable arrangements have been made for the care of the minor child. Subitem (5) also describes the absence of a participant minor child due to incarceration. Subitem (5) is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item C, subitem (5).

Subitem (6) describes the absence of a participant caregiver and a participant minor child who are both absent from Minnesota due to a situation described in subitem (5) or due to a vacation. Subitem (6) is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item C, subitem (6).

Subitem (7) describes the absence of a participant minor child that has run away from home. Subitem (7) is reasonable because it is consistent with AFDC requirements in part 9500.2140, subpart 5, item C, subitem (7).

Subp. 5. Shared, court ordered, and other custody arrangements. This subpart is necessary even though there are no deprivation factors of eligibility in MFIP. It is necessary to describe the requirements which determine which parent is eligible to be in the assistance unit with a minor child when the parents are not living together. MFIP will determine the presence of a parent for the purpose of inclusion in the assistance unit by actual facts, rather than by court ordered custody arrangement. Subpart 5 is reasonable because it is consistent with AFDC requirements in part 9500.2260, subpart 4. Even though this is a subpart of the continued absence section of the AFDC rule, it describes the requirement for determining which parent is eligible to be in the assistance unit with a minor child when the parents do not live together.

Item A is necessary to describe the requirements when a minor child spends time in each of the parent's homes during a payment month. MFIP will include the parent in the assistance unit that the minor child spends the majority of the month with. If the time is shared exactly equally between the parent's homes or if the parents alternately live in the minor child's home, the parent applying for assistance will be included in the assistance unit unless the minor child's needs have been met for the entire payment month in an assistance payment to the other parent for that month. Item A is reasonable because it is consistent with AFDC requirements in part 9500.2260, subpart 4, item A.

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Item B is necessary to describe the requirements when the physical custody of a minor child alternates between parents for periods of at least one payment month. In MFIP, the parents needs will be included for any full payment month the minor child's home is with that parent except for the provisions in item C. Item B is reasonable because it is consistent with AFDC requirements in part 9500.2260, subpart 4, item B.

Item C is necessary to describe the requirements when a minor child's home is with one parent for the majority of the time in each month for at least nine consecutive calendar months and that minor child visits or vacations with the other parent under the provisions of subpart 4, item C, subitem 4. In MFIP, the minor child's home will remain with the first parent even when the stay with the second parent is for all or the majority of the months in the period of the temporary absence, and the first parent will continue to be eligible as a member of the assistance unit. Item C is reasonable because it is consistent with AFDC requirements in part 9500.2260, subpart 4, item C.

Subp. 6. Eligibility during labor disputes. This subpart is necessary to establish standards governing MFIP eligibility during labor disputes. Federal regulations governing AFDC and Food Stamps differ with regard to program eligibility due to labor disputes. The AFDC requirements in Title 45 CFR, section 233.106(a) states:

" A state plan under title IV-A of the Social Security Act must:

(1) Provide that participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment.

(2)(i) Provide for the denial of AFDC benefits to any family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike; and

(ii) Provide that no individual's need shall be included in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike."

The Food Stamps requirement in Title 7, part 273.1(g)(1) states:

"Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household."

The Department has obtained a waiver from the AFDC requirement and will follow the procedure currently used in the Food Stamp program. It is reasonable to use the Food Stamp standard because it simplifies the administration of MFIP, it is less restrictive than the AFDC standard and the waiver has been approved by the federal government.

Subp. 7. Assignment of support. This subpart is necessary to establish requirements governing the assignment of support. MFIP eligibility is

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conditioned upon the caregiver assigning all rights to child support, private health care benefits, and spousal maintenance benefits to the local agency. This subpart is reasonable because it is consistent with Minnesota Statutes, sections 256.033, subdivision 1, paragraph (a), clause (5); and 256.034, subdivision 3, paragraph (b) which states, in part:

"(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan...."

Subp. 8. Requirement to provide social security numbers. This subpart is necessary to require families to provide the social security number of members of the assistance unit. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1, paragraph (a), clause (4).

9500.4070 PROPERTY LIMITATIONS. This part is necessary to establish standards governing property limitations. Minnesota Statutes, section 256.033, subdivision 3, excludes certain property when determining a family's resources. Except where specifically addressed by Minnesota Statutes, section 256.033, subdivision 3, the MFIP rule applies the AFDC standards found in part 9500.2340 governing property limitations.

Subpart 1. Property ownership provisions. The language in this subpart is consistent with the language in the AFDC rule, part 9500.2340, subpart 1. It is reasonable to use the AFDC language because, except for the maximum resource limit which is \$2,000 under MFIP rather than \$1,000, the treatment of property is the same. It is reasonable to use the standard in the AFDC rule because the standard is consistent with federal regulations; it is the standard used for many of the AFDC recipients who will be converted to MFIP; and that standard has already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 2. Real property limitations. This subpart is necessary to identify the limitations of ownership of real property for MFIP applicants and participants. The homestead is excluded from real property limitations under Minnesota Statutes, section 256.033, subdivision 3, clause (1). The language in this subpart is consistent with the language in the AFDC rule, part 9500.2340, subpart 2. It is reasonable to use the standard in the AFDC rule for the same reasons as cited earlier: the AFDC standard is consistent with federal regulations; many of the AFDC recipients will be converted to MFIP; and those standards have already undergone the scrutiny of the Administrative Procedure Act (APA).

Subp. 3. Other property limitations. This subpart, identifying equity value allowed for non-excluded property, is necessary because Minnesota Statutes, section 256.033, subdivision 1, paragraph (a), clause (2)

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limits family resources not excluded under Minnesota Statutes, section 256.033, subdivision 3 to \$2,000.

Item A is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 3, clause (4). The use of the N.A.D.A. Official Used Car Guide, Midwest Edition, to determine vehicle value is reasonable because that is the standard used in the AFDC program to determine the value of a motor vehicle. To determine the equity value of vehicles, the local agency is directed to subtract any outstanding encumbrances from the loan value listed in the N.A.D.A. Official Used Car Guide.

Item B is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 3, clause (3).

Item C is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 3, clause (2).

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 3, clause (5).

Item E is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a, paragraph (c) and (e).

Item F is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 3, clause (7).

Item G is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 4.

Item H, excluding the value of corrective payments and the AFDC housing allowance, is reasonable because Title 45 CFR, section 233.20(a)(13)(ii) provides that "retroactive corrective payments shall not be considered as income, or as a resource in the month paid nor in the next following month." This item is reasonable because it is consistent with federal regulations and AFDC rule part 9500.2340, subpart 3, item E.

Item I, excluding a mobile home used by an applicant or participant as a home, is reasonable because Title 45 CFR, section 233.20(a)(3)(i)(B)(1) provides for the exclusion of the home which is the usual residence of the assistance unit. This item is reasonable because it is consistent with federal regulations and AFDC rule part 9500.2340, subpart 3, item F.

Item J, excluding money escrowed in a separate account for real estate taxes and insurance, is necessary because Title 45 CFR, section 233.20(a)(3)(ii)(D) requires resources to be evaluated as to their legal availability. This provision is reasonable because monies escrowed and held by a third party, such as a bank or other mortgage holder, would be excluded as property because those monies are not available to the assistance unit. This item is reasonable because it is consistent with federal regulations and AFDC rule part 9500.2340, subpart 3, item G.

Item K, excluding money escrowed for certain self-employment business costs, is necessary to allow a self-employed person to retain money for certain business expenses which are allowable as deductions from income,

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paid less frequently than monthly, and budgeted for more than one month. Without this provision, the money retained for those expenses would be counted against the \$2,000 resource limit before the money could be budgeted as a deduction from income. It is reasonable to allow self-employed persons to escrow funds for the payment of business expenses so they can continue to operate their businesses and work toward self-sufficiency. This item is reasonable because it is consistent with AFDC rule part 9500.2340, subpart 3, item H.

Item L, excluding monthly assistance and emergency assistance payments for the current month's needs, is reasonable because those payments are intended to be used for living expenses for the month and are not resources in the current month. This item is reasonable because it is consistent with AFDC rule part 9500.2340, subpart 3, item I.

Item M, excluding the value of school loans, grants or scholarships for the period they are intended to cover, is reasonable because Title 45 CFR, section 233.20(a)(4)(ii)(d) requires the exclusion of certain school loans and grants. This item is reasonable because it is consistent with AFDC rule part 9500.2340, subpart 3, item K.

Item N, excluding certain payments up to three months which are held in escrow to replace or repair personal or real property, is reasonable because Title 45 CFR, section 233.20(a)(3)(ii)(E) requires a state to reasonably evaluate income and resources. This exclusion is reasonable because it will allow the participant adequate time to effect the repair or replacement. This item is reasonable because it is consistent with AFDC rule part 9500.2340, subpart 3, item M.

Item O, excluding income received in a budget month through the end of the budget month, is reasonable because it is consistent with federal regulations and AFDC rule part 9500.2340, subpart 3, item J.

Item P, excluding the earned income credit in the month received and the following month is reasonable because federal action transmittal (FSA-AT-91-3) allows this exclusion for the AFDC program. Excluding the Minnesota working family credit in the month received and the following month is reasonable because Laws of Minnesota 1991, Chapter 291, article 6, section 27 allows this exclusion for the AFDC program.

Item Q, excluding payments under federal law that are held in a separate account from any non-excluded funds is reasonable because it is consistent with AFDC program requirements and federal law including the public laws cited under this subpart. .

9500.4080 INCOME LIMITATIONS.

Subpart 1. **Evaluation of income.** This subpart is necessary because Title 45 CFR, section 233.20(a) establishes parameters which the states must use to determine how income must be considered. It is reasonable to establish those provisions in rule to ensure that applicants and participants who receive income in the same amount from the same source will have that income considered and applied in a consistent manner. This subpart is reasonable because it is consistent with AFDC rule part 9500.2380, subpart 1.

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Subp. 2. **Excluded income.** This subpart is necessary to specify payments which may not be considered as income. MFIP combines the AFDC and food stamp programs for families. To achieve consistency between the two programs and to encourage family members to engage in activities leading to self-support, certain types of income that are counted under the food stamp program are excluded under MFIP.

Minnesota Statutes, section 256.033, subdivision 2 directs the Department to use the income exclusions for the AFDC program listed in Title 45 CFR, 45, sections 233.20(a) and 233.20(a)(4), when determining a family's available income, except for specific exceptions set forth in subdivision 2. Minnesota Statutes, section 256.033, subdivision 2, clause (4) also provides that "all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded."

Item A is reasonable because it is consistent with the AFDC exclusion in part 9500.2380, subpart 2, item A which excludes from income payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults. It is reasonable to exclude payments received and used for care and maintenance of a third party beneficiary who is not a household member because it is consistent with Title 7 CFR, section 273.9(c)(7).

Item B is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item D and title 29, United States Code, chapter 19, section 1552(b).

Item C is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item E.

Item D is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item F and Minnesota Statutes, section 256.033, subdivision 2, clause (3).

Item E is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item G.

Item F is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item H.

Item G is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item I.

Item H is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item I and Minnesota Statutes, section 256.033, subdivision 2, clause (2).

Item I is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item J.

Item J is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item K.

Item K is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item L.

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Item L is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item M.

Item M is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item N.

Item N is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item O.

Item O is reasonable because the exclusion of AFDC emergency assistance payments is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item Q. Item O also excludes emergency general assistance payments and AFDC special needs payments. The emergency general assistance payments are excluded because those payments are similar to the emergency assistance payments made under part 9500.2800. AFDC special needs payments are excluded because those payments were identified in the Department's waiver request as excluded income and the waiver request was approved by the Family Support Administration.

Item P is reasonable because it is consistent with AFDC requirements in part 9500.2800, subpart 2.

Item Q is reasonable because it is consistent with AFDC requirements in part 9500.2800, subpart 1.

Item R is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item S.

Item S is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item U.

Item T is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item V.

Item U is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item W.

Item V is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item X.

Item W is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item Y.

Item X is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item Z.

Item Y is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item AA.

Item Z is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item BB. The exception to the AFDC amount is necessary because the MFIP resource limit is \$2,000 while the AFDC resource limit is \$1,000.

Item AA is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item CC.

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Item BB is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item DD.

Item CC is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 2, clause (1).

Item DD is reasonable because MFIP child care payments were identified in the Department's waiver request as excluded income and the waiver request was approved by the Family Support Administration.

Item EE is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item C.

Item FF is reasonable because it is consistent with AFDC program policy.

Item GG is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item G.

Item HH is reasonable because it is consistent with AFDC policy and Title 45 CFR, section 233.20(a)(4)(ii)(i), and title 42, United States Code, chapter 13A, section 1780(b).

Item II is reasonable because it is consistent with AFDC policy and United States Code, title 42, chapter 13A, section 1786.

Item JJ is reasonable because it is consistent with AFDC policy and Title 45 CFR, section 233.20(a)(4)(ii)(i), and title 42, United States Code, chapter 13, section 1760(e).

Item KK is reasonable because it is consistent with the income exclusion in Title 45 CFR, section 233.20(a)(4)(ii)(c); title 42, United States Code, chapter 61, subchapter II, section 1636; and title 12, United States Code, chapter 13, section 1701 to 1750jj.

Item LL is reasonable because it is consistent with AFDC policy; title 19, United States Code, chapter 12, section 2271 et. seq.; and Public Law 99-272.

Item MM is reasonable because it is consistent with AFDC policy, title 50, United States Code, section 1989 et. seq., and Public Law 100-383.

Item NN is reasonable because it is consistent with AFDC policy and Public Law 101-239.

Item OO is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item DD.

Item PP is reasonable because it is consistent with the income exclusion in the AFDC rule, part 9500.2380, subpart 2, item T; title 25, United States Code, chapter 9, section 331; and title 25, United States Code, chapter 16, section 1407.

Subp. 3. **Initial income test.** This subpart is necessary to establish a process for determining initial program eligibility. Minnesota Statutes, section 256.033, subdivision 1, paragraphs (b) and (c) establish requirements for initial program eligibility. Under paragraph

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(b), a family is eligible for MFIP if the net income is less than the transitional standard for that size and composition of family. Under paragraph (c), a family is initially eligible for MFIP if the family's gross income does not exceed the applicable transitional standard for that family after deducting 18 percent to cover taxes, actual dependent care costs up to the maximum disregarded under U.S.C. Title 42, section 602(a)(8)(A)(iii), and \$50 of child support collected in that month. Items A and B are consistent with Minnesota Statutes.

Item C is necessary to address an AFDC policy which MFIP will use for determining initial eligibility of applicants who have received AFDC, family general assistance or MFIP within four months of the most recent application for MFIP. For the purpose of item C, the 30 and one-third disregard in AFDC is similar to the 38 percent disregard in MFIP. It is reasonable to use a 38 percent disregard of earned income when determining initial eligibility for MFIP because it is consistent with Minnesota requirements in part 9500.2580, item C, subitem (1). Because the income disregards in MFIP are not time limited, subitems (2) through (6) do not apply.

This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1, paragraphs (b) and (c).

Subp. 4. Monthly income test and determination of assistance payment. This subpart is necessary to establish a standard governing ongoing program eligibility. Minnesota Statutes, section 256.033, subdivision 1a, paragraph (c) establish requirements for ongoing eligibility and the assistance payment amount. Under paragraph (c), a family's income, after applying the 38 percent disregard to earnings, is added to the transitional standard to arrive at total family income. The total family income is then compared to the family wage level, and if the family income is equal to or greater than the family wage level, the assistance payment would be reduced. This subpart is reasonable because the Department has a federal waiver of section 402(a)(18) and 402(a)(8)(A) and (B) of the Social Security Act which allows this standard governing ongoing eligibility and determination of payment amount, as well as the standard governing the earned income disregards in MFIP.

Item A is necessary to establish the budgeting method to use to arrive at the assistance payment amount and to determine continued eligibility when the assistance unit's only income is earned income. Item A is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1a, paragraph (c);

Item B is necessary to establish the budgeting method to use to arrive at the assistance payment amount and to determine continued eligibility when the assistance unit's only income is unearned income. Item B is reasonable because it is consistent with parts 9500.2380, subpart 10, and 9500.2500, subpart 4, item C, which govern the AFDC program.

Item C is necessary to establish the budgeting method to use to arrive at the assistance payment amount and to determine continued eligibility when the assistance unit's income is a combination of earned income and unearned income. Item C is reasonable because it is consistent with

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Minnesota Statutes, section 256.033, subdivision 1a, paragraph (c), and part 9500.2380, subpart 10, and 9500.2500, subpart 4, item C.

Item D is necessary to establish the policy for a one month suspension of the assistance payment. The local agency must suspend the assistance payment for one month if it is expected that the monthly income will exceed the transitional or family wage level standard for only one month. Item D is reasonable because it is consistent with part 9500.2500, subpart 2, third paragraph.

Subp. 5. **Distribution of income.** This subpart is necessary to establish how income is distributed when determining eligibility and payment amount of MFIP. The income of all members of the assistance unit must be counted. Income must be attributed to the person who earns it or to the assistance unit according to items A through G.

Item A is necessary to establish that income may be allocated from spouse to spouse and from parents to children under age 21 according to part 9500.4140 provided that the person to whom the income is allocated is in financial need according to the MFIP standard and when that person lives with a minor child who is applying for or receiving assistance. This item is reasonable because it is consistent with Title 45 CFR, section 233.20(a)(3)(vi)(A).

Item B is necessary to establish that income from stepparents who do not elect to be part of the MFIP assistance unit is only counted if the stepparent's income exceeds 275 percent of the federal poverty guidelines for a family of one. Item B also establishes the method of determining the amount of income to count for parents of minor caregivers who do not elect to be part of the MFIP assistance unit and for stepparents if the stepparent's income must be counted. Item B is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 2, clause (5), and Minnesota Statutes, section 256.032, subdivision 1, paragraph (c).

Item C is necessary to establish that funds distributed from trusts must be counted as income. Item C is reasonable because it is consistent with part 9500.2380, subpart 3, item B.

Item D is necessary to establish that income from jointly owned property must be divided equally among property owners unless the terms of ownership provide for a different distribution. Item D is reasonable because it is consistent with part 9500.2380, subpart 3, item C.

Item E is necessary to establish that income of the sponsors of non-citizens must be deemed to the aliens. Item E is reasonable because it is consistent with Code of Federal Regulations, title 45, section 233.51 and part 9500.2380, subpart 3, item D.

Item F is necessary to establish that deductions are not allowed from the gross income of financially responsible household members or by members of an assistance unit to meet a current or prior debt except as provided under items B and E. Item F is reasonable because it is consistent with part 9500.2380, subpart 3, item E.

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Item G is necessary to establish requirements for disqualified household members. Item G is reasonable because it is consistent with Minnesota Statutes, section 256.98, subdivision 8.

Subp. 6. **Earned income of wage and salary employees.** This subpart is necessary to identify gross earned income and to establish the requirement that the local agency include gross earned income in the initial and monthly income test. This subpart is reasonable because it is consistent with part 9500.2380, subpart 4.

Subp. 7. **Self-employment, general.** This subpart is necessary to identify self-employment income and to establish the requirement that the local agency must include self-employment income in the initial and monthly income test. It is reasonable to identify self-employment income separately from other earned income because it is treated differently when determining eligibility and amount of the assistance payment. This subpart is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(a).

The second paragraph of this subpart is necessary to describe differences in ownership and to establish a policy regarding business loss. In the food stamp program, a business loss from a farm operation can offset other household income as described in Code of Federal Regulations, Title 7, section 273.11(2)(iii). In MFIP, a loss from any self-employment business will offset income from any other self-employment business. It is reasonable to adopt the food stamp policy since MFIP includes the food stamp program.

Subp. 8. **Self-employment earnings.** This subpart is necessary to establish the method of determining self-employment income.

Item A is necessary to establish allowable business expenses that may be subtracted from gross receipts.

Subitem (1) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (2) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (3) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (4) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (5) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (6) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (7) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

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Subitem (8) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (9) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (10) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (11) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (12) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (13) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (14) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i) and title 42, United States Code, chapter 13, section 1751 et. seq.

Subitem (15) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (16) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (17) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(2)(iii).

Subitem (18) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Subitem (19) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(4)(i).

Item B is necessary to establish the items that the local agency may not deduct from self-employment income.

Subitem (1) is reasonable because it is consistent with part 9500.2380, subpart 6, clause A.

Subitem (2) is reasonable because it is consistent with part 9500.2380, subpart 6, clause B.

Subitem (3) is reasonable because it is consistent with part 9500.2380, subpart 6, clause C.

Subitem (4) is reasonable because it is consistent with part 9500.2380, subpart 6, clause D.

Subitem (5) is reasonable because it is consistent with part 9500.2380, subpart 6, clause E.

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Subitem (6) is reasonable because it is consistent with part 9500.2380, subpart 6, clause F.

Subitem (7) is reasonable because it is consistent with part 9500.2380, subpart 6, clause G.

Subitem (8) is reasonable because it is consistent with part 9500.2380, subpart 6, clause H.

Subitem (9) is reasonable because it is consistent with part 9500.2380, subpart 6, clause I.

Subitem (10) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(5)(b)(ii)(B).

Subitem (11) is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(5)(b)(ii)(B).

Subitem (12) is reasonable because it is consistent with part 9500.2380, subpart 6, clause L.

Subitem (13) is reasonable because it is consistent with part 9500.2380, subpart 6, clause M.

Subitem (14) is reasonable because it is consistent with part 9500.2380, subpart 6, clause N.

Subp. 9. Self-employment budget period. This subpart is necessary to establish the method of determining the budget period and monthly income from self-employment. It is reasonable that the self-employment budget period begin in the month of application or in the first month of self-employment because it would reflect the caregiver's current situation. It is also reasonable that gross receipts must be budgeted in the month received and expenses must be budgeted against gross receipts in the month the expenses are paid because it is consistent with part 9500.2380, subpart 7.

Item A is necessary to identify an exception to the general rule stated above. It is reasonable that the purchase cost of inventory items, including materials which are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of the inventory items because it is consistent with part 9500.2380, subpart 7, clause A.

Item B is necessary to establish the method that must be used to determine the amount of monthly income from self-employment. Because MFIP is a welfare reform program that will be field tested in seven counties, several working committees designed areas of the program. A working committee designed the rolling average method of calculating self-employment income which is established in this item. While AFDC annualizes farm income according to part 9500.2380, subpart 8, MFIP will use a monthly average from the current month and the previous 11 months income and expenses which is similar to annualizing income. The rolling average is reasonable because it evens out the income of the caregiver while still maintaining the integrity of using actual income and expenses from a previous month to base the assistance

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payment for a current month and is consistent with Code of Federal Regulations, Title 7, section 273.11(a)(1). Subitems (1) to (3) describe the twelve month rolling average method that local agencies must use.

Subitem (1) is necessary to establish the method to use for an applicant who is self-employed in a business that has been in operation for a least twelve months prior to the month of application. It is reasonable to use the most current year's income tax report to construct the first month's average income because the tax report reflects income from a twelve month period. Each month thereafter, the local agency must determine a new monthly average by adding in the actual self-employment income and expenses from the previous month and dropping the first month from the averaging period. This method is reasonable because Code of Federal Regulations, Title 45, section 233.20(a)(6)(v)(B) allows self-employment income and expenses be used to determine monthly income for AFDC.

Subitem (2) is necessary to establish the method to use for a caregiver who has a self-employment enterprise that has been in operation for less than 12 months. It is reasonable to construct a rolling average by using the number of months the business has been in operation because these months are likely to reflect the caregiver's current situation. It is also reasonable to determine the income under subitem (1) when data are available for 12 or more months. This subitem is reasonable because it is consistent with Code of Federal Regulations, Title 7, section 273.11(a)(1)(iv).

Subitem (3) is necessary to establish requirements for a business that undergoes a major change. When a business experiences a major change that affects the nature and scale of the business, the local agency must compute a new rolling average beginning with the first month of the major change. This subitem is reasonable because the old rolling average would no longer reflect the caregiver's situation and it is consistent with Code of Federal Regulations, Title 7, section 273.11(a)(1).

Item C is necessary to establish requirements for a business that has seasonal self-employment. A caregiver may choose whether to use actual income in the month of receipt and expenses in the month incurred or the rolling average method of computation when the caregiver is employed six or less months per year. This choice must be made once per year at the time of application or recertification. Item C is reasonable because Code of Federal Regulations, Title 7, section 273.11(a)(1)(iii) allows self-employment income which is received in part of a year to be averaged and counted over the period of time it is intended to cover.

Subp. 10. **Farm income.** This subpart is necessary to identify a type of self-employment income, farm income. This subpart is reasonable because it is consistent with part 9500.2380, subpart 8.

Subp. 11. **Rental income.** This subpart is necessary to address the treatment of rental income. Rental income is either earned or unearned income based on the number of hours an assistance unit spends on maintenance or management of the property. Treating rental income as earned income is preferable to the assistance unit since a 38 percent

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disregard is applied to earned income. There is no disregard for unearned income. The standard in this part is based on the MSA standard in Minnesota Statutes, section 256D.435, subdivision 9. It is reasonable to use the MSA standard of 10 hours per week rather than the AFDC rule standard of 20 hours per week because the MSA standard more accurately reflects income generated by one's labor.

Subp. 12. **Unearned income.** This subpart is necessary to establish a standard governing unearned income. Unearned income is income received by a person in a manner that does not meet the definition of earned income, i.e., it is not earned through effort or labor. The standard in this subpart is reasonable because it is consistent with the AFDC standard in part 9500.2380, subpart 10.

Subp. 13. **Treatment of lump sums.** This subpart is necessary to establish requirements for counting lump sums as income and assets. MFIP will treat lump sums differently than the AFDC program. Lump sums will be counted as either earned or unearned income. If the lump sum payment is included in the category of income identified in subpart 12, it must be treated as unearned income. A lump sum will be counted as income in the month received and budgeted either prospectively or retrospectively depending on the budget cycle at the time of receipt. The lump sum will be combined with all other earned and unearned income received in the same budget month and it must be applied according to items A to C. There is no carryover into subsequent months as there is in the AFDC program. Any funds that remain in the third month after the month of receipt are counted in the asset limit. This subpart is reasonable because the Department has received a waiver of section 402(a)(17) of the Social Security Act which will allow this treatment of lump sums.

Item A is necessary to inform the local agency how to treat lump sums received by an applicant during the first two months of eligibility. It is reasonable to treat the income prospectively because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.24(a).

Item B is necessary to inform the local agency how to treat lump sums received by a participant after the first two months of MFIP eligibility. It is reasonable to treat the income retrospectively because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.25.

Item C is necessary to inform the local agency how the lump sum will affect the assistance payment for the payment month. It is reasonable to reduce the assistance payment according to the amount of the countable income, or to suspend the assistance payment for the payment month if the countable income exceeds the transitional or the family wage level standard for the budget month. Item C is reasonable because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.34(d)(1) and (2).

9500.4090 **DOCUMENTING, VERIFYING, AND RECERTIFYING ELIGIBILITY.**

Subpart 1. **Verification of information.** This subpart is necessary to inform the local agency of what information must be verified. It is

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reasonable to require verification of only the information necessary to determine MFIP eligibility and the amount of the assistance payment. This subpart is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 1.

Subp. 2. **Sufficiency of documentation.** This subpart is necessary to inform the applicant or participant of the requirements of documentation of information. The applicant or participant has the burden of providing documentary evidence of the information required in subparts 4 and 5 to verify eligibility for MFIP. The local agency must assist the applicant or participant in obtaining the required documents when the applicant or participant is unable to do so. The local agency also may accept an affidavit from an applicant or participant as sufficient documentation when the applicant or participant or the local agency is unable to obtain the necessary documentation. This subpart is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 2.

Subp. 3. **Contacting third parties.** This subpart is necessary to inform the local agency that it must not request information about an applicant or participant which is not of public record from a source other than local agencies, the department or the United States Department of Health and Human Services without the person's prior written consent. This subpart is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 3.

Subp. 4. **Factors to be verified.** This subpart is necessary to inform the local agency and the applicant or participant of the information that must be verified.

Item A is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (3).

Item B is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item C, subitem (1).

Item C is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (10).

Item D is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (2).

Item E is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (4).

Item F is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (1).

Item G is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (1) and (2).

Item H is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (1).

Item I is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

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Item J is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (2).

Item K is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (4).

Item L is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item M is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item N is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item O is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item P is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item C.

Item Q is reasonable because it is consistent with AFDC requirements in part 9500.2860, subpart 1.

Item R is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (7).

Item S is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (8).

Item T is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item U is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item A, subitem (8).

The second paragraph in this subpart is necessary to establish the requirement for an applicant's written authorization before a local agency contacts the Immigration and Naturalization Service to verify alien status under item E. This is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 3.

The third paragraph in this subpart is necessary to establish that the local agency must document the reason for verifying information under item P in the financial case record. This is reasonable because it is consistent with AFDC requirements in part 9500.2420, item C.

Subp. 5. Items that must be verified at recertification. This subpart is necessary to inform the local agency and recipients of the information that must be verified at recertification.

Item A is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item C, subitem (1).

Item B is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (1) and (2).

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Item C is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (1).

Item D is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item E is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item F is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item B, subitem (5).

Item G is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 4, item C.

Subp. 6. Recertification of eligibility. This subpart is necessary to inform the local agency of the requirement to recertify eligibility at least annually in a face-to-face interview. This subpart is reasonable because it is consistent with AFDC requirements in part 9500.2420, subpart 5, and Code of Federal Regulations, Title 45 CFR, section 206.10(a)(9)(iii).

9500.4100 FAMILY COMPOSITION AND ASSISTANCE STANDARDS.

Subpart 1. MFIP assistance unit. This subpart is necessary to establish the composition of an assistance unit. The MFIP assistance unit is based on a group of individuals with at least one minor child who live together, and whose needs, assets, and income are considered together. A pregnant woman in the third trimester of pregnancy is also an assistance unit and can receive MFIP with no other children in the unit. Subparts 2 through 4 identify who is a mandatory member of the assistance unit, who must be excluded as a member, and who may elect to be a member of the unit. MFIP is different from the AFDC program in the membership of an assistance unit. MFIP allows a step-parent the option of being included in the assistance unit when the step-parent and the parent do not have a mutual child. Minnesota Statutes, section 256.032, subdivision 1a establishes the assistance unit membership for MFIP. This subpart also establishes that certain optional unit members must have their income considered when determining eligibility and benefits for the assistance unit. All assistance unit members, whether mandatory or elective, who live together and for whom one caregiver or two married caregivers apply must be included in a single assistance unit. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a and part 9500.2440, subpart 3, item A and B.

Subp. 2. Mandatory assistance unit composition. This subpart is necessary to establish the mandatory assistance unit members. When the individuals identified in items A to C live together, the local agency must include them in the same assistance unit. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a, paragraph (a).

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Subp. 3. Individuals who must be excluded from an assistance unit. This subpart is necessary to establish individuals who must be excluded from the assistance unit.

Item A is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 4.

Item B is reasonable because it is consistent with AFDC requirements in part 9500.2260, subpart 1, clause B.

Item C is reasonable because it is consistent with Minnesota Statutes, section 256.98, subdivision 8.

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.98, subdivision 8.

Subp. 4. Individuals who may elect to be included in the assistance unit. This subpart is necessary to establish individuals who may elect to be included in the assistance unit. When an individual identified in items A to D lives with mandatory members of the assistance unit identified in subpart 2, the individual may elect to be included in the assistance unit.

Item A is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a, clause (b).

Item B is different than the AFDC program. MFIP will allow the minor child's stepparent to elect to be included in the assistance unit, even if the stepparent and parent do not have a mutual child. This item is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a, clause (c).

Item C is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a, clause (d).

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 1a, clause (e).

Subp. 5. MFIP family allowance table. This subpart is necessary to establish the MFIP family allowance table which is the same as the AFDC family allowance table. It is reasonable to use the AFDC family allowance table because the MFIP transitional standard is built upon this family allowance table. This subpart is reasonable because it is consistent with AFDC requirements in part 9500.2440, subpart 6 and Minnesota Statutes, section 256.032, subdivision 13.

Subp. 6. Application of assistance standards. This subpart is necessary to establish requirements governing the assistance standards. The methodology of applying these standards to the MFIP assistance unit is the same as that of the AFDC program with the exception of item E.

Item A is reasonable because it is consistent with AFDC requirements in part 9500.2440, subpart 5, item A.

Item B is reasonable because it is consistent with AFDC requirements in part 9500.2440, subpart 5, item B.

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Item C is reasonable because it is consistent with AFDC requirements in part 9500.2440, subpart 5, item C.

Item D is reasonable because it is consistent with AFDC requirements in part 9500.2440, subpart 5, item D.

Item E is different from AFDC. MFIP will use the assistance standard for one adult and one child for a pregnant woman in the third trimester of pregnancy. This is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 13.

Item F is reasonable because it is consistent with AFDC requirements in part 9500.2440, subpart 5, item E.

Subp. 7. Transitional standard. This subpart is necessary to establish the method of determining the transitional standard. The transitional standard will be used for all MFIP families who do not have earned income. The transitional standard for the assistance units identified in subpart 6, items A to F is the MFIP allowance under subpart 6 plus the full cash value of food stamps for an assistance unit of the same size and composition. The full cash value of food stamps is the amount of the cash value of food stamps to which an assistance unit of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard (or MFIP standard) for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended cited in title 7, United States Code, section 2031, and the Hunger Prevention Act of 1988, Public Law Number 100-435. This standard reflects the cashing out of food stamps which is unique to the MFIP program. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.032, subdivision 13.

Subd. 8. Family wage level standard. This subpart is necessary to establish the family wage level standard which is used for MFIP assistance units with earned income. It is reasonable to establish the family wage level at 120 percent of the transitional standard because it is consistent with Minnesota Statutes, section 256.032, subdivision 8.

Subp. 9. Publication of transitional standard. This subpart is necessary to establish the requirement for the Department of Human Services to annually publish in the State Register the transitional standard for an assistance unit size 1 to 10. Because these standards will change yearly, it is reasonable to annually publish the transitional standard in the State Register to inform local agencies and applicants and participants of the current transitional standards rather than include them in this rule.

9500.4110 DETERMINATION OF MFIP ELIGIBILITY AND ASSISTANCE PAYMENT. This part is necessary to inform the local agency of standards governing eligibility determination and determination of the amount of assistance payment. The first paragraph in this part sets forth the policy that the local agency must assess all eligibility factors with the exception of income prospectively for a payment month. If the agency's best estimate of those circumstances indicate continued eligibility, the

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assistance payment is based on retrospectively assessing the income. AFDC requirements are the same as these except that an AFDC assistance unit must also have their income assessed prospectively to determine continued eligibility before basing the payment on retrospectively assessing the income.

The second paragraph informs the local agency that the assistance payment is calculated using retrospective budgeting unless it is the first two months of eligibility for MFIP and then prospective budgeting is used.

The third and fourth paragraph informs the local agency of the income that must be applied to determine the assistance payment and whether to use the transitional or family wage level standard. This part is reasonable because it is consistent with AFDC requirements in part 9500.2480 and the waiver of section 402(a)(13) and (14) of the Social Security Act.

9500.4120 **MFIP ELIGIBILITY TESTS.** This part is necessary to establish standards and requirements governing the MFIP eligibility tests authorized under Minnesota Statutes, section 256.033, subdivision 1, 1a, 2, and 3.

Subpart 1. Prospective eligibility. This subpart is necessary to inform the local agency that the eligibility requirements that pertain to an assistance unit in subpart 9500.4060 on general eligibility requirements and in subpart 9500.4070 on property limitations must be met prospectively for the all payment months. This subpart also informs the local agency that the income test must be applied prospectively in the initial two payment months of eligibility for MFIP and the income test must be applied retrospectively for all other payment months. This subpart is reasonable because it is consistent with the AFDC program rule 9500.2500 subpart 1 with the exception of assessing income only retrospectively after the initial two payment months of eligibility. This exception is allowed by the waiver of Title IV, section 402(a)(13) and (14) of the Social Security Act.

Subpart 2. Retrospective eligibility. This subpart is necessary to inform the local agency that the eligibility requirements pertaining to general requirements in subpart 9500.4060, and pertaining to property limitations in subpart 9500.4070 must be met prospectively for each month of MFIP eligibility. This subpart also informs the local agency that the income tests must be applied retrospectively to all payment months after the initial two months of eligibility. When the countable income does not meet the income test, and it is anticipated that the following month's countable income will meet the income test, the case must be suspended for the ineligible payment month. If it is anticipated that the countable income will not meet the income test for two or more consecutive months, the case must be closed. This subpart is reasonable because it is consistent with the AFDC program rule 9500.2500, subpart 2, with the exception of assessing income only retrospectively which is allowed by the waiver of Title IV, section 402(a)(13) and (14) of the Social Security Act.

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Subp. 3. **Monthly income test.** This subpart is necessary to inform the local agency to apply the monthly income test retrospectively for each month of MFIP eligibility. This subpart also establishes requirements for what income is applied to the monthly income test.

Item A is reasonable because it is consistent with AFDC rule requirements in part 9500.2500, subpart 4, item A.

Item B is reasonable because it is consistent with AFDC rule requirements in part 9500.2500, subpart 4, item B.

Item C is reasonable because it is consistent with AFDC rule requirements in part 9500.2500, subpart 4, item C.

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 2, clause (1).

Item E is reasonable because it is consistent with AFDC rule requirements in part 9500.2500, subpart 4, item F.

Item F is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 2, clause (5).

Item G is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 2, clause (5).

Item H is reasonable because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.20(a)(3)(ii)(A).

Item I is reasonable because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.20(a)(3)(ii)(A).

Subp. 4. **When to terminate.** This subpart is necessary to inform the local agency to close an assistance unit when the unit will be ineligible for MFIP assistance for two consecutive months. This is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 4.

9500.4130 **CALCULATING PAYMENTS.** This part is necessary to establish requirements for calculating assistance payments in MFIP. Generally, the requirements are the same as for the AFDC program, but there are differences to meet the goal of simplification as stated in Minnesota Statutes, section 256.031, subdivision 4, clause (2).

Subpart 1. **Prospective budgeting.** This subpart is necessary to establish the requirement to calculate the assistance payment amount for the first two months of MFIP eligibility. The requirement to use prospective budgeting is reasonable because it is consistent with the AFDC rule requirements in part 9500.2520, subpart 1. Prospective budgeting must not be subject to overpayment or underpayments. This exception is allowed and is reasonable because the waiver of Title IV, section 402(a)(22) of the Social Security Act.

Item A is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 2, item A.

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Item B is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 2, item B, with the exception that no reconciliation will be made which is allowed by the waiver of Title IV, section 402(a)(22) of the Social Security Act.

Item C is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 2, item C.

Item D is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 2, item D.

Subp. 2. Retrospective budgeting. This subpart is necessary to inform the local agency that it must budget income retrospectively when calculating the assistance payment amount for all months after the initial two months of eligibility. This is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 3.

Subp. 3. Additional uses of retrospective budgeting. This subpart is necessary to inform the local agency that there are certain circumstances when retrospective budgeting must be used in the initial two months of eligibility.

Item A is necessary to establish the requirement that a local agency must use retrospective budgeting to determine the amount of assistance payment in the first two months of MFIP eligibility. Subitem (1) is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item A, subitem (1). Subitem (2) is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item A, subitem (2).

Item B also establishes exceptions to retrospective budgeting in subitems (1) to (4). Item B is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item B. Subitem (1) is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item B, subitem (1). Subitem (2) is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item B, subitem (2). Subitem (3) is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item B, subitem (3). Subitem (4) is reasonable because it is consistent with AFDC rule requirements in part 9500.2520, subpart 4, item B, subitem (4).

Subp. 4. Significant change in gross income. This subpart is necessary to establish requirements for a local agency to recalculate an assistance payment for an assistance unit that experiences a significant change resulting in a reduction of gross income. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 4.

Subp. 5. Income averaging for participants paid weekly or biweekly. This subpart is different from AFDC requirements. It is necessary to establish requirements for the use of income averaging. Participants who are paid weekly or biweekly may request this method of budgeting the participant's income. The local agency must inform the participant of the method and must use this method of income calculation upon the

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request of the participant. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 4.

9500.4140 ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS. This part is necessary to establish requirements for allocation of income to meet the unmet need of ineligible household members. This part is reasonable because this part is consistent with AFDC rule requirements in part 9500.2600.

Item A is reasonable because it is consistent with AFDC rule requirements in part 9500.2600, item A.

Item B is reasonable because the child support provisions are consistent with AFDC rule requirements in part 9500.2600, item C. The fraud provision is reasonable because it is consistent with Minnesota Statutes, section 256.98, subdivision 8. The provision for an eligible person who opts out of the assistance unit is reasonable because allocations are available only for ineligible household members and which is consistent with AFDC rule 9500.2600.

9500.4150 EMPLOYMENT DISREGARDS. The employment disregards in MFIP are different from those in AFDC. The waiver of Title IV, section 402(a)(8)(A) of the Social Security Act allows MFIP to use disregards as authorized in Minnesota Statutes, section 256.033, subdivision 1, paragraph (c), clauses (1) and (2), and subdivision 1a. These disregards are not time limited and must be applied in any month an assistance unit has earned income.

Item A is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1, paragraph (c), clause (1).

Item B is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1, paragraph (c), clause (2).

Item C is reasonable because it is consistent with AFDC rule requirements in part 9500.2580, item C, subitem (1), and Minnesota Statutes, section 256.033, subdivision 1a, paragraph (a).

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.033, subdivision 1a, paragraph (a).

9500.4160 AMOUNT OF ASSISTANCE PAYMENT. This part is necessary to establish criteria to determine the amount of the assistance payment. The assistance payment is equal to the difference between the transitional standard in part 9500.4100, subpart 7 or the family wage level in part 9500.4100, subpart 8 and countable income. Items A to C describe exceptions to this criteria.

Item A is reasonable because it is consistent with AFDC rule requirements in part 9500.2620, item A.

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Item B is reasonable because it is consistent with the Code of Federal Regulations, Title 45 CFR, section 233.20(a)(13) subject to the waiver of Title IV, section 402(a)(22) of the Social Security Act.

Item C is reasonable because it is consistent with AFDC rule requirements in part 9500.2620, item F.

9500.4170 **CORRECTION OF OVERPAYMENT AND UNDERPAYMENTS.**

Subpart 1. **Scope of overpayment.** This subpart is necessary to inform the local agency when they must recoup or recover overpayment received by a participant or former participant. The correction of overpayment in MFIP differs from AFDC in that MFIP will only recoup or recover overpayment due to client error. This subpart is reasonable because it is consistent with AFDC rule requirements in part 9500.2640, subpart 1, subject to the waiver of Title IV, section 402(a)(22) of the Social Security Act.

Subp. 2. **Notice of overpayment.** This subpart is necessary to establish the notice requirements when an overpayment is discovered by the local agency. This subpart is reasonable because it is consistent with AFDC rule requirements in part 9500.2640, subpart 2.

Subp. 3 **Recovering overpayment from former participants.** This subpart is necessary to establish the requirements to recover overpayment from former participants. MFIP requirements differ from AFDC because MFIP will hold only adult and minor caregivers individually liable for repayment of overpayment received. AFDC also holds dependent children individually liable. The rest of this subpart is the same as AFDC requirements. This subpart is reasonable because it is consistent with AFDC rule requirements in part 9500.2640, subpart 3, subject to the waiver of Title IV, section 402(a)(22) of the Social Security Act.

Subp. 4. **Recouping overpayment from participants.** This subpart is necessary to establish requirements for recoupment of overpayment. The participant may voluntarily repay an overpayment, even if assistance is reduced under this subpart, until the entire overpayment is repaid. The local agency must recoup client error overpayment by reducing one or more monthly assistance payments by three percent of the transitional standard until the overpayment is repaid. If the overpayment is due to fraud, the local agency must recoup ten percent of the transitional standard until the overpayment is repaid. These requirements are the same as AFDC. MFIP differs from AFDC because MFIP will not recoup agency error overpayment. This subpart is reasonable because it is consistent with AFDC rule 9500.2640, subpart 4, subject to the waiver of Title IV, section 402(a)(22) of the Social Security Act.

Subp. 5. **Scope of underpayments.** This subpart is necessary to inform the local agency of the circumstances that they must issue corrective payments. This subpart is the same as AFDC and is reasonable because it is consistent with AFDC rule 9500.2640, subpart 6.

Subp. 6. **Identifying the underpayment.** This subpart is necessary to inform the local agency that underpayments can be identified by the agency, a participant, a former participant, or by a person who would be

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a participant except for agency or client error. This subpart is reasonable because it is consistent with AFDC rule requirements in part 9500.2640, subpart 7.

Subp. 7. **Issuing corrective payments.** This subpart is necessary to inform the local agency of the requirements of issuing corrective payments as a result of an underpayment. Subpart 7 is reasonable because it is consistent with AFDC rule requirements in part 9500.2640, subpart 8.

Subp. 8. **Appeals.** This subpart is necessary to inform the participant of their right of appeal of an underpayment, overpayment, and a reduction in an assistance payment made to recoup an overpayment and the requirements of timeliness of the appeal. This subpart is reasonable because it is consistent with AFDC rule requirements in part 9500.2640, subpart 9.

9500.4180 **PAYMENT PROVISIONS.**

Subpart 1. **Payments.** This subpart is necessary to establish uniform policies and procedures for issuing monthly and corrective payments.

Item A is necessary because Title 45 CFR, section 233.10(a)(1)(ii)(B) allows states to impose conditions necessary for "the efficient administration of the program." It is also necessary because it assists the local agency in determining the county of financial responsibility. This item is reasonable because it provides administrative flexibility by allowing assistance to be received at an address other than where the participant resides subject to local agency approval. It is also reasonable because it provides protection against the establishment of mail drops by persons for purposes of (illegally) receiving assistance.

Item B is necessary to ensure that monthly assistance checks arrive on the first day of the month so participants will have their assistance to pay monthly obligations. This is a reasonable requirement to ensure consistency of mailing and to eliminate unnecessary delays.

Item C is necessary to establish a standard governing the issuance of a replacement check. Minnesota Statutes, section 471.415 authorizes the state and political subdivisions to issue a duplicate warrant when the warrant is lost or destroyed. Minnesota Statutes, section 256.01, subdivision 11, authorizes centralized disbursement of assistance payments through the department of finance, and Minnesota Statutes, section 16A.46 authorizes the issuance of duplicate warrants for lost or destroyed warrants issued by the department of finance. The seven day standard is the standard used in the AFDC rule (part 9500.2860, subpart 1, item C). It is reasonable to use the same standard in MFIP and AFDC to provide consistency in program administration.

Item D is necessary to require the same payment standard in items B and C when payment is made by means other than a check. For example, some counties may begin to use electronic benefit transfer (EBT) which operates much like a bank cash card. This subpart is reasonable because it ensures that whatever payment means are used, the time periods set forth in items B and C will apply to those payments.

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Item E is necessary to establish a payment schedule when payments are made in the form of food coupons. Minnesota Statutes, section 256.034 grants families the option to receive a standardized amount of assistance as described in Public Law Number 101-202, section 22(a)(3)(D), designated by the commissioner, in the form of food coupons or vendor payments. The Code of Federal Regulations, Title 7 CFR, section 274.3(a)(6) requires direct mail issuance of food coupons to be staggered through the tenth day of the month and allows mailing through the 15th day.

Subp. 2. **Protective and vendor payments; when allowed.** This subpart is necessary because assistance payments must be issued directly to participants unless the provisions of Title 45 CFR, sections 224.51(b)(1), 232.11(a)(3), 232.12(d)(2) or 234.60 apply. This subpart is reasonable because it is consistent with the AFDC rule (part 9500.2860, subpart 2) and federal regulations. The reference to WIN requirements in part 9500.2860, subpart 2, items A and B have been omitted because the WIN program is no longer operational.

Subp. 3. **Choosing payees for protective or vendor payments.** This subpart is necessary because Title 45 CFR, section 234.60(a)(7) establishes procedures for choosing payees for protective or vendor payments. It is also necessary to allow the caregiver to be involved in the selection of the method of payment and distribution of funds to meet the monthly obligations of the family, and exclude certain persons from acting as protective payees, because Title 45 CFR, section 234.60(a)(7) specifies those qualifications. This subpart is reasonable because it is consistent with federal regulations and the standards adopted in the AFDC rule in part 9500.2680, subpart 3.

Subp. 4. **Discontinuing protective or vendor payments.** This subpart is necessary to comply with Title 45 CFR, section 234.60(a)(9) which limits the period in which mandatory protective or vendor payments may continue. This subpart is reasonable because it is consistent with federal regulations.

9500.4190 **SPECIAL POLICIES.** This part is necessary to implement a number of the protections set forth in Minnesota Statutes, section 256.036.

Subpart 1. **General.** This subpart is necessary to inform local agencies participating in MFIP that the special policies in subpart 2 to 6 apply in MFIP counties. This subpart is reasonable because it informs local agencies of requirements set forth in Minnesota Statutes, section 256.036.

Subp. 2. **Medical assistance.** This subpart is necessary to establish standards governing eligibility for medical assistance. Minnesota Statutes, section 256.034, subdivision 1 states, in part:

"... As authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B."

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Minnesota Statutes, section 256.035, subdivision 9 states:

"A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended and Public Law Number 101-239, section 8015(b)(7)."

This subpart is reasonable because it is consistent with Minnesota Statutes cited above, and Public Law 101-239 section 8015(b)(7) cited as title 42, United States Code, chapter 7, subchapter IV, part A, section 602 note on Demonstration of Effectiveness of Minnesota Family Investment Plan, paragraph (b), subparagraph (7).

Subp. 3. **Hold harmless.** This subpart is necessary to ensure families will not receive less assistance in aggregate under MFIP than they would have received in the absence of MFIP. This subpart is necessary to comply with Public Law Number 101-239, section 8015, (b)(10) which states:

"(10) ASSISTANCE UNDER PROJECT NOT LESS THAN UNDER AFDC AND FOOD STAMP PROGRAM. --

(A) ESTABLISHMENT OF POLICIES AND STANDARDS. -- The State will establish policies and standards to ensure that families participating in the project receive cash assistance under the project in an amount not less than the aggregate value of the assistance that such families would have received under the State plan approved under section 402(a) of such Act and under the food stamp program established under the Food Stamp Act of 1977 in the absence of the project.

(B) IDENTIFICATION OF CHARACTERISTICS OF PARTICIPANTS WHO MIGHT RECEIVE LESS BENEFITS THAN UNDER AFDC AND FOOD STAMP PROGRAM. -- The State will identify the set or sets of characteristics of families that (but for this paragraph) might receive benefits under the project in an amount less than the amount required under subparagraph (A) to be provided to such family."

This subpart is reasonable because it implements one of the requirements of Public Law Number 101-239, one of the federal laws that authorizes the MFIP demonstration project.

Subp. 4. **Food stamps for household members not in the assistance unit.** This subpart is necessary to establish a standard governing food stamps for household members who purchase and prepare food with the MFIP assistance unit but are not members of the assistance unit. Minnesota Statutes, section 256.034, subdivision 1 states that food stamps, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan. Public Law Number 101-202, section 22(b)(3)(E), states:

"(E)(i) Individuals ineligible for the Project who are members of a household including a participating family shall have their eligibility for the food stamp program determined and have their

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benefits calculated and issued following the standards established under the food stamp program, except as provided differently in this subparagraph.

(ii) The State agency shall determine such individuals' eligibility for benefits under the food stamp program and the amount of such benefits without regard to the participating family.

(iii) In computing such individuals' income for purposes of determining eligibility (under section 5(c)(1)) and benefits, the State agency shall apply the maximum excess shelter expense deduction specified under section 5(e).

(iv) Such individuals' monthly allotment shall be the higher of \$10 or 75 percent of the amount calculated following the standards of the food stamp program and the foregoing requirements of this subparagraph, rounded to the nearest lower whole dollar."

The MFIP definition of assistance unit is not as broad as the Food Stamp program's definition of household because the Food Stamp program bases a household unit on the concept of shared food consumption rather than the relationship to a dependent child. Therefore, under MFIP, an individual who is not related to the child may be living in the same home with an MFIP assistance unit but the individual may not be eligible for MFIP. This situation is referred to as a "mixed household" and special eligibility calculations apply when determining the food stamp benefit level for the MFIP ineligible individual. If determined eligible for food stamps, the individual will receive 75 percent of the food coupon amount applicable for a household of one or \$10, whichever is greater, after taking any income into account and assuming a maximum shelter deduction.

This subpart is reasonable because it implements a requirement under Public Law Number 101-202, one of the federal laws that authorizes the MFIP demonstration project.

Subp. 5. Income disregard for certain programs, food assistance portion of assistance payment. This subpart is necessary to inform persons consulting the rule that the portion of the MFIP assistance grant that is designated as the food assistance portion of the grant must be disregarded as income in programs that do not count food stamps as income. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.036, subdivision 6.

Subp. 6. Retention of case records. This subpart is necessary to establish a standard governing the retention of case records. Under the federal waivers, the MFIP demonstration program is allowed to operate for five years. To ensure that data will be available to evaluate the effectiveness of the demonstration program, it is necessary to establish a standard governing record retention. The six year standard is reasonable because it provides that the records will be kept one year beyond the close of the demonstration program.

Subp. 7. Surveys. This subpart is necessary to establish a standard governing requests of information for surveys. Over the course of the demonstration program, the Department anticipates that a number of

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surveys will be sent to program participants. This subpart is necessary to inform participants and local agencies that participation in the survey process is voluntary. This subpart is reasonable because Minnesota Statutes, sections 256.031 to 256.0361 do not require participation in the survey process and do not authorize sanctions for failure to complete a survey request.

9500.4200 OPTION TO RECEIVE FOOD ASSISTANCE IN THE FORM OF FOOD COUPONS.

This part is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 2 which states, "Families have the option to receive a standardized amount of assistance as described in Public Law Number 101-202, section 22(a)(3)(D), designated by the commissioner, in the form of food coupons or vendor payments." The cited reference to Public Law Number 101-202, section 22(a)(3)(D) in Minnesota Statutes, section 256.034, subdivision 2 is incorrect. The correct cite should be Public Law Number 101-202, section 22(b)(3)(D) which states:

"(D)(i) The State shall designate standardized amounts of assistance provided as food assistance under the Project and notify monthly each participating family of such designated amount.

(ii) The amount of food assistance so designated shall be at least the value of coupons such family could have received under the food stamp program if the Project had not been implemented. The provisions of this subparagraph shall not require that the State make individual determinations as to the amount of assistance under the Project designated as food assistance.

(iii) The State shall periodically allow participating families the option to receive such food assistance in the form of coupons."

The standardized amount of food assistance is the amount set forth in part 9500.4190, subpart 5. A specific amount is not set forth in the rule because the amount will vary by family profile and presence of earnings or no earnings. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 2 and Public Law Number 101-202.

9500.4210 MFIP ORIENTATION TO FINANCIAL SERVICES. This part is necessary to establish standards governing orientation to financial services under MFIP that must be provided by local agencies to caregivers on MFIP. While most of the information that must be provided to caregivers is consistent with the AFDC program requirements in Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), some is unique to the MFIP program. A work group including legal aid representatives, employment and training case managers, county human services staff, and current and former AFDC recipients determined the information that should be provided in the orientation that are identified in this part of the rule.

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Subpart 1. Local agency to provide orientation. This subpart is necessary to inform the local agency of its responsibility to provide MFIP orientation to financial assistance and the caregiver must be given the opportunity for a face-to-face interaction with staff of the local agency or the entity providing the orientation. It is also necessary to inform the local agency that it may not require the caregiver to attend a face-to-face orientation because in the AFDC program, attendance is mandatory for most recipients. If the caregiver does not attend an orientation, the local agency must provide written information to the caregiver about MFIP. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 5.

Subpart 2. General information. This subpart is necessary to inform the local agency of the information that must be provided to the caregiver in the orientation to financial services. It is reasonable to inform the local agency of the information that must be supplied because all caregivers have a right to receive the information and it is consistent with Minnesota Statutes, section 256.035, subdivision 5.

Item A is reasonable because the work incentives in the MFIP program are very different from those in the AFDC program. One of the goals of MFIP under Minnesota Statutes, section 256.031, subdivision 4, clause (4) is to increase income to families through transition to employment and by allowing families to keep a greater portion of earnings. The work incentives are designed to meet that goal. Families have the right to information on how they can increase their income. Item A is also reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 5.

Item B is reasonable because access to these services may be necessary to enable a caregiver to participate in employment, preemployment and training or educational programs. Item B is also reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (2).

Item C is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (3).

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (5).

Item E is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (7).

Item F is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 1.

Item G is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (8).

Item H is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (9).

Item I is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (10).

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Item J is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10a, paragraph (b), clause (11). It is also reasonable to include eligibility for extended medical assistance when MFIP is closed due to increased child or spousal support because it is consistent with AFDC rule part 9500.2860, subpart 3, item A.

Subpart 3. Support services to attend orientation. This subpart is necessary to inform the local agency that if a caregiver requests it, the local agency must arrange transportation and child care, or reimbursement for transportation and child care expenses necessary to enable caregivers to attend orientation on a day other than when the caregiver makes application for assistance. It is reasonable to provide this assistance only if the caregiver attends an orientation on a different day than the application for public assistance because the caregiver could then incur expenses over and above the normal expense of filing an application. It is also reasonable because it is consistent with the provisions set in Minnesota Statutes, section 256.736, subdivision 10a, paragraph (d), requiring county agencies to arrange for or provide transportation and child care to enable caretakers to attend STRIDE orientation under the AFDC program which is scheduled on a different day than the application for AFDC.

9500.4220 CASE MANAGEMENT. This part is necessary to establish the case management component of MFIP. Case management is a major component of MFIP and is supportive of the chief goal of this anti-poverty program which is to help families increase their income through employment. Although many MFIP caregivers will be able to access the work incentives and increase their income through employment on their own initiative, many others will need case management to assist them.

Those caregivers who reach the timing for case management will be provided with and required to participate in case management services. These services, while similar to AFDC/STRIDE case management services, will be expanded to address a greater diversity of clientele and will place a stronger emphasis on the needs of the whole family. In the STRIDE program, considerable self-selection exists, as almost all single parents are volunteers. Because MFIP case management is mandatory, clients may not be as goal-oriented or have as long range a perspective as is found among volunteers in STRIDE. The case management services will require a diversity of approaches.

The current labor market also leads to alternative approaches to case management because of the available employment outcomes due to the trend toward a diminished opportunity regarding real wages, nature of new jobs, and number and types of vacancies. This reality and how to provide opportunity for caregivers in the context of this reality has been central to the rationale of case management.

The MFIP earnings disregard and two-tiered standard of cash assistance allows additional employment options. While receiving MFIP, a caregiver could take a job that would not propel the family off of assistance but would still increase the family's income. This creates additional routes to an ultimate employment goal. Some caregivers could move through the employment "track" beginning with an entry level job and advancing to better jobs. Some caregivers could begin with part-time

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work and advance to full time work later. Others may combine work and education or training.

With these added options, determination of what is in a caregiver's best interests is not so easily established. Caregiver choice in tailoring plans and goals is needed. To the greatest extent possible, an employability plan needs to be a plan in which the client is invested and to which the client is committed. In the process of developing the plan, the caregiver and the case manager need to assess the "opportunity cost" of deferring earned income, need to be confident of the efficacy of a long term educational program, and need to be sure that the caregiver's plan reflects an informed choice.

Subpart 1. Mission statement. This subpart is necessary to establish the goal of MFIP case management. This goal is to help caregivers increase their family income in a timely manner through paid employment. The ultimate objective is employment leading to maximum family support, and case management services will be varied, depending upon a family's circumstances. It is reasonable to establish a goal to focus case management services on activities that will allow caregivers to attain the goals of MFIP because it is consistent with Minnesota Statutes, section 256.031, subdivision 4, paragraph (1) and (4). The objective of employment leading to maximum family support is reasonable because many families will be able to increase their income to exit MFIP and will attain long term independence, while others may continue the "work plus welfare" strategy as a means of increasing family income through employment disregards that will allow working families continued eligibility for cash assistance until family income reaches about 150 percent of poverty.

Subp. 2. Service providing agencies. This subpart is necessary to identify who is eligible to be a provider of service for the MFIP case management services. MFIP requires that providers of case management services must be certified by the commissioner of jobs and training, and providers must meet the standards in Minnesota Statutes, section 268.871, subdivision 1. Whether case management services are provided by the local agency or contracted by providers of service, the local agency must assure that all services meet the requirements of case management in Minnesota Statutes, section 256.035 and this rule part. It is reasonable to adopt the current STRIDE standards for certification for MFIP providers because the MFIP case management model has incorporated and built upon the current STRIDE model and because it is consistent with Minnesota Statutes, section 256.736, subdivision 1a, paragraph (e).

Subp. 3. Staffing. This subpart is necessary to inform local agencies who may be hired to provide the services including case management, employment, and preemployment services, and to coordinate social and support services. MFIP will allow the local agency some flexibility in choosing the types of staff that will provide these services because MFIP case management will involve a greater mix of services than the current AFDC/STRIDE program and participants may have a greater range of needs that will be addressed based on the mandatory provisions of case management. There are also differences in local labor markets, caseload demographics and service structures that must be acknowledged in service design and structure. Possible staffing patterns may include case

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managers, family advocates or employment specialists or any combination of these. Local agencies must also ensure that the staff is provided with the necessary training and experience to perform the specific aspects of case management which they are assigned to perform. This subpart is reasonable because it is consistent with Public Law 101-239, section 8014(b)(9). It is reasonable to allow some flexibility in the staffing for case management services because MFIP has a greater range of services and a greater range of participants due to the mandatory provisions of the case management.

Subp. 4. Case management. This subpart is necessary to set standards for case management services that the local agency must provide. The local agency must provide all of the services identified in items A to I but need not provide all the services to a particular caregiver. Each caregiver will receive only those case management services that meet the specific needs and circumstances of the caregiver's family. It is reasonable to set standards for case management services that local agencies must provide because the standards are consistent with the requirement in Minnesota Statutes, section 256.035, subdivision 6a.

Item A is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 5.

Item B is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 10, paragraph (a), clause (14).

Item C is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (b), clauses (3) and (4).

Item D is reasonable because it is consistent with Minnesota Statutes, sections 256.035, subdivision 6b, paragraph (c), and 256.736, subdivision 11, paragraph (a), clause (2).

Item E is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (b), clause (2).

Item F is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (b), clause (2).

Item G is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (b), clause (5).

Item H is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (c).

Item I is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (b), clause (2).

Subp. 5. Timing of case management. This subpart is necessary to establish the requirement for a caregiver to meet with a case manager and begin the development of a family support agreement, as well as meet the mandatory requirement to comply with the family support agreement. The mandatory requirements of case management are tied to the structure of the family and the length of time on assistance. Items A, B, and C, identify when a caregiver must begin to develop the family support agreement.

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Item A is necessary to establish the requirement for a family headed by a single adult parental caregiver. When such a caregiver has received AFDC, family general assistance, MFIP, or a combination of AFDC, family general assistance, and MFIP assistance for 24 or more months within the last 36 months, the caregiver must be developing and complying with the terms of the family support agreement commencing with the 25th month. During the period of time the family support agreement is being developed, the caregiver's cooperation in the process will be considered complying with the family support agreement. It is reasonable to delay the mandatory component of case management for 24 months because prior research has shown the majority of these participants are able to leave assistance in less than 24 months without formal intervention. Also, most single parent case openings are explained by a change in family structure such as divorce or separation and it is reasonable to allow these families some time to adjust and stabilize their change before actively pursuing self-sufficiency. It is reasonable to require a caregiver to be developing and complying with the family support agreement by the 25th month on assistance because it is consistent with Minnesota Statutes, section 256.035, subdivision 1, paragraph (a).

Item B is necessary to establish the requirement for a family with a minor parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent. The minor parental caregiver and the 18 or 19 year old parental caregiver without a high school diploma or its equivalent must be developing and complying with a family support agreement concurrent with the receipt of MFIP assistance. In addition, the terms of the family support agreement must include compliance with Minnesota Statutes, section 256.736, subdivision 3b. If the parental caregiver fails to comply with the terms of the family support agreement, the sanctions in Minnesota Statutes, section 256.035, subdivision 3 apply. After completion of the requirements in Minnesota Statutes, section 256.736, subdivision 3b, the caregivers will have fulfilled their obligation for that family support agreement. The local agency must continue to offer case management services if the caregiver chooses to continue with an employability plan. The timing requirements under subparts A and C also apply to this group of caregivers who will again gain mandatory status when the caregiver's time on assistance equals that of subparts A and C for their type of family. It is reasonable to require concurrent cooperation for minor parents and teen parents without a high school diploma or its equivalent as they are a particularly vulnerable population to the effects of long term poverty. It is also reasonable to allow this group to volunteer for continued case management services after receipt of their diploma or GED so they do not have to interrupt their progress on a plan for self sufficiency to wait for the time on assistance to allow them access to case management services. Item B is also reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 1, paragraph (b).

Item C is necessary to establish the requirement for a family with two adult caregivers. When at least one of the adult caregivers has received AFDC, family general assistance, MFIP or a combination of AFDC, family general assistance, and MFIP assistance for 6 or more months within the preceding 12 months, one parental caregiver must be developing and complying with the terms of the family support agreement beginning with the seventh month of assistance. During the period of

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time the family support agreement is being developed, the caregiver's cooperation in the process will be considered complying with the family support agreement. The family and the case manager will mutually designate the parental caregiver who will develop and comply with the family support agreement. This determination will be based on who has the greater potential to increase family income by looking at factors such as motivation, education, training, work history, and possible barriers to employment. It is reasonable to require two-parent families to cooperate with case management after 6 months on assistance within the preceding 12 months because most case openings of two parent families are explained by economic events such as the loss of a job, so they are more likely to have a recent attachment to the labor market. Earlier intervention of expectations assures continuation of the labor market connection. Two parent families are usually able to move to self-sufficiency sooner since two parents are available to meet the economic and social roles of parenting. Item B is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 1, paragraph (c). It is reasonable to have flexibility in designating the caregiver who will participate in developing and complying with the family support agreement through mutual agreement between the case manager and caregivers because it is consistent with Minnesota Statutes, section 256.031, subdivision 4, paragraph (1) and (2).

Subpart 6. Employability plan and family support agreement. This subpart is necessary to inform caregivers and case managers of their mutual responsibility to develop an employability plan and a family support agreement. The MFIP employability plan includes the caregiver's overall employment goal, including short and long term goals, activities necessary to reach that goal, a timeline for each activity, and the social and support services the agency will provide to the caregiver. All activities in the employability plan must contribute to the caregiver's overall employment goal. It is reasonable that the caregiver and case manager are mutually responsible to develop the employability plan and family support agreement because the case manager can assist the caregiver by assessing the caregiver's skills and abilities, and by helping identify individual interests, and with this information, the case manager and caregiver together can identify an overall employment goal and activities necessary to reach that goal. The first paragraph in this subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6b.

The second paragraph in this subpart is necessary to establish that the family support agreement is the enforceable subsection of an employability plan for mandatory caregivers. The MFIP family support agreement must be limited to those steps outlined in Minnesota Statutes, section 256.035, subdivision 6c which includes employment, education or employment and training services, and scheduled meetings with the case manager. The family support agreement must be signed by both the case manager and parental caregiver. The second paragraph in this subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c.

Item A is necessary to inform caregivers of the economic benefits of employment on total family income under MFIP. MFIP disregards are very different from the AFDC program and allows more flexibility of increasing available income to families. It is reasonable to include

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this information in the process of developing an employability plan and family support agreement. It is also reasonable to require the case manager to provide examples of how different levels of earnings increase available income to the family so the caregiver has a better understanding of the employment choices under MFIP. Item A is reasonable because it is consistent with one of the goals of MFIP identified in Minnesota Statutes, section 256.031, subdivision 4, items (1) and (4).

Item B is necessary to establish activities that can be identified in the family support agreement. All activities in the family support agreement must enhance the family's opportunities to increase its income through paid employment or to support the family's transition to financial independence. It is reasonable to only include employment related activities or activities to support the family's transition to financial independence because it is the enforceable component of the employability plan. It is also reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c, paragraph (b) and (c).

Item C is necessary to establish a continuity of services and progress to the caregiver's overall employment goal. Because case management services provide an ongoing process of assessment and planning, monitoring and supporting progress, providing or arranging support services, and advocating on behalf of the caregiver when appropriate, it is reasonable to assess previous steps when progressing towards the overall employment goal. Although this progress will not always be in a linear fashion, it is reasonable to consider the experience of prior steps when establishing continuing goals and activities. Item C is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c, paragraph (h) and (i).

Item D is necessary to establish that the employability plan and family support agreement must be individualized and be designed to meet the specific needs of the caregiver and his or her family. Because case management services include an assessment of the family and caregiver's needs, interests, and abilities, it is reasonable to establish that each employability plan and family support agreement must be individually tailored to support the overall employment goal of the caregiver. Item D is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6a, paragraph (b), item (1) and subdivision 6b, paragraph (a).

The second paragraph in this item is necessary to establish requirements when a mandatory participant's employability plan consists solely of social and health services because of barriers to employment. In this instance, the family support agreement must specify required meetings with the case manager at least semi-annually. It is reasonable to require meetings with the case manager as the case manager will be required to coordinate services and review and revise the plan. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c, paragraph (d).

The third paragraph in this item is necessary to establish requirements when a caregiver has an employability plan in place from Project STRIDE or other programs when entering case intervention in MFIP. MFIP will

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require the caregiver and the case manager to develop a mutually acceptable MFIP employability plan and, if applicable, a family support agreement. It is reasonable to require the caregiver and the case manager to develop a mutually acceptable MFIP employability plan and a family support agreement to ensure that MFIP requirements are met. Unless the first plan is not compatible with MFIP requirements, it will continue as the MFIP plan. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivisions 6a, 6b, and 6c.

Subp. 7. Education and training activities. This subpart is necessary to establish standards for inclusion of education and training activities in the employability plan. Items A to E establish criteria that the case manager and caregiver must consider before including education and training activities in the plan. It is reasonable to establish criteria for education and training activities to ensure that the caregiver and case manager explore all options of attaining increased income for the family. Because of the income disregards in MFIP, participants have an opportunity to enhance income in MFIP that does not exist in the AFDC/STRIDE program. Deferral of employment in order to pursue training or education will postpone earnings for a family and will delay the opportunity to enhance the family's income. By exploring the options available, the case manager and caregiver can make informed choices when establishing the employability plan and family support agreement. This subpart is consistent with the goals of the Minnesota family investment plan as stated in Minnesota Statutes, section 256.031, subdivision 4, clauses (1) and (4).

Item A is necessary to establish that the caregiver and case manager must agree on the criteria in subitems (1) to (4). It is reasonable that both the caregiver and case manager agree on the criteria in subitems (1) to (4) because the employability plan and family support agreement are mutually developed by the caregiver and case manager.

Subitem (1) is necessary to establish criteria for marketability of employees with the specific education or training being explored by the caregiver and case manager. MFIP requires that there be a market for full-time employees with the education or training where the caregiver will or is willing to reside upon completion of the program. This is reasonable because although it requires marketability for full-time employment before an education or training can be considered, it also allows the caregiver flexibility to relocate to an area where there is marketability of a specific program.

Subitem (2) is necessary to establish criteria for the wage level with or without the education or training. MFIP requires that the average wage level for employees with this education or training is greater than the caregiver can earn without the training. It is reasonable to require a comparison of wage levels with or without education or training programs because of the reality of current labor market trends. Although this reality does not mean that post-secondary education should be discouraged, it does mean that the outcome of an investment in postsecondary education can not be as predictable as it once was.

Subitem (3) is necessary to establish criteria for assessing abilities of the caregiver. MFIP requires that the caregiver has the academic

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ability to successfully complete the program. It is reasonable to require academic ability to successfully complete the program to ensure that a participant is not set up for failure. This requirement is also reasonable because resources for case management services should be used when successful outcomes are possible and can be expected.

Subitem (4) is necessary to establish criteria that there be a reasonable expectation that the caregiver will complete the training program. It is reasonable to base those expectations on such factors as the caregiver's previous education, training, work history, current motivation, and changes in previous circumstances. It is also reasonable to use resources when completion is the expected outcome of the education or training program.

Item B is necessary to establish that the caregiver and case manager must consider family income that could be earned by immediate entry into paid employment which would be foregone during pursuit of education or training. It is reasonable to make a comparison between income foregone during pursuit of education or training and the probable income which would be earned following the education or training to assist in making an informed choice of what has the greatest potential to increase a family's level of support. In making this comparison, the long term value of educational programs should also be considered.

Item C is necessary to establish that when the caregiver and case manager are considering part-time education and training under item A, the caregiver and case manager must assess the advantages of combining that part-time education or training with part-time employment. It is reasonable to assess the advantages of combining part-time education or training with part-time employment because it would allow the caregiver to utilize the disregards and increase the family's income while participating in education or training which would lead to additional income.

Item D is necessary to establish limitations under this subpart. MFIP will limit education up to a baccalaureate degree, with the exception of limited coursework necessary for licensure or certification. It is reasonable to limit education up to a baccalaureate degree because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c, paragraph (b), item (3).

Item E is necessary to establish that caregivers in education or training programs must maintain satisfactory progress. MFIP requires that the caregiver remains in good standing as defined by the education or training institution and meets the requirements of the caregiver's employability plan. The case manager may withdraw approval of the caregiver's employability plan when the caregiver does not maintain satisfactory progress in the education or training program. It is reasonable to require satisfactory progress in an education or training program to continue the education or training program in the employability plan because it is reasonable to expect a potential successful outcome to access case management resources. Item E is reasonable because it is consistent with Title 45 CFR, section 250.48 (a).

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Subp. 8. Good cause for failure to comply. This subpart is necessary to establish good cause reasons for failure to comply with the expectations of MFIP case management. Caregivers may claim good cause for failure to comply with the expectations of case management which cause a sanction of the assistance payment. A caregiver may claim good cause for revisions to the family support agreement, for not making satisfactory progress in an education or training program, for failure to comply with the requirements of cessation of employment, and for failure to comply with any other expectations of case management. Subpart 8 is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a.

Item A is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (1).

Item B is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (2).

Item C is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (3).

Item D is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (4).

Item E is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (5).

Item F is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (6).

Item G is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (7).

Item H is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (8).

Item I is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (9).

Item J is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (10).

Item K is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (11).

Item L is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2a, clause (12).

Item M is reasonable because it is consistent with Minnesota Statutes, section 256.736, subdivision 3b, paragraph (h), clause (1).

Subp. 9. Revisions to the family support agreement. This subpart is necessary to establish requirements for revision of the family support agreement. The caregiver may revise the family support agreement with the case manager when good cause, as provided in subpart 8, indicates revision is warranted. For reasons other than good cause, revisions to

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employment goals or steps toward self-support may be made in the first six months after the initial signing of the family support agreement with the agreement of the case manager. After the first six months, the revision must be approved by the case management supervisor or other persons responsible for review of case management decisions. Subpart 9 is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c, paragraph (i).

Subp. 10. **Exemptions from expectations.** This subpart is necessary to inform caregivers when they are exempt from the expectations of case intervention. Exemptions are provided in items A and B. Subpart 10 is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2, paragraph (a).

Item A is necessary to identify that except for subitem (4) which does not apply in a two-parent family, a caregiver in a single parent or two-parent family is exempt from the expectations of MFIP case intervention if the caregiver meets a category in subitem (1) through (7). Item A is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2, paragraph (a).

Subitem (1) is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1)(A).

Subitem (2) is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1)(B).

Subitem (3) is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1)(C).

Subitem (4) is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1)(D), subject to Minnesota Statutes, section 256.736, subdivision 3b, paragraph (f), clause (5).

Subitem (5) is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1)(E).

Subitem (6) is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1)(F).

Subitem (7) is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2, paragraph (a), clause (1).

Item B is necessary to inform caregivers in a two-parent household that only one parent may be exempt under item A, subitems (2) or (3). If item A, subitem (5) applies to either parent in a two-parent family, the entire family is exempt. Item B is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1).

The second paragraph in Item B is necessary to inform caregivers in a two-parent household that if the parent designated to develop a family support agreement becomes exempt and the exemption is expected to last longer than six months, then the second parent is required to develop a family support agreement unless otherwise exempt under item A. This paragraph is reasonable because it is consistent with United States Code, title 7, section 2031(c)(1).

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Subp. 11. **Volunteers for case management.** This subpart is necessary to inform certain caregivers that they may volunteer for case management. If caregivers who have a signed family support agreement who become exempt under subpart 10 and if caregivers randomly assigned to MFIP during the conversion period who have a Project STRIDE or ACCESS employability plan and who have not reached the timing requirement for case management under 9500.4220, subpart 5, request a continuation of case management services, the local agency must provide the services identified in the caregiver's family support agreement or Project STRIDE or ACCESS plan. This subpart also informs other caregivers that they may also request voluntary case management and local agencies may serve those identified in priority of items A and B. It is reasonable to require the local agency to provide a continuation of services to those caregivers who have family support agreements in place but are now exempt, or have Project STRIDE or ACCESS plans in place but have not yet reached the timing requirements, at the request of the caregivers because there should not be an interruption in services that the caregiver wishes to continue. It is also reasonable to set priorities for other volunteers because of limited funds available for case management services to volunteers. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2, paragraph (b).

Item A is necessary to identify the first priority group that can volunteer for case management services. Caregivers who have reached the time for case management under subpart 5 but are exempt under subpart 10 have the first priority to be served by the local agency as a volunteer, resources permitting. Item A is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 2, paragraph (b).

Item B is necessary to identify the second priority group that can volunteer for case management services. Caregivers who have not reached the time for case intervention under subpart 5 can also volunteer for case management services and they can be served by the local agency as a volunteer, resources permitting. Item B is reasonable because it would meet a goal of MFIP identified in and is consistent with Minnesota Statutes, section 256.031, subdivision 4, clause (1).

The final paragraph in this subpart is necessary to establish that caregivers identified in this subpart are voluntary participants for case management and may not be sanctioned for failure to cooperate with case management until they reach the timing of case management services under subpart 5 or are no longer exempt under subpart 10. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 3, and Minnesota Statutes, section 256.035, subdivision 1.

Subp. 12. **Length of job search.** This subpart is necessary to establish the requirements of job search. When the family support agreement specifies that a caregiver should seek employment, the caregiver will have three months to find a job which is consistent with the employment goal in the family support agreement. In addition to the three months, the caregiver can request an additional three month extension. When the three month extension is requested, the case manager must meet with the caregiver to reassess the caregiver's job search methods and make adjustments as necessary. If the caregiver does not request an

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extension or has not found a job after the full six months, the family support agreement shall be reevaluated. If no revisions are made to the agreement, the caregiver must accept any suitable employment. It is reasonable to set the period for job search at three months with a requested extension of an additional three months because it is consistent with Minnesota Statutes, section 256.035, subdivision 6d. It is also reasonable to require the case manager to meet with the caregiver upon request for a three month extension because the case manager can then assess and support the job search methods. If the caregiver does not request an extension or has not found a job after the six month job search, it is reasonable to require a caregiver and case manager to reevaluate the family support agreement because there may be changes that have occurred creating additional barriers to employment. If no revisions are made to the agreement, it is reasonable to require the caregiver to accept any suitable employment because it is consistent with Minnesota Statutes, section 256.035, subdivision 6d.

Subp. 13. **Cessation of employment.** This subpart is necessary to establish requirements for a non-exempt caregiver whose employment has ceased. When a caregiver quits a job, is laid off, or is terminated, the caregiver must contact the case manager within ten calendar days of the job loss and must schedule a meeting to revise the family support agreement to incorporate activities to replace the job. A caregiver who fails to contact the case manager within ten calendar days or fails to attend a scheduled meeting to revise the family support agreement is subject to sanction under part 9500.4250. It is reasonable to require non-exempt caregivers whose employment has ceased to contact and meet with the case manager to revise the family support agreement to incorporate activities to replace the job because the loss of the job would cause non-compliance with the family support agreement. It is also reasonable to incorporate activities to replace the job because that would allow the caregiver to continue to comply with the family support agreement. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivisions 1, 3, and 6c, paragraph (a).

The second paragraph in this subpart is necessary to establish requirements for job search as it applies to cessation of employment. If the substitute activity incorporated into the revised family support agreement is to seek employment, the job search is limited to three months to find a job related to the caregiver's employment goal. After three months, the caregiver must take any suitable employment. Caregivers who fail to comply with this subpart are subject to a sanction under part 9500.4250. It is reasonable to limit the job search to three months because the caregiver and case manager have already met to assess and revise the family support agreement after the loss of employment. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivisions 3, 6c, paragraph (a), and 6d.

9500.4230 **REDUCTION OR DISCONTINUATION OF SUPPORT SERVICES.** This part is necessary to inform mandatory and voluntary caregivers that support services such as transportation and child care assistance will be reduced or discontinued when the caregiver is not participating or making satisfactory progress consistent with the terms of the family

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support agreement or employability plan. Support services are costly and are provided to assist the caregiver in fulfilling the family support agreement or employability plan. During development of the family support agreement and employability plan, the need for support services is identified and authorized. It is reasonable to reduce or discontinue those support services when the caregiver is not participating in the activity for which the support service(s) was (were) authorized or if the caregiver is not making satisfactory progress consistent with the terms of the family support agreement or employability plan. This part is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6c, paragraphs (e) and (f).

9500.4240 CONCILIATION CONFERENCE. This part is necessary to establish standards and requirements governing the conciliation conference authorized under Minnesota Statutes, section 256.035, subdivisions 3 and 6e, and section 256.036, subdivision 5.

Subpart 1. Conciliation conference option. This subpart is necessary to inform local agencies that they must inform mandatory caregivers of the option of a conciliation conference when the mandatory caregiver cannot reach agreement with the case manager about the contents or interpretation of the family support agreement. The requirement to inform caregivers of the option of a conciliation conference is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6e. This subpart also provides that a caregiver who receives a notice of intent to sanction shall also be informed of the conciliation conference option. This requirement is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 3.

This subpart also establishes procedural requirements governing the request for a conciliation conference. The caregiver is required to make a request by a conciliation conference by telephone, mail, or in person. Verbal requests must be followed by a request in writing and must be postmarked or hand delivered within ten calendar days of the mailing of the notice of intent to sanction. The requirements imposed upon the caregiver are necessary to ensure timely requests for a conciliation conference and ensure receipt of the request for a conciliation conference before a "notice of adverse action" is taken by the local agency. It is reasonable to establish standards governing the request of a conciliation conference and the time period in which to make that request to ensure consistent treatment of caregivers and to implement the sanction set forth in Minnesota Statutes, section 256.035, subdivision 3.

Finally, this subpart informs the caregiver that upon receiving a notice of intent to sanction the caregiver may request a hearing without exercising the option of a conciliation conference. The right to go directly to hearing is authorized in Minnesota Statutes, section 256.036, subdivision 5.

Subp. 2. Goal of conciliation conference. This subpart is necessary to identify the goal of the conciliation conference. It is reasonable to cite the goal of the conciliation conference to indicate the purpose of

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the meeting between the mediator, caregiver and case manager. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6e.

Subp. 3. Conference facilitated by a mediator, mediator's duties. This subpart is necessary to inform the caregiver and case manager that the conciliation conference will be facilitated by a mediator. Initially, Department staff will perform the functions of the mediator. The role of the mediator is to assist the caregiver and case manager in resolving the dispute, if possible. The mediator is required to provide a written statement summarizing the outcome of the conference to be signed by the caregiver and case manager. It is necessary to require the caregiver and case manager to sign the outcome of the conference to ensure that there is agreement on the outcome of the conciliation conference. The outcome will either be a successful resolution of the dispute or an unsuccessful resolution of the dispute. When there is no resolution of the dispute, the local agency will implement the sanction under Minnesota Statutes, section 256.035, subdivision 3, by sending the caregiver a notice of adverse action. The caregiver may appeal the action and request a hearing as provided in part 9500.4260. This subpart is a reasonable implementation of Minnesota Statutes, section 256.035, subdivisions 3 and 6e, and section 256.036, subdivision 5.

Subp. 4. Conciliation conference record, use not permitted in fair hearing. This subpart is necessary to establish limitations on the use of the conciliation conference record. In the original rule draft, the Department proposed that the conciliation conference record could be used in the fair hearing if its use was agreed to by the caregiver and case manager. A representative from Legal Services Advocacy Project recommended that the conciliation conference should not be available for use at the hearing. The representative from Legal Services stated, "Conciliation conferences are akin to settlement negotiations; evidence of settlement negotiations are not admissible in a court of law. Minnesota Rule of Evidence, Rule 408. Statements made during conciliation are not made under oath, so their evidentiary value at a fair hearing is questionable. Conciliation will be much more effective if the parties are free to express themselves without having to be concerned about statements later being summarized. A summary of a record should be accorded very little if any weight in a fair hearing since the fair hearing is a de novo review of the evidence. No record of the conciliation conference should be admitted." The Department agrees with the representative from Legal Services Advocacy Project. It is reasonable that no record of the conciliation conference may be used in the fair hearing for the above stated reasons.

9500.4250 **SANCTION.** This part is necessary to implement Minnesota Statutes, section 256.035, subdivision 3. Minnesota Statutes, section 256.035, subdivision 3 establishes a ten percent sanction for caregivers who are not exempt from the expectations in Minnesota Statutes, section 256.035, subdivision 1 who are not complying with the expectations by developing or complying with the family support agreement.

The first paragraph is necessary to inform local agencies that they must reduce an assistance unit's assistance payment by ten percent of the transitional standard when a caregiver who is not exempt from the expectations in part 9500.4220, subpart 5 fails to develop or comply

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with the terms of the family support agreement. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 3.

The second and third paragraphs are necessary to establish procedural requirements to ensure caregivers are given notice before a sanction is imposed. The second paragraph addresses the duties of the case manager. The case manager must send a caregiver a "notice of intent to sanction" and inform the caregiver of an opportunity to request a conciliation conference. The case manager must give the caregiver notice at least ten days before the case manager notifies the local agency that the assistance payment should be reduced. This paragraph is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 6e which requires a conciliation conference to be made available to parental caregivers who cannot reach agreement with the case manager about the contents or interpretation of the family support agreement or who have received a notice of intent to implement a sanction as required under Minnesota Statutes, section 256.035, subdivision 3.

The third paragraph is necessary to establish duties of the local agency upon receiving a notice from the case manager that an assistance payment should be reduced. The local agency is required to send a "notice of adverse action" to the caregiver stating that the assistance payment will be reduced in the next month following the ten day notice requirement and state the reason or reasons for the action. This paragraph is reasonable because it is consistent with Minnesota Statutes, sections 256.035, subdivisions 3 and 6e and 256.045, subdivision 3.

The third and fourth paragraphs are necessary to define the terms "notice of intent to sanction" and "notice of adverse action." Since these terms are not self-explanatory, it is reasonable to define their meanings. The case manager does not sanction a caregiver. The case manager provides notice to the caregiver that the caregiver is not fulfilling the requirement to develop or comply with the family support agreement. Pursuant to Minnesota Statutes, section 256.035, subdivision 6e, the case manager is directed to inform the caregiver of the right to a conciliation conference. As provided in Minnesota Statutes, section 256.035, subdivision 5, a caregiver need not request a conciliation conference to request a hearing according to Minnesota Statutes, section 256.045.

The local agency is responsible for complying with the procedural requirements imposed on the agency before implementing a sanction. The "notice of adverse action" precedes the actual sanction. Part 9500.4260 sets forth local agency requirements governing the fair hearing.

9500.4260 **FAIR HEARINGS.** This part is necessary to implement the requirements in Minnesota Statutes, sections 256.036, subdivision 5 and 256.045. Minnesota Statutes, section 256.036, subdivision 5, entitles a family that applies for or receives assistance under MFIP whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or

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claimed to have been incorrectly paid, upon request, to a hearing under Minnesota Statutes, section 256.045.

This first paragraph in this rule part informs participants and local agencies of requirements preceding a fair hearing and is a reasonable implementation of Minnesota Statutes, sections 256.036, subdivision 5 and 256.045. Caregivers receiving a notice of intent to sanction or a notice of adverse action are informed of the right to request a fair hearing. Pursuant to Minnesota Statutes, section 256.045, subdivision 3, the request for a hearing must be submitted in writing to the local agency or the department within 30 days after receiving the written notice or within 90 days of such written notice if the caregiver shows good cause why the request was not submitted within the 30-day limit.

Items A to E identify issues that are appealable consistent with Minnesota Statutes, sections 256.036, subdivision 5 and 256.045, subdivision 3.

The second paragraph in this rule part includes a caregiver's right to continued payments pending appeal. Minnesota Statutes, section 256.045, subdivision 10 authorizes the Commissioner to allow continuation of payments pending the appeal. The authority to allow continuations pending appeal is also permitted under Title 45 CFR, section 205.10(a)(7). The MFIP standard governing continuation of assistance pending appeal is consistent with the standards in the AFDC program (part 9500.2740, subpart 9).

The third and fourth paragraphs in this rule part require local agencies to reimburse appellants for reasonable and necessary expenses of attendance at the hearing and for the fair hearing to be conducted at a reasonable time and date. Paragraph 3 and 4 are reasonable because they are consistent with Minnesota Statutes, section 256.045, subdivision 4.

9500.4270 **MFIP CHILD CARE.** This part is necessary to establish standards governing child care assistance under MFIP. The standards in this part are similar to the standards in the Child Care Fund Rule (parts 9565.5000 to 9565.5200). Where possible, the Department has attempted to provide local agencies flexibility in authorizing child care assistance for MFIP participants with an employability plan. Under MFIP, child care is guaranteed to MFIP families who are working and need child care to continue to work and is authorized for MFIP families with an approved employability plan as needed to meet the goals of the employability plan.

Subpart 1. Definitions. This subpart is necessary to clarify terms that have specific meanings to MFIP child care.

Item A, child care. Item A is necessary to define a term used in this rule part. It is necessary to define "child care" to identify a service that will be paid for or reimbursed under MFIP. The definition is reasonable because it is consistent with the definition of "child care" in part 9565.5010, subpart 11 (Child Care Fund Rule). It is reasonable to define "child care" in a manner consistent with the child care fund rule since that is the standard used for child care under the AFDC, basic sliding fee, and transition year child care programs.

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Item B, child care assistance. Item B is necessary to define a term used in this rule part. The definition is reasonable because it clarifies that child care assistance is financial assistance for child care expenses and not direct supervision of children.

Item C, dependent child. Item C is necessary to define a term used in this rule part. For purposes of the child care fund, Minnesota Statutes, section 256H.01, subdivision 3, defines a "child" to mean a person 12 years old or younger or a person age 13 or 14 who is handicapped, as defined in Minnesota Statutes, section 120.03. For purposes of MFIP child care, item C expands on the definition of "child" to include a child receiving SSI assistance who would have been a member of the assistance unit except for the receipt of SSI. It is necessary to include a child on SSI in this definition since a child on SSI is not considered a member of the assistance unit for purposes of the MFIP payment standard but the child is a member of the family for the purpose of child care assistance. This item is reasonable because it recognizes the child care needs of caregivers with a child receiving SSI assistance and ensures that a family with a child receiving SSI will be eligible for child care assistance even though the child is not included in the assistance unit when determining the amount of the MFIP payment.

Item D, education program. Item D is necessary to define a term used in this rule part. Some MFIP participants will seek family self-sufficiency through means of additional education. Since the term "education program" is subject to a number of interpretations, it is necessary to define the term. The definition is reasonable because it is consistent with the definition of "educational program" in Minnesota Statutes, section 256H.01, subdivision 7.

Item E, full-day basis. Item E is necessary to define a term used in this rule part. Licensing rules limit the number of children that a provider may serve at one time. Empty child care slots affect the viability of the child care business. As a result, child care providers often charge for child care on a half-day, full-day, or weekly basis since the child care providers cannot fill every child care slot on an eight or ten hour basis. It is unreasonable to expect a provider to care for a MFIP caregiver's child on strictly an hourly basis. For example, a child in care from 8 a.m. to 3 p.m. effectively uses the full day child care slot since it will be virtually impossible to fill the time before 8 a.m. and after 3 p.m. with another child. Typically, child care provided for more than five hours a day is charged on a full-day basis. In order to acknowledge existing provider business practices and for purposes of administrative ease, local agencies are permitted to authorize child care assistance on a half-day, full-day, or weekly basis. It is reasonable to permit local agencies to authorize child care on a half-day, full-day, or weekly basis because half-day, full-day, and weekly are typical billing standards used by child care providers.

This item establishes a standard for what constitutes a "full-day basis." A full-day basis is child care provided for more than five hours per day. This definition is reasonable because it is consistent with the definition of "full-day basis" in the child care fund in part 9565.5010, subpart 22a. It is reasonable to use the child care fund

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standards since payments will be based on the survey results and provider rates established under the child care fund rule.

Item F, half-day basis. Item F is necessary to define a term used in this rule part. As noted in item E, providers often charge for child care on a half-day, full-day, or weekly basis. A half-day basis is child care provided for between one and five hours per day. This definition is reasonable because it is consistent with the definition of "half-day basis" in the child care fund in part 9565.5010, subpart 24a. It is reasonable to use the child care fund standards since payments will be based on the survey results and provider rates established under the child care fund rule.

Item G, legal nonlicensed provider. Item G is necessary to define a term used in this rule part. Minnesota Statutes, section 245A.03, exempts certain individuals from licensure when providing child care. These individuals are commonly referred to as legal nonlicensed providers. Since legal nonlicensed providers are a class of providers who may provide child care and be reimbursed under the child care fund and MFIP child care program, it is reasonable to specifically identify who those providers are by defining the term "legal nonlicensed provider."

Item H, provider. Item H is necessary to define a term used in this rule part. The definition is reasonable because it is consistent with Minnesota Statutes, section 256H.01, subdivision 12.

Item I, provider rate. Item I is necessary to define a term used in this rule part. The definition is reasonable because it provides a common term for identifying the cost of child care charged by a provider. It is necessary to know the provider rate since the rule limits child care assistance to the 75th percentile of provider rates or the actual provider rate whichever is less.

Item J, transition year child care. Item J is necessary to define a term used in this rule part. United States Code, title 42, chapter 7, subchapter IV, part A, section 602(g) authorizes child care assistance for 12 months when a family leaves AFDC due to increased income. The same transition year benefits are authorized for MFIP families who leave MFIP due to increased income. It is reasonable to define "transition year child care" to ensure that child care assistance guaranteed under federal law is granted to MFIP participants.

Item K, vendor payment. Item K is necessary to define a term used in this rule part. Child care assistance payments may be made directly to a family or directly to a provider. When payments are made directly to a provider, the term vendor payment is used. The definition is reasonable because it provides a common term to identify payments made to a provider by the local agency.

Item L, weekly basis. Item L is necessary to define a term used in this rule part. As noted in item E, child care providers often charge for child care on a half-day, full-day, or weekly basis. Weekly basis is defined as child care provided for more than 35 hours per week. The definition is reasonable because it is consistent with the definition of "weekly basis" in the child care fund rule in part 9565.5010, subpart

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37. It is reasonable to use the child care fund standards since payments will be based on the survey results and provider rates established under the child care fund rule.

Subp. 2. **Application for child care assistance.** This subpart is necessary to inform caregivers that they must file an application for child care assistance with the local agency. It is reasonable to require caregivers to file an application for child care assistance to ensure proper administration of MFIP child care program.

Subp. 3. **Caregivers entitled to child care assistance.** The first paragraph in this subpart is necessary to inform MFIP caregivers that they are entitled to child care assistance if: (1) they work and child care is needed to permit the caregiver to work; or (2) if the caregiver is required to develop an employability plan, child care is needed to permit the caregiver to comply with the requirements in the employability plan, and the caregiver is complying with the requirements in the employability plan. The first paragraph in this subpart is reasonable because it is consistent with Minnesota Statutes, section 256.035, subdivision 8.

The second paragraph in this subpart is necessary to establish standards governing the start date for payment of child care. It is necessary to establish a start date for payment of child care expenses to ensure child care payments are not made for expenses incurred prior to MFIP eligibility.

Subp. 4. **Child care for caregivers who volunteer for MFIP services.** This subpart is necessary to inform caregivers who are not mandatory MFIP case management participants who volunteer for MFIP case management that child care assistance for nonemployment activities is not an entitlement and is limited to the extent of legislative appropriations. To qualify for assistance under this subpart, funding must be available and child care assistance must be authorized in the caregiver's employability plan. This subpart is reasonable because it informs caregivers who volunteer for MFIP case management that child care assistance is not guaranteed as it is for mandatory participants and it establishes a start date for payment of child care expenses to ensure child care payments are not made for expenses incurred prior to approval of authorized activities. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.036, subdivision 2.

Subp. 5. **Child care assistance in a two-parent assistance unit.** This subpart is necessary to establish standards governing child care assistance in two-parent assistance units eligible for child care assistance under subparts 3 and 4. Child care assistance will only be provided when it is needed and parental caregivers are unavailable to provide care. If the parents in a two-parent assistance unit can adjust their schedules to permit one or the other parent to provide child care, child care will not be authorized under MFIP. Items A to C establish standards for the local agency to use to determine when child care should be authorized in a two-parent assistance unit.

Item A is necessary to establish a standard for authorizing child care when both parents in a two-parent assistance unit have an employability plan. Local agencies may authorize child care when the assistance unit

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is eligible under subparts 2 or 3 and both parents have an employability plan, child care is needed to permit the parents to comply with their employability plans, and both parents are complying with their employability plan. This item is reasonable to ensure that MFIP child care expenses will only be incurred for child care needed to comply with the parents employability plans.

Item B is necessary to establish a standard for authorizing child care assistance when one caregiver is working or has an employability plan and is in compliance with the requirements in the employability plan and the other caregiver is unable to care for a dependent child as determined by a medical doctor or by an assessment by the local social services agency. This item is reasonable because it is consistent with the standard used in child care fund in part 9565.5025, subpart 5.

Item C is necessary to establish a standard for authorizing child care assistance when both caregivers work. Minnesota Statutes, section 256.035, subdivision 8 authorizes child care for caregivers who work. Although child care assistance is an entitlement, this item is necessary to ensure that when child care is authorized in a two-parent assistance unit that child care is needed because both parents are working at the same time. This item is reasonable because a second caregiver can not provide child care if that caregiver is working.

Subp. 6. Maximum child care assistance in a two week period. This subpart is necessary to establish a standard governing the maximum amount of child care assistance that a local agency may authorize in a two week period. As noted in the legislative findings (Minnesota Statutes, section 256.031, subdivision 2), the legislature recognizes that the Minnesota Family Investment Plan is an investment strategy that will support and strengthen the family's social and financial functions. Without an upper limit on child care assistance, child care could undermine the family's social function since it could resemble foster care more than child care. The child care fund rule establishes a maximum limit on child care of 60 hours per child per week. In order to grant more flexibility for parents who work overtime and double shifts, the MFIP rule establishes a two week standard of 120 hours per child. It is reasonable to establish an upper limit on child care to permit financial management of child care costs and to ensure sufficient time is available for parents to be with their children.

Subp. 7. Child care assistance for non-postsecondary programs. This subpart is necessary to establish a child care standard to permit parents to participate in basic education programs. Basic education is a cornerstone of family self-sufficiency. Under the Child Care Fund (Minnesota Statutes, section 256H.08), the legislature declared that the time limitations for child care assistance as specified in Minnesota Rules, parts 9565.5000 to 9565.5200, do not apply to basic or remedial educational programs needed to prepare for post-secondary education or employment. Those programs include: high school, general equivalency diploma, and English as a second language. Under MFIP, the Department is adopting the child care standard endorsed by the legislature for the child care fund. However, if the caregiver is taking remedial courses in conjunction with a postsecondary program, the 48 month child care assistance limit in subpart 7 stands and 48 months is the maximum amount of child care a caregiver may receive. This subpart is reasonable

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because it is consistent with the child care fund rule standard in part 9565.5025, subpart 9, item A.

Subp. 8. Maximum child care assistance for a postsecondary education program. This subpart is necessary to establish a standard governing the maximum amount of child care a caregiver may receive when pursuing a postsecondary education. The standard of 48 months is based on the standard in the child care fund rule (part 9565.5025, subpart 9, item A). The 48 month standard is not an equivalency standard i.e., a half-time student does not receive 96 months of child care. The 48 month standard is an absolute standard. It is reasonable to establish an absolute standard of 48 months because the demonstration program only lasts five years. In addition, the longer it takes to complete an academic program, the more likely the program will not be completed. To ensure a reasonable return on the child care assistance investment, it is reasonable to establish an upper limit on the amount of child care assistance granted for postsecondary education programs.

Subp. 9. Child care during employment. This subpart is necessary to establish a standard governing child care assistance during employment. This subpart includes two items. Item A addresses salaried employees who work for an hourly wage and item B addresses individuals who do not work for an hourly wage.

Item A. The amount of child care assistance for salaried employees receiving a wage equal to or greater than minimum wage is straight forward. The employee is entitled to child care for actual hours worked, break and meal times during employment, and travel time up to two hours per day. This standard is reasonable because it includes all hours of child care needed during employment. The standard is consistent with the standard in the child care fund rule in part 9565.5025, subpart 7.

Item B. The amount of child care assistance for caregivers who do not work for an hourly wage (self-employed and commissioned sales people) is determine based on the lesser of two calculations. The first calculation (subitem 1) determines child care needs by dividing gross earned income by the applicable minimum wage (federal or state depending on type of employment) and adding one hour every eight hours for meals and breaks plus up to two hours per day for travel time. For example, a participant who works 50 hours and earns \$150 would have the \$150 divided by the minimum wage (for purposes of this example \$4.25 per hour is used). This yields 35.3 hours. Four hours is added to the 35.3 for meal and break time (35.3 divided by 8) and necessary travel time up to two hours per day is added to 39.3 hours to determine the total number of hours of authorized child care.

Item B, subitem (1) is based on the premise that most self-employed individuals will have incomes less than minimum wage especially during the beginning of the self-employment period. It is not cost effective to subsidize child care for employment earnings that are less than minimum wage. Under the child care fund, the legislature has mandated that employed persons work at least 10 hours and receive at least a minimum wage for all hours worked (Minnesota Statutes, section 256H.11, subdivision 1).

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In order to address individuals whose incomes may be greater than minimum wage, it is necessary to perform the calculation under subitem (2). Subitem 2 identifies child care needs consistent with the standard in item A. The local agency is directed to authorize child care according to the lesser of the two amounts calculated in item B. For purposes of illustration, a participant earns \$10 per hour for 20 hours of work. If the \$200 were divided by the minimum wage (\$4.25 in this example), child care would equal 47 hours which is more than twice the hours worked. Based on the calculations in subitem (1), the caregiver in this example would need approximately 20 hours of child care for work, 2 hours for meals and breaks, and travel time for two or 3 days or approximately half the 47 hours calculated strictly according to minimum wage.

It is reasonable to establish standards governing child care assistance to ensure caregivers are treated in an equitable manner and to ensure a reasonable return on program expenditures.

Subp. 10. **Child care in support of employment.** This subpart is necessary to establish a standard governing child care in support of employment. This provision is taken from the child care fund rule. During child care discussions under the child care fund rule, it was pointed out that not all parents work from 8 a.m. to 5 p.m. Some shift workers work from 3 p.m. to 11 p.m. or from 11 p.m. to 7 a.m. It was noted that some shift workers are able to enlist the help of relatives and friends to cover child care needs during certain hours of work but may need child care during nonwork hours. The rule grants local agencies the authority to authorize child care in support of employment within certain limitations. Local agencies may authorize child care in support of employment when all of the following conditions exist: (1) child care is not provided during employment under subpart 9; (2) the caregiver is complying with the caregiver's employability plan, if applicable; (3) the caregiver cannot reasonably modify his or her nonwork schedule to provide child care; and (4) the amount of child care assistance does not exceed the amount of assistance that would be granted under subpart 8 during employment.

This subpart is reasonable because it grants child care flexibility for caregivers who work second and third shifts and encourages the use of other available resources to complement MFIP child care assistance. Granting child care assistance within narrow parameters to support employment is consistent with the goals of MFIP to increase family self-sufficiency.

Subp. 11. **Sick child care, child absence, or medical leave.** This subpart is necessary to establish a standard governing child care payments for sick child care, child absence, or medical leave. The rule provides that if the local agency has established policies governing the payment of sick child, child absences, or medical leaves under the child care fund rule (part 9565.5080, subparts 4, 5, and 6), the local agency may use those same policies under MFIP child care. If a local agency has not adopted policies governing the payment of sick child care, child absences, or medical leaves under the child care fund, it cannot create special policies to address those issues with MFIP funds. This subpart is reasonable because it ensures the use of common child care policies between MFIP and the child care fund. It is reasonable to promote

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common policies to provide consistency between programs and to reduce administrative burdens on the local agencies which would result from different policies.

Subp. 12. **Local agency approval of child care.** This subpart is necessary to inform persons consulting the rule that child care assistance must be approved by the local agency. It is reasonable to require local agency approval of child care because there are limits on the number of hours of child care that may be paid (120 hours in a two-week period, whether there are two parents in the household and accommodation of schedules, whether child care is needed during employment or in support of employment, etc.). In addition, child care will need to be documented and the amount of the payment will need to be determined (limited to the provider rate or the 75th percentile rate whichever is less). It is reasonable to require local agency approval of child care to minimize misunderstandings between the caregiver, provider, and the local agency and to provide for the financial management of child care expenditures.

This subpart also permits local agencies to authorize child care on an hourly, half-day, full-day, or weekly basis. It is necessary to permit the authorization on more than just an hourly basis because not all providers charge on an hourly basis. This subpart is necessary to permit local agencies to authorize child care according to prevailing provider practices. Licensed child care providers are in the "business" of providing child care. Under child care licensing regulations, providers are limited in the number of children that they can serve. Therefore, it is not always practical or possible for providers to split time between families or to absorb the loss in revenues created by serving a family for six hours a day. From a business perspective, a provider may not be able to fill the seventh, eighth, or ninth hour of a day when a family only needs child care for six hours. Therefore, the provider may charge a full-day rate for over five hours of child care. Likewise, if a family only needs full-day child care four days a week instead of five, the provider may not be able to fill the fifth day and may charge for child care on a weekly basis. This subpart is necessary to permit a local agency to authorize child care according to the provider's prevailing business practice. It is necessary to permit child care to be authorized according to prevailing business practices to ensure caregivers have access to the full range of available child care providers.

This subpart also permits local agencies to authorize combinations of child care when the amount of child care needed exceeds 11 or more hours in a 24 hour period or the caregiver uses multiple providers in a day. Full-day child care is generally less than 11 hours per day. When child care is provided for 11 or more hours in a 24 hour day (persons working two consecutive work shifts), a mechanism is needed to authorize a combination of care to address the additional hours of care. This subpart is reasonable because it grants the local agencies the flexibility to address unusual child care needs and ensures providers will be paid for those hours of service in excess of 11 hours per day.

Subp. 13. **Standard for converting authorized care into hours used.** This subpart is necessary to establish a standard for converting authorized care into hours of child care used. Subpart 5 limits child

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care assistance to 120 hours every two weeks. Since the rule permits local agencies to authorize child care on a half-day, full-day, and weekly basis, it is necessary to have a uniform standard of conversion. The standard of conversion is based on the payment rate. A half-day charge is equivalent to approximately five hours of child care; a full-day charge to ten hours; and a weekly charge to 50 hours of child care. It is reasonable to have a conversion standard related to child care payments so caregivers are treated equitably and to simplify local agency administration. By using a conversion standard, local agencies are not required to document every hour of child care used or to convert costs to hours of care.

Subp. 14. Selection of provider. This subpart is necessary to establish a standard governing the caregiver's selection of a provider. The rule adopts the standard in Minnesota Statutes, section 256H.10, subdivision 5. It is reasonable to use the child care fund standard since that is the standard used in other child care assistance programs including AFDC.

Subp. 15. Registration of legal nonlicensed provider. This subpart is necessary to establish a standard governing the use of legal nonlicensed providers and to establish the initial payment date for care provided by a legal nonlicensed provider. MFIP incorporates by reference the standards adopted in the child care fund rule.

Before a county may issue a provider payment, the county needs to know the provider's name, social security number, age and address. The name and address is necessary for identification purposes. The age is necessary because, by definition, a provider must be at least 18 years of age. The provider's social security number is necessary for tax purposes and completion of the Internal Revenue Services tax form 1099. The registration requirement is reasonable because it requires a minimal amount of information and will reduce potential misunderstandings governing child care payments between the local agency and the provider. It also permits ease of administration since it adopts the same standard used in the child care fund. Local agencies will not need to implement different standards for two similar child care programs. This subpart also incorporates the payment features in the child care fund rule found in part 9565.5080, subpart 1a.

Subp. 16. Payment option. This subpart is necessary to establish a standard governing payment options. Local agencies are permitted to pay either the caregiver or the provider. This is the same payment option authorized under the child care fund rule. This subpart is reasonable because it provides the local agency flexibility in how it will pay for child care. Since the payment options are the same as under the child care fund, the county has the ability to use the same process for MFIP that it uses under the child care fund.

Subp. 17. Vendor payment. This subpart is necessary to establish standards governing vendor payments. The initial sentence requires local agencies to inform both the caregiver and provider of the payment amount, and how and when payments will be made. This subpart is necessary to prevent potential misunderstandings between the local agency, caregiver, and provider regarding payments for child care services.

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The second part of this subpart is necessary to establish a standard governing notification of providers who receive a vendor payment when a family is given a termination notice. Due to the delay between the provision of child care services and the payment for those services, it is reasonable for providers to be informed that child care payments will no longer be made unless the family requests to continue to receive child care pending an appeal. Otherwise, a situation is created where a provider may unknowingly continue to provide services for which the provider may not be reimbursed. Such a situation would pose a hardship on the provider (loss of revenue) and could cause providers to refuse to provide services to other MFIP families because of the possibility of incurring bad debts. Therefore, it is reasonable to notify a provider who receives a vendor payment when the local agency will no longer make child care payments.

Subp. 18. **Maximum child care payments.** This subpart is necessary to establish a standard governing maximum child care payments. Minnesota Statutes, section 256.035, subdivision 8, states that the subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under Minnesota Statutes, section 256H.15. Minnesota Statutes, section 256H.15 establishes the maximum child care payment as the maximum rate eligible for federal reimbursement. The maximum rate eligible for federal reimbursement is the 75th percentile rate for like care arrangements. This subpart is reasonable because it incorporates the payment standard in the child care fund in part 9565.5080, subpart 1c. This subpart further clarifies that payments of registration and activities fees are governed by the standards in the child care fund in part 9565.5100. This subpart is reasonable because it is consistent with the requirements in Minnesota Statutes, section 256.035, subdivision 8.

Subp. 19. **Caregiver reporting requirements.** This subpart is necessary to establish caregiver reporting requirements. Since changes in household composition, address, employment or education, or providers can affect program eligibility or payment amount, it is reasonable to require the caregiver to report those changes. This subpart is reasonable because it is consistent with the child care reporting requirements in part 9565.5025, subpart 3.

Subp. 20. **Overpayment of child care assistance due to caregiver error or failure to report.** This subpart is necessary to establish a standard governing recovery of overpayment due to caregiver error or failure to report a change. It is necessary to establish a standard for recovery to ensure program accountability and integrity. This subpart cross-references the recovery standards set forth in the child care fund rule. It is reasonable to establish the same standard as the child care fund rule to aid local agency administration of MFIP child care. Local agencies will not need to implement different standards for two similar child care programs.

Subp. 21. **Transition year child care.** This subpart is necessary to establish a standard governing transition year child care. Minnesota Statutes, section 256.035, subdivision 8 states that a caregiver who leaves the program (MFIP) as a result of increased earnings from employment who needs child care assistance to remain employed is entitled to extended child care assistance as provided under United

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States Code, title 42, section 602(g)(1)(A)(ii) on a copayment basis. Unlike AFDC, parental deprivation (absent, incapacitated, or unemployed parent) is not an eligibility factor in MFIP. Therefore, it is necessary to state in this subpart that, for purposes of MFIP transition year, part 9565.5065, subpart 2, item D does not apply to former MFIP participants. Without this exception many MFIP families would not be eligible for transition year child care which would be contrary to Minnesota Statutes, section 256.035, subdivision 8. This subpart is reasonable because it is consistent with the federal waiver granted under the MFIP program.

Subp. 22. **Basic sliding fee program.** This subpart is necessary to require local agencies to inform families who lose MFIP eligibility and who are not eligible for AFDC child care or transition year child care about the basic sliding fee program under the child care fund rule. The basic sliding fee program provides child care assistance for families with incomes less than 75 percent of the state median income for a family of the same size. It is reasonable to require local agencies to inform families of the basic sliding fee program so families can seek child care assistance under the basic sliding fee program. This subpart does not entitle families to any special consideration under the basic sliding fee program. A former MFIP family that applies for child care assistance under the basic sliding fee program must meet the requirements under the basic sliding fee program. If there is a waiting list of families seeking child care assistance, the former MFIP family will be placed on the basic sliding fee program waiting list according to subpart 22.

Subp. 23. **Waiting list, transfer of transition year families to the basic sliding fee program.** This subpart is necessary to establish a standard governing the date of eligibility for purposes of the basic sliding fee program waiting list. Under the child care fund rule, part 9565.5030, subpart 7a, certain standards are adopted for transferring transition year families to the basic sliding fee program. This subpart uses standards consistent with the child care fund for placing MFIP families on the basic sliding fee program waiting list. It is reasonable to use consistent standards to ensure equitable treatment of MFIP families and to facilitate local agency administration since the standards for the two child care programs are similar.

Subp. 24. **Federal funding.** This subpart is necessary to inform local agencies that they must claim federal funding for MFIP child care expenditures allowed under federal grant and reimbursement programs. It is reasonable to require local agencies to claim available federal funding to reduce the fiscal impact on the state and to increase the amount of child care funds available to MFIP participants.

Subp. 25. **Termination of child care assistance if MFIP is terminated.** This subpart is necessary to inform participants that if the MFIP program is terminated, child care authorized under this part is also terminated effective the date of MFIP termination. This subpart is necessary to ensure that the state does not incur significant financial liability for child care if the MFIP program is terminated by the state or federal government. If the caregiver is eligible for child care assistance under another program and funding is available, the local agency must transfer the caregiver to another child care assistance

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program. This subpart is reasonable because it identifies what actions agencies must take should MFIP be terminated early or with little advanced warning.

9500.4280 **APPLICANT AND PARTICIPANT RESPONSIBILITIES.** This part is necessary to set forth applicant and participant responsibilities under MFIP. This part is consistent with the responsibilities set forth in the AFDC rule in part 9500.2700 and in the General Assistance rule in part 9500.1245.

Subpart 1. Applicant reporting requirements. This subpart is necessary because Title 45 CFR, section 206.10(a)(1)(ii) states, in part:

"The agency shall require a written application, signed under a penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him. ..."

This subpart assigns a direct responsibility to the applicant to provide an accurate and complete report of information regarding the applicant's circumstances as required in the application. It is reasonable to include this provision because it conforms with federal regulations. Title 45 CFR, section 206.10(a)(2)(i) asserts a responsibility of the local agency to notify applicants about their obligations under the program. It is reasonable to establish a requirement for applicants to report changes which affect eligibility when the local agency has informed applicants of the obligation to report those changes.

Subp. 2. Requirement to apply for other benefits. This subpart is necessary to require applicants and participants to apply for other benefits they are entitled to receive. It is reasonable to require applicants and participants to apply for other benefits to reduce MFIP costs and to ensure program integrity. Minnesota Statutes, section 256.033 establishes conditions of eligibility which include income and resource limits. Failure to apply for other benefits may reduce a applicant's or participant's income or resources sufficiently to qualify that person for MFIP or to increase the amount of the assistance payment. It is reasonable to require applicants and participants to apply for other benefits to which they are entitled to ensure accurate reporting of available income and resources which is necessary to maintain program accountability and integrity.

Subp. 3. Responsibility to inquire. Title 45 CFR, section 206.10 establishes requirements governing applications and recertification of benefits. Title 45 CFR, section 206.10(a)(2)(i) states that applicants and participants must be informed about eligibility requirements. The department has a responsibility to provide written and oral information about the coverage and scope of the program. However, the amount of detail which can be supplied in department brochures and pamphlets is necessarily limited. The information supplied in the application and recertification process is also limited to the circumstances that are reported. Because no interview or informational brochure can adequately explain all the details of program eligibility rules, it is reasonable to indicate that the requirement for establishing the effect of changed circumstances on MFIP eligibility is a dual responsibility. The first

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part of that responsibility is for the applicant or recipient to inquire or request that information. The second requirements is that the department, or the local agency, provide a satisfactory response to such inquiries and requests. The applicant's or participant's right to information is set forth in part 9500.4290, subpart 1.

Subp. 4. Participant's completion of recertification of eligibility form. This subpart is necessary because Title 45 CFR, section 206.10(a)(9) requires:

"(9) Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

(i) When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;

(ii) Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he is entitled or may make him ineligible; and

(iii) Periodically, within agency established time standards, but not less frequently than every 12 months"

It is reasonable to require participants to comply with this requirement to conform with federal regulations.

Subp. 5. Monthly MFIP household reports. This subpart is necessary to establish a monthly reporting standard for assistance units with earned income or a recent work history to comply with the requirements under Title 45 CFR, section 233.36. This subpart is reasonable because it is consistent with the AFDC requirements in part 9500.2700, subpart 5 and federal regulations under Title 45 CFR, section 233.36.

Subp. 6. Six month MFIP household report. This subpart is necessary to establish a reporting standard for families who are not required to report monthly under subpart 5. Title 45 CFR, section 233.36(b) permits a state to exempt categories of recipients otherwise required to report monthly from reporting each month with prior approval by the Secretary if the State can demonstrate that not requiring these cases to file monthly reports is cost effective. This subpart is reasonable because the federal waiver of Title IV, section 402(a)(14) of the Social Security Act permits the state to require a six month MFIP household report for this demonstration program.

Subp. 7. Due date of MFIP household report. This subpart is necessary because Title 45 CFR, section 233.37 establishes criteria for the treatment and processing of the report form. It is necessary to establish a date on which the form must be returned to provide adequate time for the local agency to process the form and issue any notices of change which are required because of the reported information. Those notices permit action under the notification requirements prescribed under Title 45 CFR, section 205.10(a)(4)(i)(B). The Department has developed distribution procedures to allow each participant to complete the required form on the last day of the report period. It is reasonable to establish the eighth calendar day of the month following the end of the reporting month as the date the form is due, or alternatively, the first working day following the eighth day when the

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eighth day falls on a weekend or holiday because this time frame provides a minimum of five workdays in each month for the participant to complete the form, obtain the necessary documentation to support the information on the form, and return the form to the local agency. It also provides a reasonable time for the local agency to 1) return the form to the participant when it is received as incomplete, 2) have the participant return it, 3) process it, and 4) satisfy the notification deadlines. This subpart is reasonable because it is consistent with the due date set forth in the AFDC rule in part 9500.2700, subpart 5.

Subp. 8. Late MFIP household report forms. This subpart is necessary to establish standards governing late MFIP household report forms. Title 45 CFR, section 233.37 establishes requirements that address (a) What happens if a completed monthly report is received on time; (b) What happens if a completed monthly report is not received by the agency; and (c) What happens if a completed monthly report is received but is not timely. Those standards are set forth in the AFDC rule in part 9500.2700, subpart 6. This subpart incorporates the standards in the AFDC rule. It is reasonable to include this subpart to conform with federal regulations and to provide safeguards against unreasonable application of the penalties which would otherwise result.

Subp. 9. Changes which must be reported. This subpart is necessary to identify changes that must be reported. This subpart is necessary because Title 45 CFR, section 206.10(a)(2)(ii) states, "Procedures shall be adopted which are designed to assure that recipients make timely and accurate reports of any change in circumstances which may affect their eligibility or the amount of assistance. The standard in this subpart is consistent with the AFDC standard in part 9500.2700, subpart 7.

Item A is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item A.

Item B is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item B.

Item C modifies part 9500.2700, subpart 7, item C by requiring all recurring changes of unearned income to be reported. Because MFIP does not require monthly reporting of unearned income and because unearned income is subtracted dollar for dollar from the transitional standard, it is reasonable to require all recurring changes to be reported, not just that which is more than \$50 per month.

Item D is reasonable because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.20(a)(3)(iv)(F).

Item E is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item D.

Item F is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item E.

Item G is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item F.

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Item H is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item G.

Item I is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item H.

Item J is reasonable because it is consistent with Minnesota Statutes, section 256B.056, subdivision 6.

Item K is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item I.

Item L is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item J.

Item M is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item K.

Item N is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item L.

Item O is reasonable because it is consistent with the standard in part 9500.2700, subpart 7, item M.

Item P is reasonable because it is consistent with Code of Federal Regulations, Title 45 CFR, section 233.20(a)(3)(ix).

Subp. 10. Cooperation with child support enforcement. This subpart is necessary to inform the caregiver that the caregiver must cooperate with child support enforcement. Minnesota Statutes, section 256.034, subdivision 3, paragraph (b) states:

"(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3."

This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.034, subdivision 3, paragraph (b) and the AFDC requirements in part 9500.2700, subpart 10.

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Subp. 11. **Refusal to cooperate with support requirements.** This subpart is necessary to implement Minnesota Statutes, section 256.034, subdivision 3, paragraph (b) which states, in part:

"Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3."

Title 45 CFR, sections 232.11 requires the State plan to provide "As a condition of eligibility for assistance, each applicant for or recipient of AFDC shall assign to the State any rights to support from any other persons as such applicant or recipient may have" Title 45 CFR, section 232.12 requires that the State plan meet all requirements of the section that sets forth requirements governing cooperation in obtaining support. The standards that implement Title 45 CFR, sections 232.11 and 232.12 are set forth in the AFDC rule in part 9500.2700, subpart 11. This subpart is reasonable because it is consistent with part 9500.2700, subpart 11.

Subp. 12. **Good cause exemption from cooperating with support requirements.** This subpart is necessary to establish a standard of good cause for failure to cooperate with support requirements. Title 45 CFR, section 232.12 mandates cooperation with efforts to recover support and Title 45 CFR, sections 232.40 to 232.49 outline the conditions under which a good cause exemption from those requirements is established. The federal requirements have been implemented in the AFDC program in part 9500.2700, subpart 12. This subpart is reasonable because it is consistent with the AFDC program and federal regulations.

Subp. 13. **Cooperation with health care benefits.** This subpart is necessary to establish requirements for a caregiver to cooperate with providing health care benefits. Title 45 CFR, section 232.13 establishes requirements for applicants and participants to provide information regarding available health care benefits and third party payors. This section also requires ineligibility for non-cooperation. Title 42 CFR, section 435.604 establishes the requirement for applicants and participants to assign rights to medical support. It is consistent with AFDC policies to impose a sanction for non-cooperation with health care benefits as established in this subpart. The MFIP sanction is different than the AFDC sanction. MFIP will reduce the assistance payment by 10 percent of the transitional standard for those participants who do not cooperate, pursuant to Minnesota Statutes, section 256.034, subdivision 3, paragraph (b).

Item A is reasonable because it is consistent with Title 42 CFR, section 435.604.

Item B is reasonable because it is consistent with Title 45 CFR, section 232.13.

Item C is reasonable because it is consistent with Title 45 CFR, section 232.13, subject to Minnesota Statutes, section 256.034, subdivision 3, paragraph (b).

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9500.4290 **APPLICANT AND PARTICIPANT RIGHTS AND LOCAL AGENCY RESPONSIBILITIES.** This part is necessary to set forth applicant and participant rights and local agency responsibilities under MFIP. This part is consistent with the rights and responsibilities set forth in the AFDC rule in part 9500.2740.

Subpart 1. Right to information. This subpart is necessary because Title 45 CFR, section 206.10(a)(2)(i) mandates that applicants "be informed about the eligibility requirements and their rights and obligations under the program." The federal requirements have been implemented in the AFDC program in part 9500.2740, subpart 1. This subpart is reasonable because it is consistent with AFDC program requirements and federal regulations.

Subp. 2. Right to authorized representative. This subpart is necessary because Title 45 CFR, section 206.10(a)(1)(iii) states "An applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them. The federal requirements have been implemented in the AFDC program in part 9500.2740, subpart 4. This subpart is reasonable because it is consistent with the AFDC program and federal regulations.

Subp. 3. Right of applicant to notice. This subpart is necessary because Title 45 CFR, sections 206.10(a)(3) and 206.10(a)(4) require processing of the application and formal notification to an applicant of the disposition of the applicant's application. The federal requirements have been implemented in the AFDC program in part 9500.2740, subpart 5. This subpart is reasonable because it is consistent with the AFDC program and federal regulations. The requirement for the notice to be in writing is reasonable because (1) a written document which specifies the time, authority, and basis for action provides a clear evidentiary standard for later appeal, (2) it allows a person to understand and evaluate the action, and (3) it prevents disagreements over what a person has or has not been told.

Subp. 4. Participant's right to notice. This subpart is necessary because Title 45 CFR, section 205.10(a)(4) requires the establishment of standards for adequate notice. The federal requirements have been implemented in the AFDC program in part 9500.2740, subpart 6. This subpart is reasonable because it is consistent with the AFDC program and federal regulations.

Subp. 5. Mailing of notice. The provisions regarding the mailing of notices is mandated by Title 45 CFR, section 205.10(a)(4). It is reasonable to describe the specific circumstances under which various mandates apply for affected parties to understand the conditions under which different formal notice periods apply when MFIP is being reduced, suspended, or terminated. The standards in this subpart are consistent with the standards in the AFDC rule in part 9500.2740, subpart 7. It is reasonable to use the AFDC standards since those standards implement the requirements under Title 45 CFR, section 205.10(a)(4).

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Subp. 6. **Conciliation conferences.** This subpart is necessary to identify a right granted to participants under MFIP. Minnesota Statutes, section 256.035, subdivision 3 states, in part:

"The county must provide written notice to the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the sanction is implemented."

Minnesota Statutes, section 256.035, subdivision 6c, paragraph (h), states, in part:

"The case manager must inform the caregiver of the right to seek conciliation as provided in subdivision 6e."

Minnesota Statutes, section 256.035, subdivision 6e, states, in part:

"A conciliation procedure shall be available as provided in section 256.736, subdivision 11, paragraph (c)."

Minnesota Statutes, section 256.036, subdivision 5 states, in part:

"A parental caregiver may request a conciliation conference, as provided under section 256.035, subdivision 6e, when the caregiver disputes the terms of a family support agreement developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to comply with the terms of a family support agreement."

This subpart is reasonable because it is consistent with Minnesota Statutes cited above.

Subp. 7. **Appeal rights.** This subpart is necessary to inform families of the right to appeal. Minnesota Statutes, section 256.036, subdivision 5 states:

"Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, as provided under section 256.035, subdivision 6e, when the caregiver disputes the terms of a family support agreement developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to comply with the terms of a family support agreement. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045."

This subpart is reasonable because it is consistent with Minnesota Statutes.

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Subp. 8. **Case records available.** This subpart is necessary to inform the local agency of the timing requirements to make case records available to participants and former participants, and the provisions to photocopy case materials. This subpart is reasonable because it is consistent with Minnesota Statutes, section 13.04.

Subp. 9. **Right to manage affairs.** This subpart is necessary to inform participants that except when protective payment provisions are authorized as set forth in part 9500.4180, subpart 2, participants have the right to manage their own affairs. This subpart is reasonable because it is consistent with Title 45 CFR, section 234.11(a) which states:

"(a) Federal financial participation is available in money payments made under a State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act to eligible families and individuals. Money payments are payments in cash, checks, or warrants immediately redeemable at par, made to the grantee or his legal representative with no restrictions imposed by the agency on the use of funds by the individual."

Subp. 10. **Right to protection.** This subpart is necessary to clarify the rights of persons who are in need of protection, and to clarify when MFIP staff of the local agency are required to make referrals to social service staff of the local agency. This subpart is reasonable because it is consistent with Minnesota Statutes, section 257.33, subdivision 2.

9500.4300 **SUPPORT FROM PARENTS OF MINOR CAREGIVERS LIVING APART.** This part is necessary to establish standards for support from parents of minor caregivers who live apart. The requirements in this part are based on the AFDC standards in part 9500.2760.

Subpart 1. **General provisions.** This subpart is necessary to establish standards for financial responsibility of parents for children who receive MFIP. When a child meets the definition of a "dependent child," that financial responsibility is established and enforced under the authority of Title IV-D of the Social Security Act. However, when a minor child lives apart from his or her parents, he or she receives assistance as a caregiver rather than as a dependent child, and the Title IV-D child support enforcement system is not available to enforce the financial responsibility of a parent. However, Minnesota Statutes, section 256.87 establishes requirements governing contribution by parents. Statewide standards for parental support consistent with Minnesota Statutes, section 256.87 have been adopted for children not covered under Title IV-D in the AFDC rule under part 9500.2760. This subpart is reasonable because it is consistent with the standards adopted in the AFDC rule.

Subp. 2. **Amount of support payment.** This subpart is necessary to identify the parental contribution needed to comply with Minnesota Statutes, section 256.87. Statewide standards for the amount of parental support consistent with Minnesota Statutes, section 256.87 have been adopted in the AFDC rule under part 9500.2760.

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Subp. 3. **Reviews.** This subpart is necessary so that changes in parental income or circumstances are recognized in adjusting the required amount of support. The standard of review in this subpart is consistent with the standard adopted under the AFDC rule in part 9500.2760. This subpart is reasonable because it is consistent with the standards adopted in the AFDC rule.

Subp. 4. **Parents under court order for support.** This subpart is necessary because, when the parents of a minor caregiver lived apart from one another and a court order was obtained by one parent while the minor caregiver still lived in that parent's home, the court order continues to have legal standing for support enforcement. It is reasonable to specify that an existing support order supersedes the requirements in this part to avoid assigning a parent a duplicate support obligation for the same child.

9500.4310 **WRONGFULLY OBTAINED ASSISTANCE.** This part is necessary to establish standards governing wrongfully obtained assistance. The requirements in this part are based on the AFDC standards in part 9500.2780.

Subpart 1. **Applicability to other laws.** This subpart is necessary to inform caregivers and local agencies that the procedures under this part may be used in combination with other established civil and criminal procedures and law. It is reasonable to include this subpart to establish the applicability of civil law to overpayment and the statutory relationships of criminal matters such as Minnesota Statutes, section 609.52 (theft) as provided in Minnesota Statutes, section 256.98, subdivision 5.

Subp. 2. **Responsibility of local agency to act.** This subpart is necessary to comply with Title 45 CFR, section 235.110 which requires states to establish methods for identifying fraud and procedures for referring suspected fraud situations to law enforcement officials. The standard in this subpart is consistent with the standard set forth in the AFDC program in part 9500.2780, subpart 2.

Subp. 3. **Continued MFIP eligibility during fraud investigation.** This subpart is necessary to establish a standard governing MFIP eligibility during fraud investigation. The standard granting continued MFIP eligibility during fraud investigation is reasonable because it is consistent with the standard adopted under the AFDC program in part 9500.2780, subpart 3.

Subp. 4. **Recoupment and recovery of wrongfully obtained assistance.** This subpart is necessary to comply with Title 45 CFR, section 233.20(a)(13) and Minnesota Statutes, section 256.98, subdivision 4. The provision of civil recovery is necessary because funds are not always recoverable through administrative procedures, such as recoupment or voluntary repayment. This subpart is reasonable because it is consistent with the standard under the AFDC program in part 9500.2780, subpart 4.

Subp. 5. **Reporting requirement.** This subpart is necessary to establish a reporting requirement on local agency activities to prevent welfare

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fraud. This subpart is reasonable because it is consistent with the requirements in the AFDC program in part 9500.2780, subpart 5.

9500.4320 **RELATIONSHIP TO OTHER PROGRAMS.** This part is necessary to establish standards governing medical assistance eligibility for MFIP participants. Section 2.8 of the "Terms and Conditions" for carrying out MFIP states:

"Families participating in MFIP will be treated as individuals eligible for medical assistance under section 1902(a)(10)(A) of the Social Security Act. A family terminated from MFIP due to increased income, or by reason of collection or increased collection of child support under part D of Title IV of the Social Security Act, will be treated in the same manner that an AFDC family would be treated for the purpose of receiving extended medical benefits."

Minnesota Statutes, section 256.034, subdivision 1, states, in part:

"As authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B."

This part is necessary to set forth standards governing medical assistance eligibility.

Subpart 1. Medical assistance; applicants. This subpart is necessary to inform applicants that they may qualify for retroactive medical assistance. The standard in this subpart is consistent with the standards in the AFDC rule in part 9500.2860, subpart 1.

Federal requirements governing medical assistance are set forth in Title 42 CFR, parts 433 and 435. The provision for retroactive eligibility for medical assistance is necessary to comply with Title 42 CFR, section 435.914. The provision to require applicants to provide information about insurance and assign rights to insurance benefits is consistent with Title 42 CFR, section 433.145 which authorizes the medicaid agency to require applicants to provide information about health insurance and assign rights to benefits to the local agency as a condition of eligibility. This subpart is reasonable because it is consistent with federal regulations. The provision to sanction applicant's assistance payment is consistent with Minnesota Statutes, 256.034, subdivision 3, paragraph (b).

Subp. 2. Medical assistance; participants. This subpart is necessary because Title 42 CFR, section 435.110 mandates a medicaid agency to provide medicaid to AFDC recipients. Under the "Terms and Conditions" for carrying out MFIP, MFIP participants are authorized to receive medical assistance in the same manner as AFDC recipients. This subpart is consistent with the AFDC standards set forth in part 9500.2860, subpart 2. This subpart is reasonable because it is consistent with federal regulations.

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Subp. 3. Medical assistance; terminations of assistance. This subpart is necessary to establish standards governing continuation of medical assistance when MFIP cash assistance ends. The standards in items A to C are based on the medical assistance Program requirements set forth in part 9505.0055, subpart 3.

Item A is necessary to comply with Public Law 101-239, section 8015(b)(7)(B) which states:

"(B) Eligibility Extended for Persons Leaving Project Because of Increased Receipt of Child Support. -- Each family whose participation in the project is terminated by reason of the collection or increased collection of child support under part D of title IV of the Social Security Act will be treated as a recipient of aid to families with dependent children for purposes of title XIX of such Act for an additional 4 calendar months beginning with the month in which the termination occurs."

Item A is reasonable because it is consistent with part 9505.0055, subpart 3, item A.

Item B is necessary to comply with Minnesota Statutes, section 256.035, subdivision 9.

Item C is necessary to comply with the standard set forth in the medical assistance rule which governs termination of assistance due to increase income from deeming. This item is reasonable because it is consistent with part 9505.0055, subpart 3, item C.

Subp. 4. Medical assistance; sanctions. This subpart is necessary to inform caregivers that they are not eligible for medical assistance for any period in which the caregiver fails to cooperate with child support or fails to comply with the third party payor requirements set forth in the rule.

The medical assistance sanction for failure to cooperate with child support is reasonable because it is consistent with medical assistance requirements set forth in the medical assistance rule in part 9505.0071, subpart 3. The medical assistance sanction for failure to comply with third party payor requirements is reasonable because it is consistent with medical assistance requirements set forth in the medical assistance rule in part 9505.0071, subpart 2. The medical assistance sanction for failure to cooperate with child support and the medical assistance sanction for failure to comply with third party payor requirements are set forth in Code of Federal Regulations, Title 42 CFR, section 435.604(a).

Subp. 5. Social services. This subpart is necessary to establish requirements for the local agency to refer participants for social services according to criteria established under the Community Social Services Act. This subpart also informs the local agency that payments issued from title XX, child welfare funds, or county funds for such social services must not restrict eligibility for MFIP or reduce the monthly assistance payment amount. This subpart is reasonable because it is consistent with AFDC rule requirements in part 9500.2860, subpart 4.

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Subp. 6. **Concurrent eligibility, limitations.** This subpart is necessary to establish requirements allowing concurrent eligibility. The local agency must not include an applicant or participant as a member of more than one assistance unit in a given payment month except as provided in items A to C.

Item A is reasonable because it is consistent with AFDC rule requirements in part 9500.2860, subpart 5, item A.

Item B is reasonable because it is consistent with AFDC rule requirements in part 9500.2860, subpart 5, item B.

Item C is reasonable because it is consistent with AFDC rule requirements in part 9500.2860, subpart 5, item C.

Subp. 7. **Emergency assistance, assistance unit with a minor child.** This subpart is necessary to inform participants and local agencies that an MFIP assistance unit with a minor child is eligible for emergency assistance when the assistance unit meets the requirements in part 9500.2820. This subpart is necessary to comply with Public Law Number 101-239, section 8015(b)(10) which states:

"(10) ASSISTANCE UNDER PROJECT NOT LESS THAN UNDER AFDC AND FOOD STAMP PROGRAM.--

(A) Establishment of Policies and Standards.-- The State will establish policies and standards to ensure that families participating in the project receive cash assistance under the project in an amount not less than the aggregate value of the assistance that such families would have received under the State plan approved under section 402(a) of such Act and under the food stamp program established under the Food Stamp Act of 1977 in the absence of the project."

Since a family with children may be eligible for emergency assistance under part 9500.2820, as a hold harmless policy, an MFIP assistance unit is also eligible to receive emergency assistance when the assistance unit meets the requirements in part 9500.2820. This subpart is reasonable because it is consistent with Public Law Number 101-239, section 8015.

Subp. 8. **Emergency general assistance, pregnant woman without a minor child.** This subpart is necessary to inform participants and local agencies that a pregnant woman without a minor child is eligible for emergency general assistance when the pregnant woman meets the requirements in part 9500.1261. Since a non-MFIP pregnant woman without a minor child is eligible for emergency general assistance, this subpart is necessary to clarify that a pregnant woman without a minor child who is participating in MFIP is eligible for emergency general assistance when she meets the requirements in part 9500.1261. This subpart is reasonable because it is consistent with Public Law Number 101-239, section 8015.

9500.4330 **COUNTY OF RESPONSIBILITY POLICIES.** This part incorporates AFDC rule language governing county of responsibility (part 9500.2880,

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subparts 1 to 4). When MFIP requirements are the same as those in the AFDC program, the Department has retained the AFDC rule language. There are a number of reasons for retaining AFDC rule language.

1. Public Law Number 101-239, Section 8015(b)(8) states:

"(8) AFDC RULES TO APPLY GENERALLY --

- (A) IN GENERAL. - Except where inconsistent with this subsection, the requirements of the State plan approved under section 402(a) of the Social Security Act will apply to the project, unless waived by the Secretary of Health and Human Services in accordance with subsection (d)."
2. The AFDC rules are operational. Where clear and workable rule standards exist, it is reasonable to retain those standards. Unless existing AFDC standards are contrary to the MFIP goals or are difficult to administer or for recipients to understand, AFDC language will be used.
3. The AFDC rule has met the need and reasonableness standards of the Administrative Procedure Act (APA). The AFDC standards have had careful public review and have met the tests of the APA. Therefore, it is appropriate to use the AFDC standards when the requirements are the same.

Subpart 1. Determining the county of financial responsibility. This subpart is necessary to set forth standards governing the county of financial responsibility. This subpart is reasonable because it is consistent with the standard set forth in the AFDC rule in part 9500.2880, subpart 1. It is reasonable to use the AFDC standard for the reasons identified in the introduction to this rule part.

Subp. 2. Change in residence. This subpart is necessary to identify the county of financial responsibility when a participant moves from one county to another. The requirements in this subpart are essentially the same as the requirements in the AFDC rule in part 9500.2880, subpart 2. However, because MFIP will only operate in seven counties (it is not statewide), a distinction must be made between moves from one MFIP county to another MFIP county and moves between an MFIP county and a non-MFIP county.

Item B is necessary to address those situations where a participant moves from one MFIP county to another MFIP county. The standard in this item is the same as the standard in the AFDC rule in part 9500.2880, subpart 2, item A.

Item C is necessary to address those situations where a participant moves from an MFIP county to a non-MFIP county. Because MFIP is a demonstration program, it is not being operated statewide. The Department anticipates that there will be numerous occasions when a MFIP participant moves to a non-MFIP county. When this occurs, if the MFIP participant remains eligible for MFIP, the MFIP county must continue to provide assistance for two months. The two month standard is reasonable because it is based on the standard set forth in the Minnesota Unitary Residence and Financial Responsibility Act (Minnesota Statutes, chapter

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256G). Before the two month period ends, the former MFIP participant must submit an application for assistance to the new county of residence and establish eligibility for AFDC, family general assistance, or Food Stamps. The requirement that the former MFIP participant submit an application for assistance and establish eligibility for AFDC, family general assistance, or Food Stamps is reasonable because the former MFIP participant is treated the same as other individuals in the county requesting assistance.

Item D is reasonable because it is consistent with the standard in the AFDC rule part 9500.2880, subpart 2, item B.

Item E is reasonable because it is consistent with the standard in the AFDC rule part 9500.2880, subpart 2, item C.

Subp. 3. **Responsibility for incorrect assistance payments.** This subpart is necessary to establish a standard governing county of responsibility for incorrect assistance payments. The standard in this subpart is consistent with the standard in part 9500.2880, subpart 3. It is reasonable to use the AFDC standard for the reasons identified in the introduction to this rule part.

Subp. 4. **Excluded time.** This subpart is necessary to establish a standard governing county of financial responsibility when an applicant or participant resides in an excluded time facility. The standard in this subpart is consistent with the standard in part 9500.2880, subpart 4. It is reasonable to use the AFDC standard for the reasons identified in the introduction to this rule part.

9500.4340 **TERMINATION OF MFIP.**

Subpart 1. **Termination of MFIP.** This subpart is necessary to establish a process for discontinuing the MFIP program in the event of major and unpredicted costs. Minnesota Statutes, section 256.031, subdivision 3 authorizes the MFIP program and requires certain notices before termination of the program. This subpart is reasonable because it is consistent with Minnesota Statutes, section 256.031, subdivision 3, title 7, United States Code, chapter 51, section 2031, and title 42, United States Code, chapter 7, subchapter IV, part A, section 602 note on Demonstration of Effectiveness of Minnesota Family Investment Plan.

Subp. 2. **Notice to participants.** This subpart requires the Commissioner to provide written notice to participants when MFIP is terminated. This subpart is necessary because there are significant differences between the benefits under MFIP versus other public assistance programs. Therefore, participants need to know when MFIP is being terminated. This subpart is reasonable because it informs participants of actions that could potentially affect the amount of the assistance grant.

Subp. 3. **Conversion to eligible assistance programs.** This subpart is necessary to inform local agencies that if MFIP is terminated they must convert assistance units who were receiving MFIP and who are eligible for other public assistance programs to those programs for which the assistance unit is eligible. This subpart is reasonable because it

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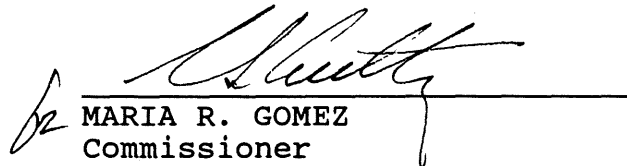
ensures MFIP participants access to other public assistance programs, if eligible, should MFIP be terminated.

EFFECTIVE DATE: The effective date of the rule is necessary to indicated the beginning of the MFIP field trial. The effective date of April 1, 1994, is reasonable because Minnesota Laws 1991, chapter 292, article 5, section 85, subdivision 1 and Minnesota Laws 1992, chapter 513, article 8, section 58 direct the Commissioner to implement the Minnesota Family Investment Plan field trials beginning April 1, 1994.

EXPERT WITNESSES:

If this rule should go to public hearing, the Department will have Myra Segal, an outside expert witness, testify on its behalf.

DATE: 12/22/93



MARIA R. GOMEZ
Commissioner