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**SHELTERED EMPLOYMENT: A REPORT
To The
MINNESOTA LEGISLATURE
January 1984**

REPORT TO LEGISLATURE
REGARDING LONG-TERM SHELTERED EMPLOYMENT/WORK ACTIVITY RIDER

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EXECUTIVE SUMMARY

During the 1983 legislative session a rider was added to the Health, Welfare, and Corrections appropriations bill requiring sheltered workshops receiving funds from the Department of Economic Security to: (a) provide sheltered workers a grievance procedure ending in final and binding arbitration, (b) provide fundamental personnel benefits and (c) pay wages to sheltered workers pursuant to federal laws-governing the payment of sub-minimum wages. The rider also directed that a written report describing compliance with the requirements of the rider and a review of sheltered workshop operations be submitted to the chairs of the House Appropriations Committee and the Senate Finance Committee.

The Department's Division of Vocational Rehabilitation (DVR) is charged with implementing the provisions of the rider. Because of potential impact on the 5500 sheltered workers as well as sheltered workshops, DVR sought and obtained input on the implementation of the rider from sheltered workshops' staff, advocate groups, the Developmental Disabilities program and the Division's Consumer Advisory Council.

Implementation activities were divided into those that could be accomplished immediately and those that would best be accomplished after further study and communication among all interested parties.

The Division required all workshops to provide assurances that they met the technical requirements of the rider. Workshops were required to provide these assurances prior to the time that State Fiscal Year 1984 funds were allocated (10-1-83). Copies of grievance procedures were obtained from all workshops in order to ensure that they had grievance procedures in place which ended in binding arbitration. Copies of personnel policies were obtained and reviewed to ensure that those personnel benefits specified in the rider were provided. Finally, all workshops certified to DVR that their sheltered worker wage payments were in compliance with federal law.

Advocate groups expressed concern about how the grievance provisions of the rider would be implemented in sheltered workshops. In order to ensure that the intent of this provision was fully met, further action was necessary.

The Division established an ad hoc task force to address the concerns expressed, as well as to offer in-depth advice on full implementation of the rider. An 18 member task force was assembled consisting of representatives of workshops and advocate groups. (See Appendix J, Page 25, for membership of the task force.) Dan McAlees, Ph.D., Director of the Research and Training Center at Stout State University, Menomonie, Wisconsin, was recruited to serve as task force convener and chair. Dr. McAlees has served as a consultant to, and led workshops for, rehabilitation service providers, advocates, and consumer organizations. In 1981 a national survey of service providers, consumers and advocates identified Dr. McAlees as one of ten outstanding leaders in the field of rehabilitation.

The task force first met in October, 1983. In meetings the task force members discussed extensively the three segments of the rider, and reached a high degree of consensus on recommendations to DVR for additional implementation actions needed. At its last meeting on January 11, 1984, the task force concluded action on its recommendations to the Division.

The level of commitment and spirit of cooperation exhibited by the task force enabled them to reach a consensus, demonstrating that, given the opportunity, "stakeholder" groups which had very different perspectives could come together for purposes of improving the program. The recommendations of the task force are sound and will be implemented in 1984. A summary of the task force's recommendations and a timetable for the Division's planned implementation actions in 1984 are found in Section II, Pages 6-11.

The Division is also undertaking a thorough reassessment of the mission and direction of the long-term sheltered employment program. DVR is establishing a task force to assist in this reassessment. The task force will recommend needed changes to meet changing job market conditions, changing consumer expectations of the program, and changes in workplace technology. This task force will also address related issues identified by the ad hoc rider task force as requiring further study.

Because these issues require deliberation by individuals representing a broad range of viewpoints and expertise, the task force will include representatives from consumer groups, sheltered workshop staffs and boards, business, labor, education and other interested parties.

This task force will conclude its work no later than October 1, 1984. A report on the final implementation of the rider provisions, as well as the recommendations of this task force, will be included in the January, 1985, annual report on the long-term sheltered employment program.

SECTION I
INTRODUCTION

REPORT TO LEGISLATURE
REGARDING LONG-TERM SHELTERED EMPLOYMENT/WORK ACTIVITY RIDER

During the 1983 legislative session, a rider relating to Minnesota's Long-Term Sheltered Employment Program, was added to the Health, Welfare and Corrections appropriations bill. The rider reads as follows:

"Long-term sheltered workshops that receive funding through the department of economic security for long-term sheltered work operations shall: (a) provide sheltered workers a grievance procedure having final and binding arbitration before a neutral third party mutually acceptable to the parties involved as the final step; (b) provide long-term sheltered workers with fundamental personnel benefits including, but not limited to, paid sick, vacation, and holiday leave; and (c) provide to workers wages certified pursuant to the sub-minimum wage provision of the Fair Labor Standards Act, United States Code, title 29, sections 201 to 219, as amended through December 31, 1982, that are proportionately commensurate to prevailing wages in the vicinity for similar jobs. Beginning in January, 1984, the commissioner of economic security shall annually provide a report to the chairs of the house appropriations and senate finance committees on the operation of the long-term sheltered workshops including information on compliance with these requirements."

Section II describes the specific actions taken by the Division of Vocational Rehabilitation in implementing the rider provisions and outlines implementation activities to be undertaken during 1984.

The legislation requires, in addition to a summary of compliance activities, a report on the "operation of workshops". Therefore, Section III provides information describing the past and present operation of the Long-Term Sheltered Work Program in Minnesota and describes its relationship to programs external to the Department which also serve persons with severe disabilities.

Section IV provides a description of the sheltered workshop program operation in relation to the Department's Division of Vocational Rehabilitation. It also provides summary information about the number of persons served and how the program is financed.

SECTION II
DVR'S IMPLEMENTATION OF THE RIDER

IMPLEMENTATION ACTIONS

The 1983 rider required workshops to: (A) provide sheltered workers a grievance procedure having final and binding arbitration before a neutral third party mutually acceptable to the parties involved as the final step; (B) provide long-term sheltered workers with fundamental personnel benefits including, but not limited to, paid sick, vacation, and holiday leave; and (C) provide to workers wages certified pursuant to the sub-minimum wage provision of the Fair Labor Standards Act, United States Code, title 29, sections 201 to 219, as amended through December 31, 1982, that are proportionately commensurate to prevailing wages in the vicinity for similar jobs.

October 1, 1983 was selected as the deadline for workshops to be in compliance with the technical requirements of this rider. Before the deadline, the affected long-term sheltered workshops each provided DVR with written verifications of their compliance with the sub-minimum wage provision of the Fair Labor Standards Act of 1938, as amended; all workshops provided sheltered workers with a minimum of the three benefits named in the rider as determined by DVR from a review of their personnel policies; and all workshops adopted grievance procedures with binding arbitration before a neutral third party.

In July, DVR solicited input on the rider's implementation from organizations and groups concerned with the sheltered employment program. Some of these groups expressed concern that the intent of the rider would not be fulfilled through the Division's actions. They requested an opportunity to review the impact of the rider and its implementation with workshop directors and other interested parties.

The Division convened a task force consisting of representatives from advocacy organizations and LTSE providers. The mission of the task force was to make recommendations to develop Division standards for implementing the three requirements specified in the rider: provision of grievance procedures with binding arbitration, provision of "fundamental" personnel benefits, and certification of wage determination in accordance with federal regulations.

The segments of the rider; the task force's recommendations; and the Division's implementation plan and schedule are stated below.

SEGMENT A OF RIDER

Provide sheltered workers a grievance procedure having final and binding arbitration before a neutral third party mutually acceptable to the parties involved as the final step;

RECOMMENDATIONS:

1. That DVR use the task force's "Criteria for Determining Whether a Grievance Procedure Meets the Requirements of the 1983 Appropriations Rider" (Appendix J, pages 89-91) as a standard for approving individual workshop grievance procedures. (unanimous approval)

DVR completely agrees with this recommendation and will implement it according to the following schedule:

February 17, 1984	DVR will notify workshops of new mandatory guidelines for grievance procedures.
April 2, 1984	DVR will complete technical assistance to workshops and review revised grievance procedures.
April 2 - July 1, 1984	DVR will conduct compliance reviews for all workshops. These will be on-site reviews.
October 1, 1984	Funding will be provided to workshops in compliance.

2. That DVR seek to establish a fund to reimburse arbitration expenses incurred when a sheltered worker is assessed fees as part of the arbitration judgment. The worker could be assessed fees only in accordance with #15 of the Criteria. (Appendix J, page 91). It further recommends that the Division seek legislative authority to establish such a fund and appropriations necessary for the fund. This fund should be in addition to the regular appropriations so that the existing workshop program is not jeopardized.

DVR agrees that this recommendation is desirable and concurs in principle with its aims. DVR will explore this matter further.

SEGMENT B OF RIDER

Provide long-term sheltered workers with fundamental personnel benefits including, but not limited to, paid sick, vacation, and holiday leave;

RECOMMENDATIONS:

1. That certain fundamental personnel benefits for long-term sheltered workers (vacation, sick leave, holiday, military leave, maternity leave, jury duty, overtime pay, voting time, social security, and workers' compensation) be provided on a basis consistent with standard J20 of the CARF standards (Appendix I, page 21) or on the same basis provided the staff of the workshop (taking into account differences in the length of working day) whichever would provide greater benefits.

This policy should be implemented immediately unless the workshop can demonstrate that current financial resources and those resources which can reasonably be expected to be available are insufficient to pay for all, or a portion of, the projected increased cost of the increased benefits, in which case full implementation of the policy may be deferred up to October 1, 1985. (approved with one dissention)

DVR agrees that this is an appropriate recommendation and will implement it as follows:

February 17, 1984

DVR will notify workshops of new standards for personnel benefits and will request workshops to submit updated personnel policies.

April 2, 1984

Copies of updated personnel policies must be received by DVR to commence the on-site review process.

April 2 - July 1, 1984

DVR will provide technical assistance to workshops and conduct on-site compliance reviews. If immediate compliance is not possible, a compliance plan must be submitted.

October 1, 1984

DVR will notify workshops of acceptance or necessary modification to achieve compliance.

October 1, 1985

Funding will be provided to workshops in compliance.

SEGMENT C OF RIDER

Provide to workers wages certified pursuant to the sub-minimum wage provision of the Fair Labor Standards Act, United States Code, title 29, sections 201 to 219, as amended through December 31, 1982, that are proportionately commensurate to prevailing wages in the vicinity for similar jobs.

RECOMMENDATIONS:

1. That the Division of Vocational Rehabilitation request in its 1985-1987 budget, the staff and dollars necessary to: (1) biennially review the process that is used by sheltered workers under Federal Law to set workers' wages; and (2) provide a mechanism to respond to individual worker's complaints regarding wages. DVR should also request the attending legislation that would be needed to fulfill the intent of this motion. (approved with two abstentions)

DVR agrees that this recommendation is desirable and will attempt to implement it according to the following schedule:

By July 1, 1984

DVR will explore the feasibility of developing a cooperative agreement with the Department of Labor, Wage and Hour Division, to perform this function.

By August 31, 1984

If a cooperative agreement and funding arrangement with D.O.L. is not feasible, DVR will develop an alternate plan to perform the monitoring function and request funding in the 1985-1987 Division budget.

ADDITIONAL RECOMMENDATIONS AND RECOMMENDATIONS FOR FURTHER STUDY:

1. That the Division of Vocational Rehabilitation examine the provisions of the rider in terms of their applicability to the population of workers in work activity centers throughout the state.

At the discretion of the Division, this issue can be referred to another Division of Vocational Rehabilitation task force. (unanimous approval)

DVR will convene a task force to study major issues in the Long-Term Sheltered Employment Program, including these recommendations. An interim report on task force activities will be provided to the Legislature in March, 1984, and a summary report will be provided in October, 1984.

2. That an Implementation and Review Committee consisting of seven members of the task force be established to work with the Division in implementing task force recommendations. (unanimous approval)

The Implementation and Review Committee will serve as a resource for the Division on a continuing basis.

3. That the issue of providing medical insurance benefits be referred to another Division of Vocational Rehabilitation task force for study and resolution so that it could become a fundamental benefit by July 1, 1985. (majority approved)

DVR will convene a task force to study major issues in the Long-Term Sheltered Employment Program, including these recommendations. An interim report on task force activities will be provided to the Legislature in March, 1984, and a summary report will be provided in October, 1984.

4. That the issue of unemployment benefits be referred to another Division of Vocational Rehabilitation task force for study of (a) the fiscal impact on facilities; and (b) the legal problems encountered in relation to level of client/worker income. (committee consensus)

DVR will convene a task force to study major issues in the Long-Term Sheltered Employment Program, including these recommendations. An interim report on task force activities will be provided to the Legislature in March, 1984, and a summary report will be provided in October, 1984.

5. That the issue of cost differential for providing services to clients/workers who move quickly through the program as opposed to those who do not, be referred for study to another Division of Vocational Rehabilitation task force. (committee consensus)

DVR will convene a task force to study major issues in the Long-Term Sheltered Employment Program, including these recommendations. An interim report on task force activities will be provided to the Legislature in March, 1984, and a summary report will be provided in October, 1984.

DVR ACTION TIMETABLE - 1984

The following timetable summarizes the action steps DVR will take in 1984:

February 17, 1984

DVR will notify workshops of new mandatory guidelines for grievance procedures.

DVR will notify workshops of new standards for personnel benefits and will request workshops to submit updated personnel policies.

DVR will begin to explore a cooperative process with the Department of Labor concerning wage monitoring.

April 2, 1984

DVR will complete technical assistance to workshops and review revised grievance procedures.

Copies of updated personnel policies must be received by DVR to commence on-site review process.

April 2 - July 1, 1984

DVR will conduct grievance procedure compliance reviews for all workshops. These will be on-site reviews.

DVR will provide technical assistance to workshops and conduct on-site compliance reviews of personnel benefits. If immediate compliance is not possible, a compliance plan must be submitted.

By July 1, 1984

DVR will explore the feasibility of developing a cooperative agreement with the Department of Labor, Wage and Hour Division, to perform this wage monitoring function.

By August 31, 1984

If a cooperative agreement and funding arrangement with D.O.L. is not feasible, DVR will develop an alternate plan to perform the wage monitoring function and request funding in the 1985-1987 Division budget.

October 1, 1984

Funding will be provided to workshops in compliance with grievance procedures.

DVR will notify workshops of acceptance or necessary modification to achieve compliance concerning personnel benefits.

October 1, 1985

Funding will be provided to workshops in compliance concerning personnel benefits.

STATEMENT OF IMPACT

Sheltered workers, sheltered workshops and the Division of Vocational Rehabilitation are the three parties who are, and will continue to be, most affected by implementation of the rider. An analysis of the full financial impact cannot be completed, however, until all feasible recommendations are operational and data on which to base projections is available. In the 1985 Department of Economic Security annual report on the Long-Term Sheltered Employment Program, an impact statement and full cost analysis will be provided.

Potential gains and losses to the affected parties are discussed below.

Sheltered workers will gain financially from increased personnel benefits and potential wage adjustments. They will gain added control over their working conditions through grievance procedures with binding arbitration. For this benefit they may, in certain cases, be financially responsible for a portion of arbitration fees.

Sheltered workshops will experience increased costs from providing more personnel benefits.

Losses from arbitration will be incurred. (Since October 1, 1983, when the rider was implemented, no grievance cases have been brought to final arbitration. Currently, one case is very likely to proceed to arbitration).

Workshops will also experience losses in staff time due to arbitration proceedings, and will incur expenses for staff and/or sheltered worker training in arbitration procedures.

State (DVR) If the state assumes a role in monitoring wage payment compliance as recommended by the task force, potential costs will vary according to arrangements made with the Department of Labor. Potentially, two additional staff for wage/benefit monitoring will be needed at a cost of about \$60,000. There will also be support costs of about \$1,000 for task force maintenance.

SUMMARY OF TASK FORCE DISCUSSIONS

The task force consisted of 18 representatives, ten from statewide consumer advocacy organizations and eight from sheltered workshops. Advocate organizations invited to participate were Advocating for Change Together, Minnesota Association for Retarded Citizens, Minnesota Epilepsy League, United Cerebral Palsy, Mental Health Advocates Coalition, Mental Health Advocates of Minnesota, Legal Advocacy for Developmental Disabilities and the Consumer Advisory Council. Dr. Dan McAlees, Director of the Research and Training Center at the University of Wisconsin-Stout in Menomonie, Wisconsin, served as chairperson. He was selected as a third party whose service could assure maximum impartiality.

The primary issues discussed in the first five task force meetings were: (a) development of criteria for determining adequacy of grievance procedures; (b) definition of grievable issues; (c) payment of arbitration fees; (d) definition of fundamental benefits; and (e) establishment of a base for providing fundamental benefits.

The task force determined it would be unrealistic to implement one standard grievance procedure across the state. Therefore, they chose to develop a set of minimum criteria that DVR could use in determining whether workshops are in compliance with the intent of the rider. After extensive discussion and a conference with the MARF legal counsel, a list of 15 criteria was developed and unanimously recommended. (Appendix J, pages 88-90). These criteria cover, among other items: definitions; availability of worker assistance in the grievance process; guidelines for establishing steps in individual workshop's procedures; rights of the arbitrator; and allocation of arbitration expenses.

A major factor in the criteria and one of the most difficult to resolve is related to guidelines for workshops' personnel policies. Grievance procedures are typically part of an employment contract and in sheltered workshops, there is no comprehensive contract. The task force, therefore, tried to establish minimum criteria that workshops must meet in writing their personnel policies related to grievance procedures. The intent was to assure a fair scope of issues that could be defined as grievable without interfering with the workshop's ability to carry out its rehabilitation programs.

The foreseeable high cost of arbitration expenses resulted in a recommendation that DVR seek to establish a fund to assist workers in paying costs assessed to them. Such a fund should not be created to the financial detriment of the existing program.

The task force estimated the cost of an arbitration could range from \$1,500 - \$2,000. This represents a significant financial risk to both workshop and worker. There was concern that workers, whose resources are limited, might forfeit their right to grieve rather than take this financial risk. The task force also believed it would not be fair if the workshops had to bear all or most of the cost for the worker in cases where the workshop was found not at fault. They decided that workers should bear some responsibility if they have financial resources; however, the individual worker's responsibility should not exceed 50 percent of the cost. (Criteria #15, Appendix J, page 90). Workshops would pay the entire cost if they are found in error.

The task force recommendation regarding fundamental personnel benefits was made with regard to the following benefits: paid holiday, vacation, sick leave, maternity leave, military leave, jury duty, voting time, overtime pay, social security, and workers' compensation. These benefits were identified because they are either named in the rider, required by law, or offered as a general business practice. Medical insurance and unemployment insurance, two additional benefits commonly afforded, were discussed at length. In the discussion, complex issues were identified, such as cost to the workshops, potential overlap of medical and income maintenance provided by social service programs, and level of worker wages in regard to unemployment insurance eligibility. Because of their complexity, both of these issues were referred to a future task force for more thorough study.

In deciding the level at which benefits should be provided, the committee debated the principle of equity and the practice of providing sheltered workers benefits on a scale different from workshop staff. Factors related to the differential were discussed. These included cost of providing benefits, implications of "client" status, and incentives for leaving the workshop for jobs in competitive business.

The resulting recommendation was that benefits be provided either at the level of existing national accreditation standards or in proportion to workshop staff based on the number of hours worked, depending upon which provision would better serve the workers. Also, since an increase in benefits will increase cost to the workshops, a phase-in period is recommended for workshops in cases where the cost would cause excessive hardship.

The task force decided there was a strong need for a state wage monitoring role since the federal Wage and Hour Division audits workshops less than every three years. The members, therefore, recommended that the Division establish a process for review. DVR agreed to explore the possibility of establishing an arrangement with the Department of Labor.

The task force also recommended establishment of a mechanism to respond to individual worker wage complaints in a more timely fashion.

A final recommendation was to establish an Implementation and Review Committee derived from the Rider Task Force to assist the Division in implementing the task force recommendations.

SECTION III
AN OVERVIEW OF THE
LONG-TERM SHELTERED EMPLOYMENT PROGRAM

HISTORY OF THE PROGRAM

Sheltered employment for persons with disabilities has been offered in Minnesota since the early years of this century. Despite a small growth in these programs after World War II, the number of workshops and the scope of their services were limited until 1965 when the state legislation, formally establishing and funding this program, was passed. That legislation, now incorporated in M.S. 129A, was one of the first of its kind in the Nation. It provided direct state support to sheltered workshops and authorized Minnesota counties to do likewise.

At its inception, the program had one primary purpose, and that was to provide employment for severely disabled individuals (primarily mentally handicapped) who were unable to work in the competitive labor market. During the 1960's, sheltered workshops were characterized by inadequate physical facilities, limited variety and amount of work available and a limited number of professional staff support to address the concerns of improved work performance. From 1965 to the mid-1970's, DVR utilized all available resources to address issues, as well as to expand the sheltered workshop program to communities or parts of the state not having access to these services. This was a period of growth, and major strides were made in improved worker wages as well as the overall quality of the work environment.

As the program developed, and individuals whose disabilities were more severe began to enter sheltered employment, it became apparent that a need existed for a program that would offer a mix of sheltered employment and other developmental services. The Long-Term Sheltered Workshop Law was amended in 1973 to include provision for support of work activity programs. Another period of program growth followed directed at improved services for this more severely disabled population and frequently involved the joint participation of Developmental Achievement Centers (DACs).

In addition to the substantial growth in state support that took place during the 1970's, there was a corresponding increase in financial support from other sources. Of particular significance was the development of subcontract and sales income as the primary source of revenue for sheltered employment programs. This

was a direct result of improvements in production capability of the workshops. County support also increased dramatically during these years.

The following statistical highlights demonstrate the growth and changes that have taken place since passage of the law in 1965.

In 1965, there were 12 workshops serving approximately 350 disabled persons. The following statistics reflect the impact of the program today:

- 28 workshops serving clients in 105 program locations;
- Over 5,500 individuals served;
- \$6,253,570 in sheltered employee wages paid in 1983;
- Subcontract and sales revenue of \$14,980,932;
- Total cost for all programs of \$27,105,616;
- 425 staff employed in sheltered employment.

CHANGING NEEDS

The previous section described some of the changes that have taken place in Minnesota's Sheltered Employment and Work Activity Program since its inception. There will continue to be changes, quite likely at an accelerated rate during the coming years, in response to the challenges presented by economic trends, improved attitudes toward the competitive employment of persons with disabilities and workers' expectations of the workplace.

Work itself is changing. The state and national economies are moving rapidly away from a production-oriented work force to one based on service industries and information technology. Service jobs of all kinds are growing at a faster rate than any other occupational area. Sheltered workshops will have to adjust to new demands as they solicit work contracts. Those contracts will be focused in the areas of high technology in order for the workshops to provide the work experience and training needed by sheltered workers in a move to competitive employment.

The competitive employment environment is also changing. Employers are increasingly willing to hire severely disabled persons and make the necessary accom-

modations -- such as flexible work hours -- to meet their needs. In addition, affirmative action and non-discrimination legislation, reflecting changing public attitudes about people with disabilities, has encouraged employers to fill competitive jobs with handicapped workers. Advances in rehabilitation technologies, including rehabilitation engineering, have also provided further opportunities for individuals whose disabilities might have precluded competitive employment in previous years. As a result of this, the state's sheltered workshops are serving a more severely disabled population, with more impediments to competitive employment, than they did in the past.

Perceptions and expectations of the Long-Term Sheltered Employment and Work Activity Program have changed as the program and the social and economic environment in which it operates have changed. Because it is becoming less difficult for persons with disabilities to obtain competitive employment, advocates for persons with disabilities expect expanded efforts for placement of sheltered employees in competitive work. Those advocates also urge that the sheltered workshop environment be modified to reflect current practices in competitive employment including expanded benefits, more control over the work environment and greater participation in the management of the workshop.

PROGRAM STAKEHOLDERS

When the Long-Term Sheltered Employment/Work Activity Program began, a limited number of groups were concerned about its development. Today, in part as a result of its growth in size, scope and funding level, many groups have a legitimate concern with the direction that the program takes.

The following paragraphs identify the principal groups interested in the program and summarize the chief concerns of each group:

- ° Severely disabled persons - Individuals who are severely disabled and unable to enter competitive employment are the beneficiaries of the program. They seek opportunities to increase their earnings, to prepare for better jobs, and to obtain competitive employment when possible.

- Division of Vocational Rehabilitation - DVR manages the LTSE/WA Program, establishes standards for workshops, certifies workshops, and monitors workshops' programs to assure compliance with standards. DVR is concerned that the LTSE/WA Program meets the needs of its clients.
- Sheltered Workshop Boards and Staffs - The workshops' board and staff members plan and deliver program services to clients. They also are concerned that the program meets the needs of its clients.
- Parents of Sheltered Workshop/Work Activity Participants - Parents have legal and personal responsibility for the lives of many sheltered workers. They want programs that provide their children with meaningful work, opportunities to earn money, and preparation for competitive employment.
- County Governments - County governments contribute financially to LTSE/WA Programs as authorized in M.S. 129A. They also have legal responsibilities for those sheltered workers who are wards of the state.
- Additional Providers of Services to Disabled Persons - Residential facilities, developmental achievement centers, semi-independent living programs and other service providers provide supporting services to many sheltered workers. They are concerned with the program because the availability of sheltered employment or work activity directly affects the services they provide.
- Business Community - Businesses purchase goods and services from sheltered workshops, and they expect quality products at competitive prices. Over 60 percent of the income of the workshops is generated by contracts with businesses. In addition, businesses often recognize opportunities for community service in the workshop program. Members of the business community contribute their time and skills to service on workshop boards.
- Additional State Government Agencies - State agencies, including the Department of Public Welfare, the Department of Health, and the Develop-

mental Disabilities Council all manage programs that affect the persons served in sheltered workshops and work activity programs.

- ° Minnesota Legislature - Acting on behalf of the citizens of the state, the Legislature authorizes the program, funds it, and oversees its operation to ensure that citizens receive services they need at reasonable costs.

As sheltered workshops and DVR plan the future of the LTSE/WA Program to meet clients' needs, interests of all of the above groups must be carefully considered and their concerns incorporated into future planning and implementation.

THE FUTURE OF THE LTSE/WA PROGRAM

As previously outlined in this section, the Division recognizes the program must adapt to the future. This program has well served disabled persons in the past, and continues to do so. However, changing times require program modifications.

The Division views the following changes as needed:

COMPETITIVE PLACEMENT -- Workshops need to make greater efforts at finding competitive jobs for sheltered workers. This can be accomplished by modifying existing program standards and by communicating to workshops the expectation that greater efforts at job placement is needed. At the same time, innovative approaches to sheltered work need to be tried. Incentive funding to assist workshops in these efforts will be essential. Additional participation by the Division's rehabilitation counselors will also be important.

"NORMALIZED" WORKING ENVIRONMENTS -- Despite an expanded job placement effort by workshops and DVR, there will remain a significant number of disabled persons for whom sheltered work will be their only available option for productive activity. For those individuals, workshops should tailor the working environment to that which is experienced in competitive employment or, in other words, "normalize" the environment. This means added personnel benefits, a voice in the management of the workshop, and perhaps fewer supportive

services. In order to accomplish this, the DVR, advocate groups, and other groups interested in sheltered work must collaborate in planning for normalizing the work environment. Very likely, this change will require additional funding.

WORKSHOP RETOOLING -- In order for both increased placement and normalization to be carried out, workshops must be provided the resources to adjust to new job demands in the marketplace. To do this, they will need to redesign their work programs. Changing the work program involves changing existing machinery, modifying buildings and acquiring the know-how to produce goods and services, using sheltered workers, that will be needed in the future. Added funds from both public and private sources will be essential for this to be achieved.

MANAGEMENT INFORMATION SYSTEM NEEDED -- While the Division obtains and retains a great deal of information on the program, there are gaps. A Long-Term Sheltered Employment/Work Activity Management Information System is needed. The Division is currently working to meet this need.

SECTION IV
LONG-TERM SHELTERED WORKSHOP SYSTEM AND RELATIONSHIPS

HOW DISABLED PERSONS ENTER REHABILITATION FACILITIES AND SHELTERED EMPLOYMENT

This section describes the way persons enter the Long-Term Sheltered Employment/Work Activity system. Long-term sheltered employment and/or work activity are programs of service provided by 28 of the 36 rehabilitation facilities in Minnesota. It is essential to maintain the distinction between "long-term sheltered employment/work activity," which are programs of service, and "rehabilitation facilities," the entities which provide those services. Appendix A contains the federal definitions of "rehabilitation facility," and the State definitions of "long-term sheltered workshop" and "work activity program." The chart on Page G-18 illustrates the programs offered by rehabilitation facilities, and the funding sources for these programs.

The following material describes the way persons enter the Long-term Sheltered Employment/Work Activity system.

WHY DISABLED PERSONS ARE REFERRED TO REHABILITATION FACILITIES

The Division of Vocational Rehabilitation refers clients to rehabilitation facilities when the DVR counselor, serving an individual client, determines that he/she has special problems preventing him/her from entering or completing a rehabilitation plan. For example, the client's abilities and limitations may be difficult to evaluate from the perspective of job opportunities. The person's disability or combination of disabilities may be so profound that direct evaluation, utilizing real or simulated work, is needed to determine job possibilities.

FACILITY SERVICES

A client referred to a rehabilitation facility first receives a VOCATIONAL EVALUATION to determine his/her job potential. The vocational evaluation, in some instances, can provide potential employers with evidence that a client is able to perform a specific job. Occasionally, the client can enter a job training program following vocational evaluation.

Most often, however, the individual will need WORK ADJUSTMENT TRAINING. This is an extended training service designed to help the disabled person learn effective job habits and attitudes, or specific job skills, through simulated or productive work tasks. Work Adjustment Training may last from a few weeks to one year. The referring DVR counselor monitors the clients' progress at the facility and continues the counseling relationship with the client. The DVR counselor, after considering the recommendations of the facility counselor who has had daily experience with the client's progress, determines when work adjustment training will be terminated.

The DVR counselor and the disabled person mutually decide the future course of action for the rehabilitation plan. If the disabled person has work behaviors or other problems that prohibit competitive job placement, placement in a LONG-TERM SHELTERED EMPLOYMENT or WORK ACTIVITY STATION may be the decided course of action. When an individual is placed in an LTSE station for at least 60 days, and the client and workshop staff are both satisfied with the placement, the DVR counselor would close the case file. As is the case with persons placed in competitive employment, the DVR counselor is available to reopen the client's case should the person need further services.

The rehabilitation facility is responsible for periodically reviewing the progress of each sheltered worker to determine if placement in competitive employment is possible.

DVR purchases vocational evaluation, work adjustment training, placement, and other services on a "fee for service" basis. The length of time a client spends in evaluation or training varies according to the needs of each individual. Federal/State Vocational Rehabilitation funds are used to pay the fees. The DVR negotiates an operating agreement with each rehabilitation facility which defines the fee schedule for the services which can be purchased by DVR counselors.

SHELTERED WORKERS AND DVR

DVR is responsible for ensuring that sheltered workers are treated fairly and that the programs serving them meet legal, ethical and professional standards. The

Division uses the certification process to ensure that these standards are met. To guarantee fair treatment of sheltered workers, the Division expanded the services of the DVR Ombudsman Project to include sheltered workers in 1977. Ombudsman Project staff serve as neutral third parties for the purpose of investigating sheltered workers' problems and complaints, and negotiating solutions agreeable to all parties.

SHELTERED WORKSHOPS AND DVR

DVR's relationship to sheltered workshops includes:

- ° STANDARDS, CERTIFICATION AND ACCREDITATION

DVR establishes standards for the Long-Term Sheltered Employment/Work Activity Program. Every two years, each Sheltered Employment Program in the State is reviewed for compliance with the established standards. If the workshops are in compliance, DVR issues a certificate.

The Division's LTSE/WA standards have been promulgated as state rules, and cover matters relating to program administration, health and safety, program standards, and compliance with state law. Only certified sheltered workshops are eligible to receive LTSE/WA funds appropriated by the State Legislature to subsidize workshops' program costs.

The Division requires sheltered workshops to be accredited by an appropriate national accrediting body as a pre-condition to receiving a Minnesota LTSE/WA certificate. All sheltered workshops in Minnesota must meet this requirement by July 1, 1984. This ensures that sheltered workshops in Minnesota meet nationally established standards for similar programs.

Minnesota DVR's standards are in addition to the national standards as Minnesota Law and regulations governing workshops are more detailed. The Division's current review document is being revised.

- ° FUNDING

The Division administers funds appropriated by the Minnesota Legislature to support and subsidize this program. DVR's administrative costs for the Long-

Term Sheltered Employment Program averaged approximately 2.8 percent of the funds appropriated for 1983. State law provides that appropriated funds will be used to subsidize up to 75 percent of the costs of the LTSE/WA program operated by a rehabilitation facility. Thus, the funding is provided to subsidize program costs rather than the individual sheltered worker.

State law also provides that if the funds appropriated are not sufficient to subsidize the program at the 75 percent level authorized, the funds that are appropriated shall be allocated on a proportional basis. Workshops are required to submit budgets and actual program costs with their application for funding.

The Division annually allocates funds appropriated in accordance with the provisions of the State Law. Once an individual workshop's allocation is determined, a State contract is executed, and payments are advanced to each workshop quarterly. The Division also monitors performance and program costs by requiring sheltered workshops to submit detailed program and financial information quarterly.

° REFERRAL RELATIONSHIPS

As indicated earlier in this report, the Division also maintains an informal relationship with rehabilitation facilities and sheltered employment programs through the Vocational Rehabilitation counselors located in field offices throughout the State. They refer persons with severe disabilities needing services of Vocational Evaluation, and Work Adjustment Training to rehabilitation facilities best suited to evaluate or train a particular client's needs. Some of the persons referred will remain at those or other workshops to become sheltered employees. In 1983, approximately one-third of those referred entered sheltered employment.

° SPECIAL GRANT RELATIONSHIPS

The Federal Rehabilitation Act gives the Division discretion to use federal Vocational Rehabilitation funds in making grants to rehabilitation facilities for the purpose of establishing or improving existing rehabilitation programs.

Federal regulations define the purposes for which these grants may be made, how they must be managed and the required reports to federal monitoring agencies. Generally, these grants may be used by rehabilitation facilities to expand programs, remodel buildings used for rehabilitation programs, or add staff for new programs. Since all sheltered workshops meet the federal definition of "rehabilitation facility," all are potentially eligible for funds from this source.

Each year, DVR determines the amount, if any, of its federal funds that will be used for these Establishment Grants. If funds are to be used for this purpose, the DVR establishes priorities, accepts applications and makes grant awards to rehabilitation facilities. The grant priorities are in areas where the Division has determined the need for new services or modifications in existing programs. The priorities for the 1983 federal fiscal year are found in the H Appendix, Page 19 .

SHELTERED WORKSHOP OPERATIONS

° STRUCTURE

All sheltered workshops are governed by boards of directors recruited from the communities served. State law provides guidelines for the composition of work-shop boards.

Each board selects a chief administrator who in turn employs staff to carry out the mission of the workshop, as determined by the board of directors.

° FINANCING SHELTERED WORKSHOPS

The majority of the funds used to provide sheltered employment are derived from sales and subcontract income. Workshops receive this income from subcontract work from business and from the sale of products and services provided by the workshop.

Since workshops are unable to survive financially on production income alone, they solicit and receive support from private and public sources to make up any deficits.

The funds appropriated to the Division of Vocational Rehabilitation for support

of LTSE/WA Programs account for an average of 25 percent of total workshop income.

° SUBCONTRACTING BIDDING

Sheltered workshops provide services using real work as an integral part of the program. Workshops obtain this work by soliciting subcontracts from businesses; producing goods for sale; or providing specific services (such as janitorial service) needed in their communities.

In bidding on subcontracts from business, workshops calculate what it will cost them to perform the work required. Their calculations include the direct labor costs involved, the supplies and equipment needed for the work, and overhead costs. When calculating the labor costs, workshops must observe the rules of the Department of Labor, Wage and Hour Division, relating to the payment of subminimum wages. When calculating overhead costs, workshops also must observe DVR standards.

Bidding on subcontracts is a complex process. As in any bidding process, if workshops' bids are too high, they are not competitive and fail to get contracts; if their bids are too low, they fail to recover all of their costs.

° WAGE PAYMENTS

Wage payments to sheltered workers are of critical importance. The Wage and Hour Division of the U. S. Department of Labor (D.O.L.) is responsible for ensuring that workshops adhere to subminimum wage laws for sheltered workers. They audit sheltered workshops' adherence to federal laws, and can issue orders for the payment of back wages. Each workshop's wage payment system is audited by D.O.L. about every three to five years.

Federal regulations govern the wage determination process. Each workshop is required to maintain wage records and evidence relating to how wages were determined. Wages for sheltered workers are calculated on the basis of individual productivity. Workshops must determine the "prevailing wage" for any job they do, and pay their sheltered workers wages based on their productivity in relation to the prevailing wage. For instance, if the prevailing wage for a particular job is \$4/hour, and

a sheltered worker's production is 50 percent of that of a competitive worker, he/she must be paid \$2/hour.

In addition to wages, sheltered workers receive personnel benefits as described in Section II.

Sheltered workshop operations are complicated by the fact that they must provide services to persons with disabilities and must operate as businesses. Balancing the needs of work production with the needs of the client service programs is challenging.

° INNOVATIVE PROGRAMS

One of the strengths of the sheltered employment program is the ability of the State's sheltered workshops to deliver similar programs in creative ways. As private, nonprofit organizations, they have the flexibility to deliver sheltered employment programs in a manner that meets basic standards, while addressing the unique needs of the community or population they serve. A few examples of innovative programs demonstrate the diversity of services available.

- ° One facility serves only chronically mentally ill individuals.
- ° One facility serves chronically mentally ill persons through a system of residential and work services. The "clients" live together in 'lodges' and work on janitorial jobs as a group in the community.
- ° One facility provides sheltered employment exclusively in the community through regular employers.
- ° One facility provides training and marketing in the production of crafts for those too severely disabled to leave their home.
- ° Several facilities operate janitorial services for public and private organizations in their communities.
- ° Several facilities have started micro-graphics programs to microfilm records for businesses in their community.

- ° One facility has started a two-tiered program of sheltered work. Tier 1 will give very extensive support to sheltered workers in obtaining competitive employment. Tier 2 will consist of those workers for whom competitive employment is unlikely; they will be treated more as 'workers' in the usual sense.
- ° One sheltered workshop provides special help to sheltered workers through 'model workers'--non-disabled persons who work alongside the sheltered workers and serve as role models.
- ° One facility has a small sheltered work unit exclusively for multiply-handicapped deaf persons.

SUMMARY PROGRAM DATA

The following data reflect activities in the sheltered employment program for the period 10/1/82 - 9/30/83.

Individuals Served

There were 5590 disabled individuals served during the period above.

Wages Paid

The average wage paid the sheltered workers for the period above was \$1.55/hr.

Placements in Competitive Jobs

There were 83 disabled individuals placed in competitive employment.

Income and Expenses

Below are tables indicating income and expenses for all sheltered employment programs in Minnesota.

INCOME:

Subcontract and Sales	\$14,980,932	57.10%
DVR LTSE Support	6,766,833	25.79
Other Fees	11,035	.04
United Way	694,473	2.65
County Support and Fees	2,902,487	11.06
Other Income	<u>881,339</u>	<u>3.36</u>
TOTAL	<u>\$26,237,099</u>	<u>100.00%</u>

EXPENSES:

Staff Salaries	\$ 5,630,333	20.77%
Client Wages	6,253,570	23.07
Employee Benefits	510,581	1.88
Payroll Taxes	1,029,725	3.80
Production Supplies	4,027,107	14.86
Occupancy	1,884,504	6.95
Depreciation	849,795	3.14
Other Expenses	1,666,304	6.15
General and Administrative	4,086,211	15.08
Other	<u>1,167,486</u>	<u>4.30</u>
TOTAL	<u>\$27,105,616</u>	<u>100.00%</u>

APPENDIX

APPENDIX

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Rehabilitation Act of 1973

(As amended by Public Law 93-516, Public Law 94-230, and
Public Law 95-602)

DEFINITIONS

SEC. 7. For the purposes of this Act:

(11) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychiatric, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provisions of such services in the State.

MINNESOTA STATUTES

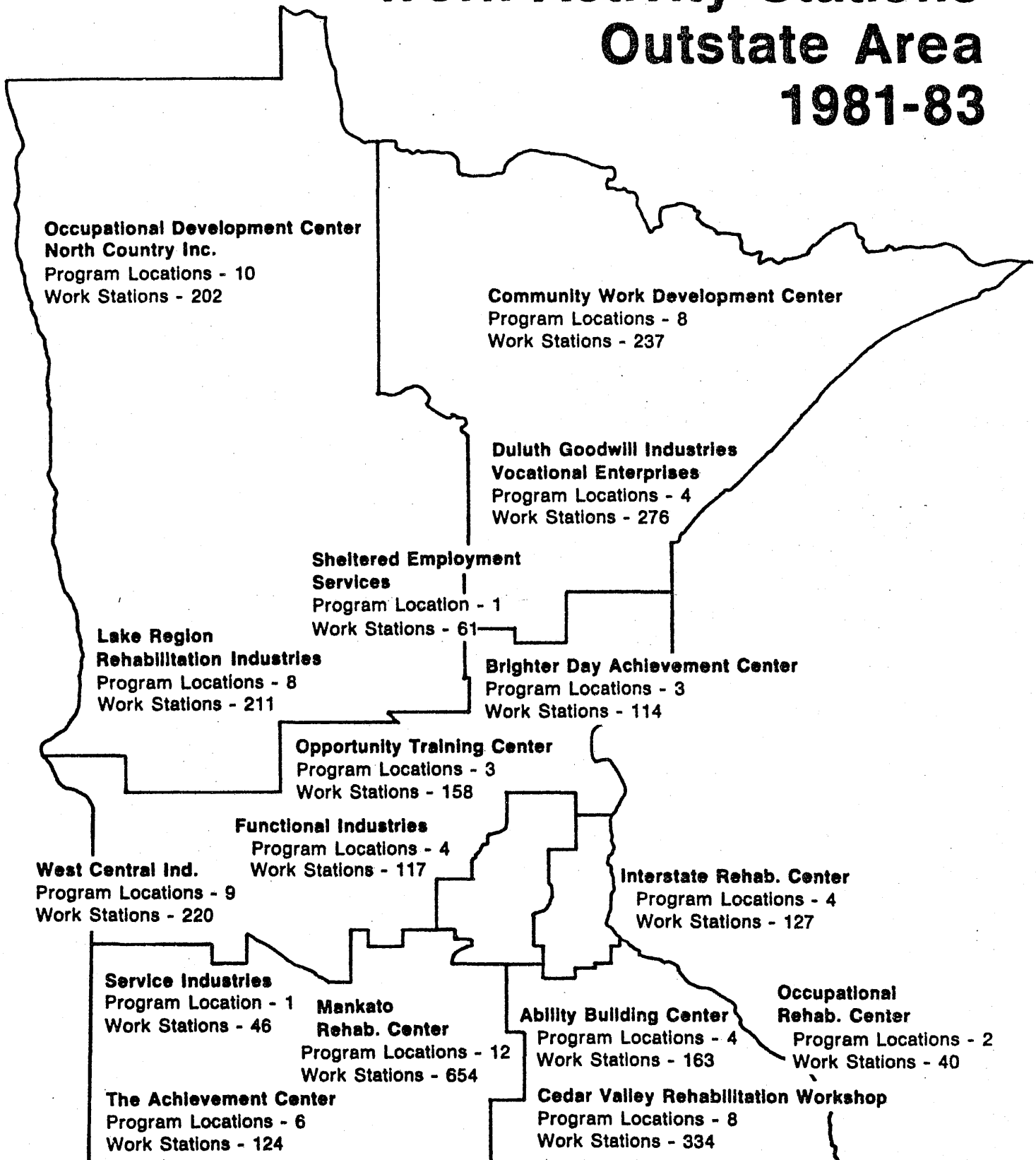
CHAPTER 129A

VOCATIONAL REHABILITATION

129A.01 DEFINITIONS.

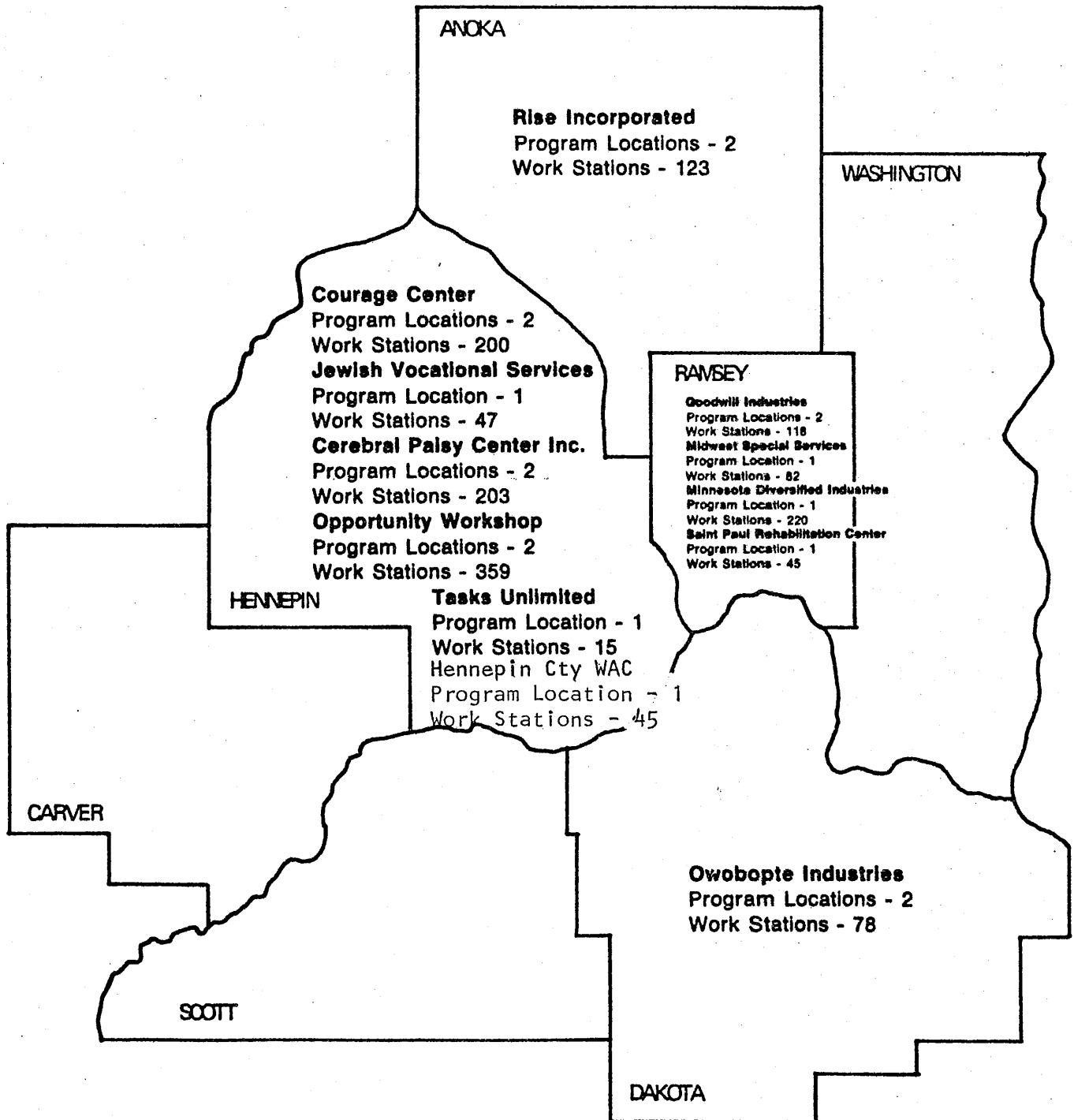
(e) "Long-term sheltered workshop" means a facility where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to those handicapped persons who, as a result of physical or mental disability, are unable to participate in competitive employment. A long-term sheltered workshop shall supply such employment (1) as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or (2) during such time as employment opportunities for them in the competitive labor market do not exist;

Long-Term Sheltered Employment/ Work Activity Stations Outstate Area 1981-83



Outstate Total - 3084
Statewide Total - 4619

Long-Term Sheltered Employment/ Work Activity Stations Metropolitan Area 1981-83



Metropolitan Total — 1535
Statewide Total — 4619

CHAPTER 129A

VOCATIONAL REHABILITATION

<p>129A.01 Definitions. 129A.02 Commissioner; consumer advisory council, staff. 129A.03 Powers and duties. 129A.04 Disability determinations; privileged information. 129A.05 Reports, disclosure.</p>	<p>129A.06 Community long-term sheltered workshops and work activity programs. 129A.07 Community long-term sheltered workshop boards. 129A.08 Commissioner's duties; long-term sheltered workshops and work activity programs. 129A.09 Expenditure of federal funds.</p>
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VOCATIONAL REHABILITATION 129A.07

129A.06 COMMUNITY LONG-TERM SHELTERED WORKSHOPS AND WORK ACTIVITY PROGRAMS.

Subdivision 1. Any city, town, county, nonprofit corporation, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community long-term sheltered workshop or work activity program. Application for assistance shall be on forms supplied by the commissioner. Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the commissioner.

Subd. 2. In order to provide the necessary funds for a long-term sheltered workshop or work activity program, the governing body of any city, town, or county may expend money which may be available for such purposes in the general fund, and may levy a tax which, except when levied by a county, shall not exceed in any one year the following amounts per capita of the population, based upon the last federal census: Cities of the first class, not to exceed ten cents per capita; cities of other than the first class, and towns, not to exceed 30 cents per capita. A tax levied pursuant to this subdivision is not a special levy as defined in section 275.50, subdivision 5, and shall be subject to the limitation provided in sections 275.51 to 275.56. Any city, town, county, or nonprofit corporation may accept gifts or grants from any source for the long term sheltered workshop or work activity program. Any money appropriated, taxed, or received as a gift or grant may be used to match funds available on a matching basis.

History: 1976 c 332 s 6; 1978 c 522 s 1

129A.07 COMMUNITY LONG-TERM SHELTERED WORKSHOP BOARDS.

Subdivision 1. Every city, town, county, nonprofit corporation, or combination thereof establishing a community long-term sheltered workshop or work activity program shall appoint a long-term sheltered workshop board of no fewer than nine members before becoming eligible for the assistance provided by sections 129A.06 to 129A.08. When any city, town, or county singly establishes such a workshop or work activity program, the board shall be appointed by the chief executive officer of the city or the chairman of the governing board of the county or town. When any combination of cities, towns, counties or nonprofit corporations establishes a workshop or work activity program, the chief executive officers of the cities, nonprofit corporations and the chairmen of the governing bodies of the counties or towns shall appoint the board. If a nonprofit corporation singly establishes a workshop or work activity program, the corporation shall appoint the board of directors. Membership on a board shall be representative of the community served and shall include a handicapped person. One-third to one-half of the board shall be representative of industry or business. The remaining members should be representative of lay associations for the handicapped, labor, the general public, and education, welfare, medical, and health professions. Nothing in sections 129A.06 to 129A.08 shall be construed to preclude the appointment of elected or appointed public officials or members of the board of directors of the sponsoring nonprofit corporation to the board, so long as representation described above is preserved.

Subd. 2. The term of office of each member of the community long-term sheltered workshop or work activity board shall be for four years, measured from the first day of the year of appointment, except as follows: Of the members first appointed, at least three shall be appointed for a term of two years, at least three for a term of three years and at least three for a term of four years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

Subd. 3. Subject to the provisions of sections 129A.06 to 129A.08 and the rules of the department, each community long-term sheltered workshop or work activity program board shall:

(a) Review and evaluate the need for a long-term sheltered workshop services or work activity program provided pursuant to sections 129A.06 to 129A.08 and report thereon to the commissioner and, when indicated, the public, together with recommendations for additional services and facilities;

(b) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources and promote public support for municipal and county appropriations;

(c) Promote, arrange and implement working agreements with other educational and social service agencies both public and private and any other allied agencies;

(d) Advise the commissioner on the adoption and implementation of policies to stimulate effective community relations;

(e) Review the annual plan and budget and make recommendations thereon;

(f) When so determined by the authority establishing the program, act as the administrator of the program.

History: 1976 c 332 s 7

129A.08 COMMISSIONER'S DUTIES; LONG-TERM SHELTERED WORKSHOPS AND WORK ACTIVITY PROGRAMS.

Subdivision 1. The commissioner may make grants to assist cities, towns, counties, nonprofit corporations, or any combination thereof in the establishment, operation and expansion of long-term sheltered workshops or work activity programs. The commissioner may accept federal grants or aids and shall cooperate with federal agencies in any reasonable manner necessary to qualify for federal grants or aids for long-term sheltered workshops or work activity programs.

Subd. 2. At the beginning of each fiscal year, the commissioner shall allocate available funds to long-term sheltered workshops and work activity programs for disbursement during the fiscal year in accordance with approved plans or budgets. The commissioner shall from time to time during the fiscal year review the budgets and expenditures of the various programs and if funds are not needed for the program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. He may withdraw funds from any program which is not being administered in accordance with its approved plan and budget and with relevant department rules.

Subd. 3. The grant may not exceed an amount equal to 75 percent of the normal operating expenses of the long-term sheltered workshop or work activity program. Wages paid clients or long-term workers are to be excluded in determining operating cost. In the event that there are inadequate funds appropriated to meet the foregoing provisions in full, they shall be prorated proportionately.

Subd. 4. In addition to the powers already conferred on him by law, the commissioner shall promulgate rules in regard to the following matters:

(a) State certification of all long-term sheltered workshops and work activity programs;

(b) Eligibility of community long-term sheltered workshops and work activity programs to receive state grants;

(c) Standards for qualification of personnel and quality of professional service and for in-service training and education leave programs for personnel;

(d) Eligibility for service so that no person will be denied service on the basis of race, creed or color;

(e) Regulatory fees for consultation services; and

(f) Standards and criteria by which handicapped persons are to be judged eligible for the services.

History: 1976 c 332 s 8

129A.09 EXPENDITURE OF FEDERAL FUNDS.

Notwithstanding the provisions of Laws 1975, Chapter 433, Section 2, Subdivision 9, any additional federal funds which become available to the state of Minnesota for vocational rehabilitation purposes after March 1, 1976 and April 1 of each fiscal year thereafter as a result of a reallocation of funds returned by other states or release of additional funds may be carried over and expended in the next fiscal year. The state of Minnesota shall have earned these funds in the year they are received with state expenditures in accordance with the federal-state formula in effect for that year. These funds shall be subject to the provisions of Laws 1976, Chapter 332, Section 9, Subdivision 8.

History: 1976 c 332 s 11

exclude additional or existing materials required by 8 MCAR S 4.0012 C.35. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

3. The department shall notify all grantees, in writing, that a variance has been granted. Notification will be issued within 30 days after the granting of the variance.

8 MCAR S 4.0080 Definitions.

Unless otherwise indicated in these regulations, the terms below are defined as follows:

A. "Act" means Rehabilitation Services for the Severely Disabled, Minnesota Statutes, sections 121.71 to 121.714.

B. "Administrator" means the director of community long term sheltered workshop programs.

C. "Commissioner" means the Commissioner of Education in the State Department of Education.

D. "Workshop" means a long term sheltered workshop.

E. "Long term sheltered employment program" means the provision of paid employment for an indefinite period of time, for severely handicapped persons unable to meet production standards required in competitive employment. The wages paid in long term sheltered employment are in excess of 25 percent of the applicable minimum.

F. "Work activity program" means the provision of purposeful activity, having a productive or work component for which wages are paid, but where the level of productivity is less than that required in sheltered employment (generally 25 percent of the applicable minimum). The work activity program may be transitional in nature or may be considered as an appropriate outcome.

G. "Commensurate wage" means a rate of pay which, when paid to a non-handicapped worker performing the same kind and quality of work, would yield to that non-handicapped worker the minimum wage or prevailing wage, whichever is higher. When clients paid a commensurate wage earn less than the minimum or prevailing wage, it is a result of the limitations imposed by their disability.

H. "Prevailing wage" means the wage rate for a specific job prevalent in the area or community in which the work activity or sheltered employment program exists.

8 MCAR S 4.0081 Purpose.

"The purpose of this act is to improve rehabilitation services for the severely disabled in Minnesota by providing for the development and continuation of long term sheltered workshops and work activity centers." Minnesota Statutes, sections 121.71 to 121.714.

8 MCAR S 4.0082 Eligible applicants.

A. An application for funding may be submitted at any time by a city, village, borough, town, county, non-profit organization or any combination thereof, which operates or proposes to operate a public or non-profit long term sheltered employment or work activity program.

B. In cities there shall be a minimum population base and specified geographic area which the workshop shall serve. The commissioner may, in particular cases, permit modifications of this population range if he finds that such modifications will not impair the purposes of the act.

C. The applicant shall have a long term sheltered workshop or work activity center board of directors of not less than nine members to be selected in such manner, be representative of such groups, and function as outlined in section 4 of the act.

D. The applicant shall provide assurance that no person shall be denied service on the basis of race, creed, color, or national origin.

E. The applicant shall adhere to all pertinent state, federal and local laws pursuant to the operation of a workshop or work activity center.

8 MCAR S 4.0083 Eligible costs.

A. The grant may not exceed an amount equal to 75 percent of the normal operating expenses of the long term sheltered employment or work activity program;

B. Wages paid to long term sheltered workers or work activity participants are to be excluded in determining operating costs;

C. Funds eligible for matching are those received from local taxation or appropriation, gifts, or funds from other sources, including income derived from subcontract or manufacturing work in excess of that required to pay wages, provided such funds are not state funds.

8 MCAR S 4.0084 Application content.

A. Applications for funding shall be submitted to the administrator in the form and detail required and shall include:

1. A description of both the existing and proposed program of services;
2. A description of the existing and proposed staffing plans;
3. A proposed budget and actual expenditures made in the year previous to the application;
4. A description of community support for the workshop;
5. An agreement to make such administrative and financial reports and to keep such records and accounts as may be required and to make such records and accounts available for audit purposes.

8 MCAR S 4.0085 Clientele served.

Severely disabled persons eligible for services are those individuals possessing physical, mental, emotional, or behavioral disabilities who, as a result of such disability, are unable to enter the competitive labor market either temporarily or permanently. Clients referred to the long term sheltered employment program workshop shall have had appropriate rehabilitation services, such as vocational evaluation and personal adjustment training, in order to render an adequate decision as to the suitability of placement in the workshop.

8 MCAR S 4.0086 Standards of service.

These standards govern the operation of any facility engaged in, or seeking to engage in, the provision of long term sheltered employment or work activity services, and they set forth the requirements necessary for any such program to be funded or certified (see EDU 492.)

A. Purposes.

1. General standards.

a. The purposes of the long term sheltered employment or work activity program are clearly stated in appropriate publications for distribution to staff, clientele and referral sources;

b. The long term sheltered employment or work activity program describes the habilitation or rehabilitation problems or conditions for which it provides services;

c. The long term sheltered employment or work activity program describes in detail the services it provides;

d. There is a systematic procedure for professional and administrative review of program effectiveness in relation to the stated purposes of the work activity program.

B. Organization and administration.

1. General standards.

a. Unless operated by a governmental agency, the long term sheltered employment or work activity program is, or is part of, a legally constituted nonprofit corporate entity under the appropriate federal, state and local statutes;

b. The make-up of the facility's governing body is in accordance with the requirements of Minnesota Statutes, sections 121.71 to 121.715:

c. There is a staff organizational chart which specifies the lines of authority, responsibility and communication.

2. Additional standards for work activity center programs.

a. Where the work activity program is a cooperative effort involving two distinct organizations, there is a written agreement which details the responsibilities of each organization and which includes, as a minimum, the following:

- (1) Staff supervision and training;
- (2) Contract negotiation and bidding;
- (3) Issuance of payroll checks;
- (4) Maintenance of production records;
- (5) Client supervision and programming.

b. Where a work activity program takes place in, or is administered by, a daytime activity center, the DAC is licensed by the Department of Public Welfare;

c. The work activity program is the administrative responsibility of a full-time paid staff member of the administering facility;

d. Where the work activity program is operated by a daytime activity center, it has an established relationship with an advisory body.

C. Fiscal management.

1. General standards.

a. The long term sheltered employment and/or work activity programs are identified as separate and distinct

entities in the accounting system of the administering organization;

b. The long term sheltered employment or work activity program operates on an annual budget which:

(1) Reflects and anticipates the program's needs for realizing its goals;

(2) Is used during the year as a yardstick to assess the accomplishment of budgetary goals.

c. The accounting system enables the administering organization to clearly identify both the costs and income attributable to the long term sheltered employment or work activity program;

d. The facility has a risk protection program adequate to preserve its assets and to compensate its staff, volunteers, clientele, and the public for reasonable claims for which the facility is liable.

2. Additional standards for work activity programs.

a. In bidding and executing contracts, an overhead markup of at least 50 percent on direct labor is utilized.

3. Additional standards for long term sheltered employment programs.

a. In bidding and executing contracts, an overhead markup of at least 75 percent on direct labor is utilized.

D. Program.

1. General standards.

a. There is evidence that the facility has made continuous efforts to insure the availability of significant work to meet the needs and objectives of the long term sheltered employment or work activity programs;

b. Work supervisors, responsible for implementing the long term sheltered employment or work activity plan, have a clear understanding of the goals for the individual client and the methods to be used in reaching those goals;

c. Whenever clients are engaged in production activity, there is a minimum of one supervisor for every 12 workers;

d. Each long term sheltered employee or work activity center participant (or parent/guardian if appropriate) receives a written statement for each pay period which indicates gross pay, hours worked and all deductions;

e. There is evidence that continuing efforts are made to maximize productivity level of each long term sheltered employee or work activity participant;

f. There is a written plan for each long term employee or work activity participant which describes the goals and objectives of the services to be provided as well as the expected outcomes;

g. The progress of each long term sheltered employee or work activity participant is reviewed on a quarterly basis and the results of that review are recorded.

2. Additional standards for work activity programs.

a. The work or production activities are carried out in a physically separate environment from other program or service activities; (NOTE: The same area may be utilized for production activities if all other activities cease in that area during the time production work is carried out.)

b. When the work activity program operates independently, either from a daytime activity center or sheltered workshop, there is evidence that the other program needs of the participants have been considered and provided directly through the work activity program, or made available for other resources. These other services may include, but would not be limited to:

- (1) Recreation;
- (2) Self care;
- (3) Socialization;
- (4) Education.

3. Additional standards for long term sheltered employment programs.

a. Personnel policies for all long term workers are established in writing and available to all workers;

b. Enough work is available to provide employment for each long term worker 75 percent of the work days during the year.

E. Records and reports.

1. General standards:

a. A client case record is maintained at the long term sheltered employment or work activity program site for each program participant;

b. The source of all recorded data is clearly stated;

c. As a minimum, the case record contains the following basic information:

- (1) Results of the initial assessment;
- (2) A description of the program plan;
- (3) Progress reports which relate to the program plan;
- (4) The case closure summary.

A yearly review of client records is made by the staff to insure compliance with the above standards;

Policies and procedures have been established to insure confidentiality of all case records.

F. Wage and hour.

1. General standards:

a. The program has the appropriate federal wage and hour certificate;

b. All handicapped workers are paid a wage commensurate with that paid non-handicapped workers in the community;

c. For each piece rated job there is a written record of the procedure utilized in establishing that piece rate;

d. Where a client is involved in nonpiece rated work, there is a written record of the procedure used in establishing the hourly rate for the client;

e. The hourly rate of pay for nonpiece rate workers is reviewed at least semi-annually and a written record maintained of this review.

2. Additional standards for long term employment program.

a. All long term employees are paid at least 25 percent of the applicable minimum wage.

G. Health and safety.

1. General standard: The long term sheltered employment or work activity program shall comply with all applicable regulations of the Department of Labor and Industry and the State Fire Marshall's office.

8 MCAR S 4.0087 Workshop board of directors.

A. The number, appointment, representation, term, and

functions of the long term sheltered workshop board shall be as prescribed in Minnesota Statutes, sections 121.71-121.714.

B. Those workshops in operation prior to the act shall integrate the principles prescribed in Minnesota Statutes, section 121.713 respect to workshop board of directors where it is possible to do so.

8 MCAR S 4.0088 Approval of application.

Applications for funding will be evaluated to determine the feasibility and effectiveness of the proposed and existing program in achieving the purposes of the act, the adherence to appropriate laws, the adherence to the standards of service, the conformance with the state workshops and rehabilitation facilities plan, and the eligibility of the applicants. Approval or disapproval of applications will be in printed form to the applicant with reasons for disapproval, in that event. The commissioner may require that a technical assistance consultation precede the award of any grant.

8 MCAR S 4.0089 Allocations and priorities.

A. Allocations. Allocations of available funds for long term sheltered workshop programs shall be made by the commissioner as prescribed in Minnesota Statutes, section 121.714, subdivision 2.

B. Priorities. After the commissioner, at the beginning of each fiscal year, has allocated available funds to long term sheltered employment or work activity programs for disbursement during the fiscal year and in the event there are inadequate funds appropriated to meet the approved plan and budget of the applicants, the following priorities shall be considered:

1. Relative needs of the population served by the existing or proposed program.
2. Availability of local community support.
3. Effectiveness of the services of the program.
4. Availability of other methods of funding.
5. Submittal of application, plan and budget within the required period.

NOTE: In general, existing workshops will have priority over proposed workshops in order that already existing programs can be continued.

8 MCAR S 4.0090 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of state funds available for such purpose on the date of the award. The initial award shall also specify the grant period (not in excess of one year) for which support is contemplated if the activity is satisfactorily carried out and state funds are available. For continuation support, grantees must make separate application each year prior to the date set for submission of the continuation application and in the form and detail required.

8 MCAR S 4.0091 Payments.

Payments under this authority shall be made on the basis of periodic claims submitted by the long term sheltered employment or work activity program detailing services provided during that period of time. The commissioner may determine, for each program, an equitable per diem rate of reimbursement.

8 MCAR S 4.0092 Certification.

A. Purpose: To insure that all long term sheltered employment and work activity programs meet minimum standard of operation;

B. General policies.

1. Program certification under this authority shall be a requirement for funding through the division of vocational rehabilitation;

2. A certificate issued under these provisions does not replace or modify any certificates issued by the United States Department of Labor or the Minnesota State Department of Labor and Industry, for purposes of subminimum wage payments;

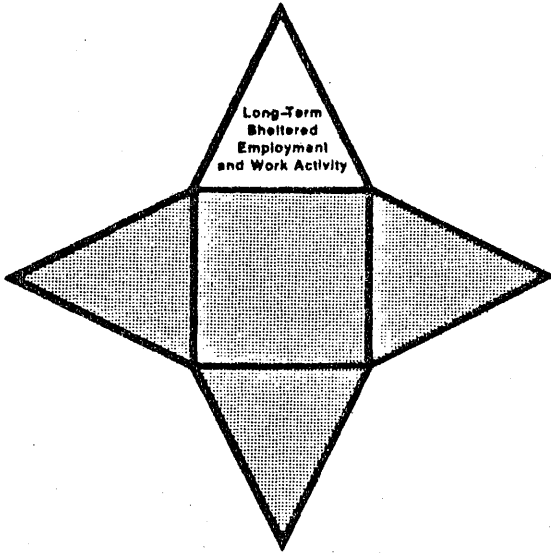
3. A single certificate will be issued for a facility, and that certificate will specify the type and location of all approved programs;

4. In the case of work activity programs operated cooperatively between two separate organizations, the certificate will be issued to the organization responsible for payment of wages;

5. A program will be certified when it is found to be in substantial compliance with the established standards;

6. No certificate shall be issued for a period of time in excess of two years;

7. A provisional certificate may be issued to a new sheltered employment of work activity program for a specified period of time, not to exceed one year;



Long -Term Sheltered Employment and Work Activity 1981-83

Purpose:

Provide sheltered employment opportunities for persons so severely disabled that they cannot be competitively employed.

Results, 1981-83:

4619 work stations funded

Staff, 1983:

4 State positions

Expenditures, 1981-83:

State:	\$13,493,600
Federal:	<u>0</u>
	\$13,493,600

Matching Requirement:

None

Current Funding Mix:

State



100%

PROGRAMS OFFERED BY MINNESOTA'S REHABILITATION FACILITIES

BY FUNDING SOURCE

VOCATIONAL EVALUATION	WORK ADJUSTMENT TRAINING	SKILL TRAINING	OTHER SERVICES i.e., PLACEMENT OCCUPATIONAL THERAPY SPEECH, etc.	WORK ACTIVITY	LONG-TERM SHELTERED EMPLOYMENT
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G-18

1. Funded with State/Federal Vocational Rehabilitation Funds
2. Persons Receiving Services are "DVR Clients"
3. Funding Level FFY 1983 - \$2,879,868.30

1. Funded with State Appropriations
2. Persons are not "DVR Clients"
3. Funding Level FFY 1983 - \$6,813,708.00

Minnesota Department of Economic Security
DIVISION OF VOCATIONAL REHABILITATION

ESTABLISHMENT GRANT PRIORITIES - FISCAL YEAR 1983

The Division of Vocational Rehabilitation intends to utilize available federal funds for the purpose of making Establishment Grants in 1983.

This statement of priorities serves to amend the Minnesota Rehabilitation Facilities State Plan indicating the Establishment Grant priorities for fiscal year 1983. The priorities below reflect needs and concerns expressed to the Minnesota Division of Vocational Rehabilitation by its Facility Directors Advisory Committee and other facility directors active in the Minnesota Association of Rehabilitation Facilities. It also reflects projected program needs and changes as identified by the Division of Vocational Rehabilitation Management Team.

PRIORITIES:

1. Projects which show promise of increasing the productive efficiency of sheltered employment and work activity programs operated by rehabilitation facilities.

These projects would likely include the purchase of equipment or building modifications that would enable rehabilitation facilities to operate their work programs more efficiently and productively.

Projects proposed under this priority should not be designed solely to increase the client capacity directly, although that may be a secondary result.

2. Projects which show promise of facilitating the movement of sheltered workers or WAC participants into competitive employment.

These projects would involve increased direct placement efforts, creative approaches to extended sheltered employment programs, transitional work programs, volunteer programs, supported work programs or other innovative approaches to enhancing the opportunities for competitive employment for rehabilitation facility clients.

3. Projects which show promise of enhancing program and financial collaboration and coordination between rehabilitation facilities and other related community-based programs serving people with disabilities.

These projects might include staffing requests to plan collaborative program and financial activities between workshops and Developmental Achievement Centers or Semi-Independent Living Services, or Intermediate Care Facility for the Mentally Retarded facility or Rule 36 facilities.

7. Records should indicate the date of referral for placement services.
8. Records of individuals who have been placed in outside employment should contain, as a minimum, the following information:
 - a. Place of employment;
 - b. Job title;
 - c. Rate of pay and fringe benefits;
 - d. Date on which employment commenced;
 - e. Employment status 60 days following commencement; and
 - f. Name of the immediate supervisor, if available, at the work site.

J. Work Services

These standards are applicable to any program which directly provides remunerative work. Some individuals may be involved in work services on a full-time basis, while other individuals may only be involved in work services for a few hours a week, spending most of their day in other service or activity programs.

1. An individual plan should be developed for each person served in the work program. The program should be designed to maintain or increase the person's productivity and to maximize earnings. The plan should include:
 - a. Identification of the work related skills and/or behaviors to be considered;
 - b. The job assignment or environment;
 - c. The techniques and/or methods to be used;
 - d. The time frames for accomplishment of the goals; and
 - e. The persons responsible for implementing the various parts of the plan.
2. At least semiannually, the person's plan for services, goals, and progress toward goals should be reviewed by appropriate staff members. Where change in plans, goals, etc., has been made, there should be evidence of subsequent implementation.
3. At least semiannually, the facility should assess each person's potential for community job placement. If indicated, the individual should be referred for other services, e.g., vocational evaluation, work adjustment, skill training, and job placement.
4. The staff should identify nonwork needs of the individuals which may affect their functioning. Referral for supportive services should be made, as indicated, to address these needs.
5. Any individual earning less than the prevailing wage should have an individualized rehabilitation plan for the provision of services.
6. The individual who earns at or above the prevailing wage on a regular basis, and who meets all other criteria for competitive employment, should:
 - a. Have an individual rehabilitation plan and receive placement services; or
 - b. Be classified as an employee of the facility and receive regular employee benefits.
7. Health and other special considerations should be taken into account in the work assignments of those served; these concerns should be clearly communicated in writing to supervisory personnel.

8. For each person served in a work program, records should include:
 - a. Special work considerations to be taken into account in work assignments;
 - b. Statements on work progress;
 - c. Production records of the person;
 - d. Identification of the person on payroll; and
 - e. Work tolerance reports.
9. Community wage rate information should be obtained at least annually. This information should include the prevailing wage for similar types of work, the date obtained, and the source of information.
10. For each operation, the facility should maintain production norms based on the average productivity of nonhandicapped workers performing similar jobs, as established by an accepted system of work measurement such as time studies, MTM, MODAPTS, etc.
11. Wage rates and production norms should be reviewed and adjusted, whenever the methods of performing a work task are changed.
12. Each person's wages and work performance should be reviewed at least semiannually, in relation to the community wage rate and to nonhandicapped workers' production norms. These apply to individuals on either an hourly rated or piece rated basis. Based on these reviews, wages should be adjusted as indicated.
13. Whenever possible, a piece rate system of wage determination should be used.
14. Wage payments should be based on a system of individual performance rather than pooled and/or group wage payments.
15. Wage payments should be of a monetary nature and not payments in kind.
16. The pay period should not exceed thirty-one calendar days.
17. Each person should receive a written statement for each pay period indicating gross pay, hours worked, deductions, and net pay.
18. Wages paid each person should be in full for all work performed during the period. Individuals engaged in the production of products or the provision of services should not have wage payments delayed because they are contingent upon subsequent sales or payments to the facility.
19. The facility should make no charge to the person for the privilege of employment per se. The facility, however, may make appropriate charges for optional and rehabilitation services; it should submit an invoice to the person served, the legal guardian, or a third-party sponsor.
20. After one year in a regular work or a work activity program, the person should receive benefits commensurate with those provided other comparably classified nondisabled employees. In the event no comparable classification exists, the person should be provided annually a minimum of five days' full pay for vacation, a minimum of five days' full pay for sick leave, and a minimum of five holidays with full pay.
21. All persons receiving wages should be provided with:
 - a. Social Security or its equivalent in a public program, except where earnings do not exceed the Social Security minimum in a quarter; and
 - b. Workers' Compensation Insurance or its equivalent.

22. All persons should have equal opportunity to use equipment which the facility determines is appropriate to the individual's capabilities and to the job.
23. Provisions for meeting safety and health standards should apply uniformly to all persons.
24. As a part of reasonable accommodation, the facility should use modified equipment, jigs, fixtures, and other techniques, as necessary, to increase the individual's productivity rate in order to maximize the person's earnings. Other forms of accommodation may include: modification of the work site and commonly used surrounding areas; purchase of assistive aids and devices; adoption of personnel policies which allow the use of extended rest periods, flextime, parttime, etc.; reassignment of nonessential tasks; and task training.
25. The program should prepare a handbook, which is distributed to all persons served and is periodically reviewed, outlining:
 - a. The conditions, benefits, and responsibilities of the facility and the person served;
 - b. Fringe benefits;
 - c. Wage payment practices;
 - d. Work rules;
 - e. Nondiscrimination provisions; and
 - f. Grievance and appeal procedures for those served or their parents, guardians, or personal representatives.
26. There should be a procedure by which those served may appeal the decision of a facility staff member. The procedure should specify:
 - a. Levels of review;
 - b. Time frames for decision-making;
 - c. Written notification procedures; and
 - d. The rights and responsibilities of each party.
27. Meetings of those served and management should be held regularly during the year for the purpose of discussing matters of mutual concern. Among the purposes of these meetings should be the following:
 - a. To inform those served concerning those aspects of program operations and plans which bear upon their wages or welfare;
 - b. To enlist informed cooperation to achieve efficient use of resources of the program in the best interests of those served; and
 - c. To receive suggestions from those served and to answer their questions.
28. The program should maintain provisions, either within its parent organization or through cooperative agreements with appropriate community services, for industry, or other program placements for any of those served who may qualify.
29. Those served should be informed of the placement services and the policies regarding reentry into programs.
30. If the person is placed into a job in competitive industry or into another program, and if circumstances beyond control result in the loss within 30 days of an individual's job or program assignment, the person should be guaranteed a position in the program as soon as a suitable opening is available.

31. Where production of goods and materials is carried out by the facility, sound and acceptable practices should be observed in all business and industrial activities, including purchase of materials, sale of products, and subcontracting.
32. The program should seek business only on a fair and competitive basis. The workshop should not engage in unfair competition with other workshops and/or commercial organizations in selling its services and products.
33. The facility should maintain a system of work measurement that:
 - a. Applies generally accepted techniques (such as stopwatch timed study, predetermined motion time standards, work sampling, etc.) to a specifically identified work situation;
 - b. Determines the level of performance required for qualified, competent workers to accomplish the prescribed task in a given situation;
 - c. Makes allowance for personal and delay factors as may be applicable; and
 - d. Recognizes the equipment, environment, and process utilized.
34. The bid price should include all direct and indirect costs applicable to each job. An overhead markup supported by precise written analysis of production costs should be charged. The value of any services, equipment, or space provided by the facility for the contract operation should be included in the determination of this markup. Direct costs include wages and fringe benefits for labor, materials, shipping, and any other costs directly associated with and identifiable to the job. Indirect costs include staff salaries and benefits, occupancy, depreciation, administrative, and all other costs which cannot be directly identifiable to the job. All retooling, training, and remodeling costs necessary to accomplish the job should also be calculated. All donated equipment, materials, and services should be included in the contract bid price.
35. Selling prices of the program's manufactured products should be based upon full cost reimbursement, and should be in line with the prevailing price range for such products in the competitive market areas.
36. Contract prices and selling prices of manufactured items should be analyzed at least annually to assure that they remain fair and competitive.
37. The primary responsibility for procuring work for the program should be assigned to one person, even though the facility may have several staff members involved in procurement or the facility may be contracting with other resources for procurement.
38. The facility should provide a reasonable variety of work, representative of job opportunities in the community, in order to facilitate the accomplishment of training objectives for those served.
39. The facility aggressively should seek adequate amounts and diversity of work in order to fulfill the training needs of those served.
40. The facility should have a written plan identifying activity options to be used when available work is reduced or when production delays are expected to be in excess of one day. The activities should be relevant to the person's plan. The downtime plan may include provisions for program reduction.
41. The program should adopt a policy with regard to struck work and the placement of persons in businesses being struck.
42. Work orientation should be provided: to encourage good work habits, including proper care of equipment and materials, correct handling of tools and machines, good attendance, punctuality, and safe work practices; to afford disciplined interpersonal relations with supervisory personnel and co-workers; and to promote work tolerance and work pace consistent with the person's potential.

43. When the facility is involved in prime manufacturing, subcontract operations, and/or service contracts, files on work methods, quality control, and production scheduling should be maintained and actively used by supervisory personnel. Written specifications should be prepared and available for each article produced. Products should be made in conformance with relevant specifications and should meet the standards of competitive products in the open market. Work methods might include work station setup, steps in process, work flow, and equipment to be used. Production scheduling might include production hours per job, shipping dates, coordination with other jobs, and customer time frames.
44. The facility should maintain the following information in a master file for each subcontract job, contracted services, or prime manufactured product:
 - a. Work measurement documents;
 - b. Bid document;
 - c. Quotation and acceptance documentation or purchase orders;
 - d. Specifications and methods;
 - e. Quality control procedures; and
 - f. Production scheduling information.
45. The program should seek to achieve optimal efficiency consistent with the rehabilitation needs of those served. The layout of work positions, the production scheduling, and the assignment of operations should be planned to allow for efficient flow of work; each operation should be sequenced according to the time required for its completion. The organization of work should reflect an awareness of safe practices and of the importance of time and motion economy in relation to the needs of individuals being served.
46. The facility should use laborsaving tools, equipment, and machinery unless there are clearly defined reasons for exceptions.
47. Provision should be made for storage and control of raw materials and finished products.
48. Each department engaged in production should have established production goals and should review and disseminate relevant reports on progress toward attaining those goals to appropriate personnel periodically.
49. The program should maintain an organized system of quality control; this responsibility should be vested in specified members of the staff. The quality of products and services should meet competitive industrial standards. Several elements characterize a quality control program in standard commercial practices. Facilities should strive to reflect these same practices. The practices include: a written policy assuring customers of quality commitment and product/performance reliability; good customer communications; and written quality control procedures peculiar to individual products and services (including inspection and testing requirements). Whenever possible, the personnel responsible for inspection, testing, and policy implementation should be separate from production personnel; they should report to the same management level as the production manager. This is to avoid conflicts of interest which might nullify the effectiveness of the quality control program.

K. Activity Services

This is a goal-oriented program of therapeutic services designed to develop, maintain, and/or maximize an individual's independent functioning in self-care, physical and emotional growth, socialization, communication, education, and prevocational skills. Provision of an activity service program may be the sole function of an organization, as in the case of a day activity center. An activity service program may also be provided in conjunction with another service program. Examples include a residential program, a work-based program, etc. As structured in these standards, such a program would not typically be part of a hospital-based or outpatient medical rehabilitation program.

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Chronology of Events for Rider Implementation

June 6

Received official copy of Rider Legislation.

Held consultations regarding implementation with individuals both internal and external to Division of Vocational Rehabilitation who are knowledgeable about the sheltered employment program.

Developed an internal implementation plan.

Discussed plan with statutory Consumer Advisory Council on Vocational Rehabilitation and Division's Facility Directors' Advisory Committee.

June ____ Implementation steps commenced

Set October 1, 1983, as deadline for workshop compliance with Rider (coincides with quarterly allocation date). Established penalty for non-compliance as withholding of facilities quarterly allotment check.

Began analysis of workshops' personnel policies for their compliance with part b of the Rider.

Prepared certification of compliance form for use in addressing part c of the Rider. (Considered and rejected use of on-site audits due to lack of appropriately trained staff for federal procedures.)

Researched grievance procedures in non-union settings for precedents regarding part a of Rider.

Met with MARF ad hoc committee which was developing a model grievance procedure based on a procedure in place for sheltered workers at a rehabilitation facility in the State of New York.)

July 27

Met with all facility directors and/or key staff and explained implementation plans.

July ___

(MARF conducted a training program in binding arbitration for facility directors and staff.)

August

Met with MARD ad hoc committee regarding their draft of grievance procedures having as its final step binding arbitration.

(MARF endorsed the model and forwarded it to all workshops.)

The Division did not endorse nor oppose the model but judged that it met the requirements of the legislation for those facilities that might use it.

Sept. ___ Solicitation of Input

Met with consumer advocate organizations to solicit input on the Rider's implementation and the MARF model grievance procedures.

Met with:

1. ACT	6. UCP
2. MNARC	7. MHAC
3. MARC	8. MMHC
4. SPARC	9. DD Council
5. MEL	10. Legal Advocacy DD

Input from the meetings was summarized and a report sent to participants.

Met with MARF Board of Directors to discuss summary of input from advocacy groups.

Developed plan to establish Task Force on the Rider Legislation to provide opportunity for extensive discussion of concerns about implementation of the Rider.

Completed analysis of Personnel Policies

Sent compliance instructions and form to all workshops.

Notified each to as to whether they were in compliance regarding personnel benefits.

October 1st

Compliance deadline - Workshop responses analyzed for compliance.

Established Task Force mission to develop recommendations for implementing legislation regarding the three areas named in the Rider -- grievance procedures, personnel policies and wage payment monitoring.

Task Force recommendations would be used by Division of Vocational Rehabilitation to develop standards for implementing these provisions in the workshops.

Requested representatives for Task Force from advocate organizations and Facility Directors' Advisory Committee.

Selected an outside party Dr. Dan McAlees, Research and Training Center, Stout State University, Menominee, Wisconsin, to serve as facilitator of the Task Force in order to assure maximum impartiality.

Task Force

November 8 (see Appendix for minutes First Task Force Meeting

15 and handouts for each meeting) Task Force Meeting

29 Task Force Meeting

December 2 Task Force Meeting

20 Task Force Meeting

December 27 Initiated work on DVR's portion of DES first annual report to Senate Finance and House Appropriations Committees.

January 11 Final Task Force Meeting

January 12 Began translating Task Force recommendations into steps for action.

Met with Task Force subcommittee to review report developed for legislature committees.

January 31 Submission of DVR/DES report to legislature committees.

Future Steps

February Complete implementation standards utilizing Task Force recommendations.

Meet with all facility directors and/or staff regarding Task Force recommendations and Division's implementation plans.

Meet with Federal Wage and Hour to obtain input regarding state role in monitoring wages.

February-March

Determine adequacy of workshops' personnel benefits and grievance procedures using new standards.

March

Report progress of implementation to legislature.

April

Task Force meeting to report Division of Vocational Rehabilitation activity on Task Force recommendations.

TASK FORCE MEETING
NOVEMBER 8, 1983
ST. PAUL, MINNESOTA

PRESENT : John DuRand
Jim Steiner
Merv Healy
Arne Berg
Bud Morin
Vern Wahlstrom
Luther Granquist
Carol Spaeth
Linda Silver
Ken Tice
Pat Helmbrecht
John Sherman
Bill Conley
Dave Leiseth

GUESTS : Fredrick Menz, Ph.D.
Charles C. Coker
Dale Thomas
Maureen O'Brien
John Broady
James Haynes
Charles Hutchinson
John Marty

MEMBERS NOT PRESENT: Kurt Haglund
Gregg Asher
Two A.R.C. Members (to be named)

CHAIR : Dan McAlees, University of Wisconsin-Stout, Research and
Training Center

The mission of the task force is to develop recommendations for implementing legislation regarding sheltered employment in the following areas:

- Grievance procedures
- Personnel policies
- Wage payment monitoring

The outcome of the task force's deliberations will result in recommendations to the Division of Vocational Rehabilitation for developing standards for implementing these provisions in sheltered workshops. The Division of Vocational Rehabilitation is not a part of the task force; their role is to learn, guide and implement recommendations.

The task force's recommendations on the above issues will also be included in the legislative report due in January of 1984. Therefore, the work of the committee must be completed by January 6, 1984.

At its first meeting, the task force reviewed and prioritized the issues within its charge. There was some discussion about the definition of "fundamental benefits", however, this topic will be discussed further at the next meeting. The committee focused upon the "grievance procedures" and the following was established:

At least five facilities utilize the model grievance procedures recommended by MARF.

Some of the remaining facilities are known to have complied with the legislation by modifying their existing procedures while the particular procedures adopted by others are not known.

The question was raised, "Are facilities in compliance with the statutes?" DVR responded that all workshops have certified they were in compliance as of October 1, 1983.

The committee felt it was relevant to have copies of the personnel policies of both sheltered workers and professional staff from the workshops. DVR will obtain copies of the personnel policies and current grievance procedures from the 26 affected facilities. These will be mailed out to all task force members.

It was suggested that the task force consider two levels of recommendations for grievance procedures -- minimum (acceptable) and desirable.

The recommendation was made that a "grievance procedure" meet a test of minimal requirements. A subcommittee of the following members was formed to develop a list of criteria for the test:

John Sherman
Pat Helmbrecht
Luther Granquist
Bud Morin
Jim Steiner
John DuRand
Vern Wahlstrom

This will then be presented to the rest of the task force at the next meeting.

Dates for the next two meetings are November 15 and November 29. Time will remain the same (10:00 - 2:00). You will be notified of location by phone.

MINUTES
TASK FORCE ON RIDER LEGISLATION

NOVEMBER 15, 1983

ST. PAUL, MINNESOTA

PRESENT: Carol Spaeth
Merv Healy
Arne Berg
John Broady
John Sherman
Bill Conley
Bud Morin
David Leiseth
Linda Silver
John DuRand
Vernon Wahlstrom
Jim Steiner
Pat Helmbrecht
Ken Tice
Luther Granquist

GUESTS : Deborah N. Fine
Maureen O'Brien
Fredrick Menz
Charles Hutchinson
Jan Jenkins

CHAIR : Dan McAlees
University of Wisconsin - Stout
Research and Training Center

Minutes from the November 8 meeting were submitted and acceptance was requested by the Chair.

A motion was made to change paragraph three of page two. The paragraph, as changed, reads as follows:

"It has been reported by DVR that at some of the remaining facilities are known to DVR to have modified their existing procedure to include final and binding arbitration, while the particular procedures adopted by others are not known".

The motion was seconded.

John Sherman moved for acceptance of the Minutes.
Linda Silver seconded.

Copies of Personnel Policies for sheltered workshop employees were made available to the Task Force for their review.

John Sherman reported on the accomplishments of the sub-committee on Grievance Procedures.

He reported that sub-committee member, Luther Granquist, had submitted fifteen components of a test for grievance procedures which he thought would satisfy the requirements of the 1983 appropriation rider. During a meeting of the sub-committee prior to this meeting, nine of the criteria in the proposed test had been gone over and agreed upon. They planned to discuss the remaining criteria during the lunch break.

While the sub-committee on grievance procedures was in their lunch meeting, a sub-committee of the remaining Task Force members was formed to discuss Personnel policies.

In discussion, this sub-committee decided the main task was to define "Fundamental Personnel Benefits". The recommendation was made to limit discussion to the three benefits specified in the rider without deciding at this time what benefits are "fundamental".

A suggestion was made that a survey be conducted to determine personnel policies, timelines, ability of facilities to provide benefits, etc., by geographical location in order to make recommendations that are feasible for statewide use.

The recommendation was made that the Task Force should consider having CARF standards accepted as a state requirement of minimal standards. These standards provide for paid leave as follows:

- 5 days vacation
- 5 days sick
- 5 days holiday

This standard would seem appropriate since all Minnesota facilities will be required to be accredited by CARF as of July 1, 1984 and, therefore, they will have at least met these minimum requirements.

When the full committee reconvened, the sub-committee recommended in the form of a motion that minimum required personal sick leave should equal an equivalent of 6 days per year (based on an 8 hour day). DVR will bring back a possible procedure for implementation of that minimum standard.

The motion was seconded. No action was taken.

The sub-committee on grievance procedures reported that they had just discussed four more of the criteria. They planned to discuss the remaining two at a meeting scheduled prior to the November 29 meeting.

The next meeting date selected to follow the November 29 meeting is December 2 from 10:00 - 2:00 in Room 118, Capitol.

The meeting was adjourned.

MINUTES

TASK FORCE ON RIDER LEGISLATION
NOVEMBER 29, 1983

PRESENT: John Broady
John Barrett (substituting for Vern Wahlstrom)
John DuRand
Jim Steiner
Luther Granquist
Pat Helmbrecht
Ken Tice
Bill Conley
David Leiseth
Merv Healy
Carol Spaeth

GUESTS : Emery Barrette
Maureen O'Brien
Debra Fine
Chuck Hutchinson
Jan Jenkins

CHAIR : Dan McAlees
University of Wisconsin - Stout
Research and Training Center

The Chair distributed a draft of the Minutes of the November 15 Task Force meeting. They will be put in completed form for committee action at the December 2 meeting.

The Chair called for a report from the Grievance Procedures Sub-Committee.

John DuRand moved to request DVR to explore the possibility of establishing a state fund to be used for paying arbitration fees in cases of nuisance grievances which are decided in favor of the workshops. The rationale is that language in the proposed grievance procedures (point #16) would make them responsible for at least 50 percent of arbitration fees even if they win since workers would typically not be made financially responsible by the arbitrator.

Marv Spears said that DVR would look into the matter.

The possibility of establishing a permanent panel to decide whether a worker's grievance was warranted and worthy of using fund money for arbitration fees was discussed.

A suggestion was made that the Legislative Advisory Committee be the agent to release money from the state general fund upon request.

The committee felt the Legislature should assume some responsibility for costs incurred as a result of legislation it passes. The possibility that the legislation was passed with the understanding that implementation would not increase costs for the workshops was also mentioned. The question was raised as to how should arbi-

tration costs be handled in the time period prior to the establishment of a fund.

The motion, as amended by discussion, was unanimously passed as follows:

Request DVR to pursue establishment of a fund to pay arbitration awards where grievance goes to binding arbitration and the workshop wins. The funds should be released by LAC to DVR upon request of workshop, to DVR, on behalf of either or both workshop and the worker in cases where the workshop wins. This fund would in no way reduce the funds used to support Sheltered Employment Programs.

Clear intent of the motion is that the workshop pays when found in error. If they are not in error, then the fund would pay the workshop portion and assist the worker.

Next, the discussion turned to the definition of a "grievance" and the test for an adequate grievance procedure. Focus was on numbers 5 and 6 of the grievance procedures test proposed to the sub-committee.

At issue regarding number 6 was the potential for an arbitrator to decide a case in which the laws, government regulations, etc., are ambiguous wherein requiring the workshop to specifically comply with one will cause them to be out of compliance with another. The power of the arbitrator (number 15) are implicit in this issue.

Luther Granquist moved that grievance be defined as a dispute or disagreement regarding the interpretation or application of any term or terms of the workshop's written policy or standards that meet the requirements of numbers 4 and 5 of the proposed Grievance Procedures Test.

Point was made that number 5, which lists minimal requirements for personnel policies was appropriate because if a grievable issue is limited to written policy, the content of the written policy becomes critical.

The committee agreed to amend number 5d by striking the second line and adding the word assignment to read:

Fair and reasonable rules must be included regarding lay-offs, recall and job assignment.

A suggestion was made that the CARF standards for personnel policies be substituted for numbers 4 and 5. DVR was requested to obtain copies of the CARF standards for the Task Force meeting.

A motion to accept the proposed definition of grievance was unanimously agreed upon with the understanding that the content of number 5 is to be decided later.

The committee agreed that its recommendation for a test of adequate grievance procedures will be the final resolution of the proposal which the sub-committee has been reviewing. Current status toward resolution is as follows:

- 1 & 2 - agreed
- 3 - modify to include number 8 as second sentence
- 4 - agreed
- 5 - tentative pending decision regarding CARF standards a, b, c, d (modified), e, f -- otherwise, agreed
- 6 - to be reworked by Luther Granquist
- 7 - agreed
- 8 - incorporated into number 3
- 9-15 - agreed
- 16 - to be decided pending DVR Information on arbitration fund and decision about interim payment procedures.

MINUTES
TASK FORCE ON RIDER LEGISLATION
DECEMBER 2, 1983

PRESENT: Ken Tice
Pat Helmbrecht
Anne Henry
Jim Steiner
Carol Spaeth
Linda Silver
Edwin O. Opheim
Connie Knutson
Bob Russo (substitution for Dave Leiseth)
John DuRand
John Broady
Arne Berg
Vern Wahlstrom
Bud Morin
John Sherman
Bill Conley

GUESTS: Emil Angelica
Maureen, O'Brien, LAC

CHAIR: Dan McAlees
University of Wisconsin - Stout
Research and Training Center

The dates December 19* and January 11 were set as the final two meetings of the Task Force. Meeting times were scheduled for 10:00 until 3:00 with the location to be announced later by DVR.

As requested at the November 8 meeting, copies of the workshops' grievance procedures -- those which were implemented October 1 -- and the workshops' staff personnel policies were made available to the committee by DVR.

The Chair requested acceptance of the minutes of the November 15 Task Force meeting. A motion was made and passed that the eighth paragraph on page two be changed to reflect the fact that the motion was made by the subcommittee to the full Task Force.

Copies of the revised essential components of a grievance procedure were distributed. These had been rewritten by Luther Granquist to include changes agreed upon at the November 29 meeting.

John DuRand requested that the committee delay final action on the proposed grievance test until those who will be affected by their implementation can obtain legal counsel.

Changes in #7 and #14 were suggested by Bill Conley and accepted by consensus as follows:

* Subsequently changed to December 20.

- # 7 - Add " 7e. requires a written response to a written grievance".
- # 14 - Add "14e. the arbitrator would provide a written decision including findings of fact and reason for the decision to both parties".
- # 6 Was accepted by the committee as written in the revised draft.

Anne Henry raised the issue of whether the arbitrator should be under a time constraint for concluding a case. She will check to see whether the committee has authority to add such a clause.

In response to a question relative to the establishment of a fund for arbitration expenses, Ed Opheim said that he would report at the next meeting whether it would be possible to make such a request to the Legislature. He noted that he would not know by then whether such a request would be approved.

The committee reiterated its recommendation that DVR look into the funding possibility. Bill Conley stated for the record that the Task Force must not remain silent on the issue of arbitration expenses in the event we have no final data on the fund.

After discussion, the motion was made and unanimously agreed upon to change #15 as follows:

Arbitration expenses shall be assessed in the following manner:

- A. If the arbitrator finds in favor of the workshop, then the client/worker will be required to pay part of the arbitration expenses; however, in no event shall the client/worker be requested to pay the expenses of the arbitrator unless the client's/worker's income and resources are such that he or she could reasonably be expected to bear a portion but not more than 50 percent, of these fees and expenses. The allocation of fees and expenses shall be made only by the arbitrator.
- B. The workshop shall pay the arbitration costs when the arbitrator finds in favor of the client/worker.
- C. The allocation of fees and expenses shall be made by the arbitrator.

Next, the entire proposed test for adequate grievance procedures, #1-15, was unanimously accepted as modified pending information on the fund and from legal counsel. At the next meeting, the committee will make final changes with the hope of adopting the proposal as a recommendation to DVR.

The Chair expressed gratitude to Luther Granquist for drafting the proposed test for grievance procedures as well as to MARF for establishing a model procedure.

In regard to defining fundamental personnel benefits, the committee decided that the three listed in the rider legislation were fundamental plus those which must be provided in compliance with federal and state laws. Thus, fundamental benefits

should include at least the following:

- vacation
- sick leave
- holidays
- military leave
- maternity leave
- jury duty
- pay for non-standard hours or conditions
- voting time
- social security
- workers' compensation

Other desirable benefits decided upon are:

- medical insurance
- unemployment insurance
- life insurance
- retirement
- funeral leave
- educational leave
- unpaid leave of absence

The Task Force decided that unemployment insurance is a benefit that should be pursued for client/workers. The committee also recognizes that there are problems in terms of fiscal impact on facilities and legal problems in regard to the level of the client/workers' incomes. Therefore, the committee recommends that this issue be placed on the agenda of the future DVR "Big Questions" task force for resolution.

After discussing the feasibility of requiring medical insurance benefits, the motion was made to refer the issue of medical coverage to the Big Questions Task Force for study and resolution so that it can become a fundamental benefit by July 1, 1985. This motion passed with 7 in favor and 5 opposed.

In relation to the issue of medical insurance, DVR was requested to count the workshops offering it to staff and/or client/workers. DVR was also asked to determine the number of these that are located outstate or in the metro area.

The meeting was adjourned.

MINUTES
TASK FORCE ON RIDER LEGISLATION
DECEMBER 20, 1983

PRESENT: Ken Tice
Pat Helmbrecht
John Sherman
Bill Conley
Luther Granquist
John Broady
Carol Spaeth
Arne J. Berg
Merv Healy
Bob Russo (for Vern Wahlstrom)
David Leiseth
John DuRand

GUESTS : Emery Barrette
Linda Silver
Maureen O'Brien
Fred Menz
Jim Haynes

CHAIR : Dan McAlees

Minutes for the December 2 Task Force meeting were distributed and accepted as written by the committee. Subsequently, the committee moved to reconsider them and the following changes were accepted:

The word "other" should be added in the first sentence of the last paragraph on page 2 to read: "In regard to defining fundamental personnel benefits, the committee decided that the three listed in the rider legislation were fundamental plus those which must be provided in compliance with other federal and state laws".

The second sentence in the same paragraph should be struck and replaced by the words "These are:"

In the list of benefits that follow this, the words, "pay for non-standard hours or conditions", should be struck and replaced by the words, "overtime pay", to read:

vacation
sick leave
holidays
military leave
maternity leave
jury duty
overtime pay
voting time
social security
workers' compensation

The sentence which follows this list -- "Other desirable benefits decided upon are" -- should be struck and replaced by the words, "Other benefits listed and discussed:".

John DuRand distributed copies of a letter written by Dennis O'Brien, the MARF attorney, in response to the workshop representatives' request for legal advice on the proposed test for grievance procedures. He also moved that Luther Granquist or someone else from Legal Aid for the Developmental Disabilities meet with O'Brien to work out differences. Bill Conley and Granquist both pointed out that it was more appropriate for the issues to be discussed and acted upon by the full committee because the Task Force has developed their philosophical substance.

John Sherman reiterated that the Task Force document on grievance procedures is a set of guidelines to recommend to DVR for making decisions regarding the appropriateness of facility grievance procedures. As such, this document is not equivalent to the model grievance procedures developed by MARF last fall. He said it is important to keep this in mind when discussing O'Brien's response.

Sherman moved to reconvene the sub-committee to reconsider the currently accepted grievance procedure guidelines in light of O'Brien's legal counsel. He added to the motion the provision that O'Brien be invited to attend.

John DuRand withdrew his prior motion and seconded. The motion passed. A meeting will be held before the January 11 Task Force meeting.

Linda Silver requested that the workshop representatives convey to their attorney the spirit of conciliation that exists among Task Force members to prevent it from being altered.

In response to the committee's request, Donna Anderson reported on the number of outstate and metro workshops providing medical insurance for their staff and for their client/workers.

Granquist moved that the list of benefits accepted at the last meeting as fundamental (vacation, sick leave, holiday, military leave, maternity leave, jury duty, overtime pay, voting time, social security, and workers' compensation) be provided to long-term sheltered workers on a basis proportionate to that which workshops offer their staff. For example, if staff get a day a month sick leave based on an eight hour day, then sheltered workers would get the same amount based on a six hour day.

The issue of whether there is a rationale for providing different levels of benefits to staff and client/workers -- "a two-track or multi-track system -- was discussed. Some Task Force members said that even though the two-track system is common business practice, they were concerned there is a lack of rationale for it in the workshops. Without a rationale, it could be assumed that differences are based on disability.

Arne Berg stated that the rationale for the difference is based on the fact that sheltered workers have special employment needs.

Granquist pointed out that except for sick leave and vacation, the benefits listed in his motion would not be affected by the "two track" issue since the level of provision is either obvious or described in law.

The suggestion was made that the issue be dealt with on the basis of principle. Rules of standard management could be used but the definition of fair and equitable would be in terms of the principle decided upon.

If the principle were economic, the recommendations should be made to arrive at a definition of fair and equitable in such terms.

A call for action on Granquist's motion was made. The motion was defeated.

The chair requested that workshop representatives provide cost projections for providing the "fundamental" personnel benefits to client/workers on an equivalent basis with staff. They should report at the next meeting.

MINUTES
JANUARY 11, 1984
TASK FORCE ON RIDER LEGISLATION

MEMBERS PRESENT: Vern Wahlstrom
David Leiseth
Bill Conley
Merv Healy
John Sherman
Luther Granquist
John DuRand
Carol Spaeth
Bill O'Brien (for Pat Helmbrecht - ½ day)
Ken Tice
Jim Steiner
John Broady
Linda Silver
Pat Helmbrecht (½ day)

GUESTS PRESENT: Mylan M. Brenk
Maureen O'Brien
Susan Olson
Colleen Wieck
Fred Menz
Emil Angelica
Carl Bryngelson
Bob O'Connor

CHAIR: Dan McAlees, University of Wisconsin - Stout

The meeting was called to order at 10:00 a.m. by Dan McAlees.

The sub-committee on grievance procedures distributed copies of "Criteria for Determining Whether a Grievance Procedure Meets the Requirements of the 1983 Appropriations Rider". John Sherman reported for the committee on their meeting with the MARF attorney, Dennis O'Brien and pointed out the changes they had made in the criteria. He moved that the task force accept the criteria and recommend them to DVR as a standard for approving individual workshop grievance procedures. The motion passed unanimously.

Ed Opheim and Marv Spears of DVR stated that a report on the task force recommendations would be included in the Division's report to the Senate Finance and House Appropriations Committees. They assured the committee that the Division will translate their recommendations into steps for action within the next several months. The committee will be fully advised of the Division's actions.

In response to a November 29 task force request, Ed Opheim reported that establishment of a fund through the LAC to pay arbitration costs when a case was found in favor of the workshop was not possible at this time. The Finance Department had said funds from the LAC can be used only for emergency situations. Therefore, a request would have to be made to the Legislature for funds.

John Sherman made a motion that:

DVR seek to establish a fund to reimburse arbitration expenses incurred when a sheltered worker is assessed fees as part of an arbitration judgement. The worker should be assessed fees in accordance with #15 of the "criteria". The Task Force recommends the fund to protect the sheltered workers from experiencing financial hardship. This fund should be in addition to the regular appropriation so that the existing workshop program is not jeopardized.

The motion passed unanimously.

Discussion turned to personnel benefits. Luther Granquist made the motion that:

The task force recommend to DVR that certain fundamental personnel benefits for long-term sheltered workers (vacation, sick leave, holiday, military leave, maternity leave, jury duty, overtime pay, voting time, social security, and workers' compensation) be provided on a basis consistent with standard J 20 of the CARF Standards on the same basis provided the staff of the workshop (taking into account, differences in the length of the working day) whichever would provide greater benefits. This policy should be implemented immediately unless the workshop can demonstrate that current financial resources and those resources which can reasonably be expected to be available are insufficient to pay for all, or a portion of, the projected increased cost for increased benefits, in which case full implementation of the policy may be deferred up to October 1, 1985. The motion was passed with one dissention. John DuRand asked to go on record as having been in agreement with the intent of the motion but that he could not accept the word "staff".

In prior discussion, the following points had been made: The rule of application should be for equity within each class of the workshop's employees. For example, if a workshop makes distinctions between hourly and salaried employees, and if there are sheltered workers in each class, then sheltered workers should get the same benefits as the rest of the employees in that class.

If a sheltered workshop does not have a class of employees comparable to sheltered workers, then the CARF standards should be used. CARF standards also should provide a "floor" for holiday, vacation and sick leave. Arne Berg reported on the cost impact of increasing fundamental benefits to sheltered workers on an equivalent basis of staff.

He reported that if Mankato Rehabilitation Center increased benefits to sheltered workers to a level proportional to staff, the following cost increases would result (provided all variables remained the same):

Vacation Benefits - \$13,140 additional cost over 1982-1983

Sick Leave Benefits - \$11,687 additional cost over 1982-1983

Currently, 22 percent of the client wage payroll is for fringe benefits.

With proportional, 26 percent of the client wage payroll would be for fringe benefits.

The actual cost increase would be 22.4 percent.

The per client cost increase for proportional sick leave and vacation would be \$70 per year.

Jim Steiner stated that although most workshops would accept the principle of the motion, for many there would be an initial severe financial hardship to incorporate them budgetarily.

John Broady commented that if the benefits are "too good" in the workshops, there may be no incentive for sheltered workers to move on to competitive employment.

Next, the chair called attention to the handout submitted by DVR regarding the statutory language on several of the "fundamental" benefits -- maternity leave, jury duty, and military leave.

The committee turned to part C of the rider regarding the provision of worker wages certified pursuant to the subminimum wage provisions of the Fair Labor Standards Act. In discussion, the point was made that the Wage and Hour Office did not do audits on a regular basis. Therefore, if the state did establish some monitoring procedures, there would be no duplication of service. The suggestion was made that the state contract with the Federal Government to take responsibility for audits or to be paid for the audits they do to fill in for Wage and Hour.

DVR pointed out that legislative approval would be necessary to undertake the role but with additional staff and technical training, it could be done.

Jim Steiner said that state monitoring would be helpful because most workshop errors are in the paperwork. If such errors could be found in a more timely fashion than they presently are, the facilities might save money in back wages.

Bill Conley made a motion that:

With the intent that all workshops are monitored at least biennially, and that there is a timely response to wage complaints, DVR should request in their 1985-1987 budget, the staff and dollars required to: (1) biennially review the process that is used under Federal Law to set worker's wages; and (2) provide a mechanism to handle individual worker's complaints regarding wages. DVR should also request the attending legislation that would be needed to fulfill the intent of this motion. The motion passed with two attentions.

Other issues were brought up by committee members. John DuRand indicated that generally, sheltered workers fall into two functional groups in workshops. Some workers readily move on to competitive employment while others remain indefinitely because they do not qualify for competitive work. He claims there is a cost difference in providing activities for these two separate groups. However, currently, the workshops are funded as though there is just one level of worker. He recommended that this issue be referred to the Big Questions Task Force.

John DuRand also brought up the issue of medical insurance suggesting that DVR report to the Legislature the fact that its provision to sheltered workers would cause a huge financial impact on workshops. He thinks a thorough study of the total impact of providing medical insurance should be done so that the state would have expert information and help regarding how to finance it. This issue had previously been referred to the Big Questions Task Force for study.

John Sherman expressed concern that the principle of equity discussed in committee should be extended to individuals in work activity and day activity centers, including those not under DVR administration. He suggested that a statement to this effect be included in the report to the Legislature. He then moved that:

The task force recommend to DVR that the provisions of the rider be examined in terms of their applicability to the population of workers in work activity centers in the state. At the discretion of the Division, this can be referred to the Big Questions Task Force.

The motion passed unanimously.

Ken Tice raised the question of who is responsible to explain the rider and the recommendations to workers and personnel in workshops. Members of the task force agreed it is the responsibility of the workshops.

Several members directed questions to DVR regarding its plans and time frames for implementing the task force recommendations. They also asked what DVR is going to do about those workshops who do not follow the guidelines ultimately set. Ed Opheim stated that the Division will build the recommendations into their certification standards which will be used in making certification decisions.

John Sherman made the motion that:

The task force recommends the establishment of an implementation and review committee consisting of seven members of the task force to work with the Division to implement all the recommendations passed by the committee.

This motion was unanimously passed.

There was discussion about having members of the task force review the report that the Division makes to the Legislature. Four members (Pat Helmbrecht, Ken Tice, Dave Leiseth and Luther Granquist) volunteered to do this. DVR will send copies of the report to all members. Members will submit input to the four members who will meet with DVR.

A motion was made for the task force to reconvene two to three weeks after the Legislative Session in May. At that time, DVR will report on implementation of the recommendations. The motion was unanimously passed.

Ed Opheim reported having received suggestions that the Division consider exploring avenues for mediation instead of, or prior to, final and binding arbitration. He stated that the Division will continue to explore this matter and then report to the task force at its next meeting.

The December 20 minutes were unanimously approved.

Ed Opheim expressed deep appreciation to members of the committee for their help with the complex task given them.

Period - 10/1/82 - 2/30/83

EXPENSE DISTRIBUTION - TOTAL ALL PROGRAMS (EXLDIST)

PRELIMINARY 1/24/83

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JANUARY, 1984

	STAFF SALARIES	CLIENT WAGES	EMPLOYEE BENEFITS	PAYROLL TAXES	PROD SUPPLIES	OCCUPANCY	DEPREC	OTHER	TOTAL DIRECT	G & A	OTHER INDIRECT	TOTAL
ABC	309516	399525	32406	56736	356401	37409	88410	85355	1365758	432724	6283	1805365
BDAC	93583	31597	4058	9900	822	6965	12818	59418	219161	25777	0	244938
CVRC	342085	653067	20472	57776	343450	108411	52767	77379	1655407	291250	0	1946657
CER'L PAL	444229	744879	45767	111857	232671	119889	36099	148067	1883458	185279	0	2068737
COURAGE C.	118857	0	9552	9717	129997	99347	2800	17297	327567	31191	4544	363302
CWDC	192320	242316	14283	43765	192374	54982	29002	48628	817670	175616	0	993286
FUNCT'N'L	73235	110791	5146	12237	6360	19250	18298	80401	325718	58525	62480	446723
GIVE	519135	351442	44594	89231	184875	131594	106924	73145	1500940	400331	0	1901271
GOODWILL	410723	419174	28170	96730	89032	262998	143254	120117	1570198	329959	0	1900157
HENN CTY	88544	32235	13229	7432	7422	17383	0	20801	187096	46623	0	233719
IRC	180857	176035	16096	23736	105765	24102	2106	18693	547390	192685	0	740075
JVW	35671	56526	2619	8790	10473	19317	3598	8910	145904	9698	0	155602
LRR1	74403	118023	6305	18529	148873	45916	26947	31967	470963	76024	26190	573177
MRC	354672	531269	27602	80054	41916	140916	28367	92734	1297530	360142	356492	2014164
MIDWEST	143245	196521	7489	28034	10592	31979	23043	40235	481138	153683	0	634821
MDI	336869	536987	42298	66610	1248529	301541	67125	38098	2638057	414274	154275	3206606
ODC	162572	145702	10691	27318	264625	65349	39306	46659	762222	95614	21183	869019
ORC	67501	139141	21776	18548	46270	8301	5728	34683	341948	37181	0	379129
OTC	154276	144468	21959	29086	69810	33810	15169	16160	484738	84770	0	569508
OP SHOP	755770	414974	77719	97463	175978	274131	53202	271340	2120577	307944	444253	2872774
OWOBOPT	119873	98027	10771	14717	7619	42343	18672	65924	377946	66954	0	444900
RISE	202712	164996	8760	27755	65175	22248	25766	123720	641132	47200	0	688332
SERV IND	44428	71414	4856	12446	40179	14566	14400	511	202800	67997	9881	280678
SES	65184	155	4860	2254	0	4785	0	30989	108227	0	0	108227
SPAC	55200	146433	5028	19963	10895	14887	2865	12094	267385	21316	16968	305669
TASKS	30354	84543	9318	11384	20311	626	1476	11072	169084	13595	630	183309
TAC	52156	90413	3979	14249	59479	26964	8120	19096	274456	40509	0	314965
W CENTRAL	202363	152917	10778	33338	157214	14495	23533	72811	667449	129350	63707	860506
TOTAL	5630333	6253570	510581	1029725	4027107	1884504	849795	1666304	21851919	4086211	1167486	27105616
	20.77	23.07	1.88	3.80	14.86	6.95	3.14	6.15	80.62	15.08	4.31	100.00

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TOTAL ALL PROGRAMS - PAGE 1A

	TOTAL CLT HRS	AVG DAILY ATTEND	AVG HRLY WAGE	AVG YRLY WAGE
ABC	205795	210	1.94	1903
BDAC	46156	107	0.68	295
CVRC	353573	332	1.85	1967
CER'L PAL	321101	208	2.32	3581
COURAGE C.	0	238	ERROR -?	0
CWDC	180030	284	1.35	853
FUNCTN'L	96751	130	1.15	852
GIVE	256239	289	1.37	1216
GOODWILL	213399	171	1.96	2451
HENN CTY	27183	40	1.19	806
IRC	121969	147	1.44	1198
JVW	27938	19	2.02	2975
LRII	91386	224	1.29	527
MRC	531631	585	1.00	908
MIDWEST	90386	81	2.17	2426
MDI	285738	294	1.88	1826
ODC	144808	171	1.01	852
ORC	66928	82	2.08	1697
OTC	94783	228	1.52	634
OP SHOP	322360	358	1.29	1159
QWDBOPE	128069	110	0.77	891
RISE	132165	172	1.25	959
SERV IND	51342	45	1.39	1587
SES	0	5	ERROR -?	31
SPRC	66560	17	2.20	ERROR
TASKS	19719	17	4.29	4973
TAC	50983	42	1.77	2153
W CENTRAL	151254	137	1.01	1116
TOTAL	4078246	4726	1.53	1323

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EXPENSE DISTRIBUTION - LONG TERM SHELTERED EMPLOYMENT
(EXLDIST)

PAGE 2 OF 4

JANUARY, 1984

	STAFF SALARIES	CLIENT WAGES	EMPLOYEE BENEFITS	PAYROLL TAXES	PROD SUPPLIES	OCCUPANCY	DEPREC	OTHER	TOTAL DIRECT	G & A	OTHER INDIRECT	TOTAL
ABC	236719	347069	24842	46583	270487	27871	64721	71208	1089500	316852	5042	1411394
BDAC	16035	7162	828	1799	370	1293	1723	7848	37058	3742		40800
CVRC	335865	642399	20100	56725	343250	108411	52767	75417	1634934	286369		1921303
CER'L PAL	274919	733214	36623	93595	230677	62096	32480	73285	1536889	150539		1687428
COURAGE C.	118857		9552	9717	129997	39347	2800	17297	327567	31191	4544	363302
CWDC	135015	211475	10057	35583	183204	48631	23386	39094	686445	155321		841766
FUNCTN'L	38103	75313	3087	7599	6360	9625	9149	40924	190160	32588	34188	256936
GIVE	456358	300239	38366	77558	177833	126378	82848	69670	1329250	291162		1620412
GOODWILL	273517	384024	20294	72999	77406	241218	119745	98747	1287950	205484		1493434
HENN CTY								0				0
IRC	143912	150918	12994	19529	95977	20068	1685	16277	461360	161412		622772
JVW	35671	56526	2619	8790	10473	19317	3598	8910	145904	9698		155602
LRRRI	54671	107710	4460	15481	147193	39266	26046	23540	413367	53985	25880	498232
MRC	272078	439280	22671	64500	37658	102304	22764	74383	1034638	285042	264258	1583938
MIDWEST	136477	191468	7205	26795	9346	28715	19942	35416	455364	131519		586883
MDI	313549	499747	38961	62628	1248529	269541	67125	38098	2538178	381611	146275	3066064
ODC	114999	127484	7565	19333	264025	48164	32764	35132	649466	54446	21098	725010
ORC	47547	132945	18738	15960	44169	5598	3863	21372	290092	24566		314658
OTC	126385	115934	17991	23592	54838	28547	12290	12844	392421	67973		460394
OP SHOP	202310	316752	22265	41108	171553	46065	17580	30838	848471	80513	314498	1243482
QWOBOPTE	109883	93342	10055	13725	7143	41167	16338	57432	349085	51503		400588
RISE	117031	146117	5055	16027	57668	16686	19327	84600	462511	33948		496459
SERV IND	22849	58922	3035	8148	38634	9104	9000	442	150134	42498	6176	198808
SES	65184	155	4860	2254	0	4785	0	30989	108227	0		108227
SPRC	55200	146433	5028	19983	10895	14887	2865	12094	267385	21316	16968	305669
TASKS	30354	84543	9319	11384	20311	626	1476	11072	169084	13595	630	183309
TAC	49243	86157	3446	13441	59479	25813	6911	16696	261186	36259		297445
W CENTRAL	186599	136442	10358	30940	157214	14335	23533	66553	625974	115993	52119	794086
								0				0
TOTAL LTSE	3969330	5590670	370373	815776	3854689	1399858	676726	1070178	17747600	3039125	891676	21678401
	18.31	25.79	1.71	3.76	17.78	6.46	3.12	4.94	81.87	14.02	4.11	100.00

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LONG TERM SHELTERED EMPLOYMENT - PAGE 2A

	TOTAL CLT HRS	AVG DAILY ATTEND	AVG HRLY WAGE	AVG YRLY WAGE
ABC	142612	115	2.43	3018
BDAC	6093	6	1.13	1194
CVRC	326359	251	1.97	2559
CER'L PAL	299302	142	2.45	5163
COURAGE C.	0	238	ERROR	0
CWDC	120746	113	1.75	1871
FUNCTN'L	49255	35	1.53	2152
GIVE	164343	152	1.83	1975
GOODWILL	164580	107	2.33	3589
HENN CTY	0	0	ERROR	ERROR
IRC	83718	68	1.80	2219
JVW	27938	19	2.02	2975
LRR1	60905	86	1.77	1252
MRC	331639	281	1.32	1560
MIDWEST	82666	71	2.32	2697
MDI	244428	252	2.04	1983
ODC	103769	93	1.23	1371
ORC	58852	59	2.26	2252
OTC	60106	62	1.93	1870
OP SHOP	189438	140	1.67	2263
OWOBOPTE	114949	76	0.81	1228
RISE	110261	100	1.33	1461
SERV IND	33931	30	1.74	1964
SES	0	5	1.81	31
SPRC	66560		2.20	ERROR
TASKS	19719	17	4.29	4973
TAC	45822	31	1.88	2779
W CENTRAL	120745	86	1.13	1587
TOTAL LTSE	3028736	2635	1.85	2122

J-52

EXPENSE DISTRIBUTION - WORK ACTIVITY
(EXLDIST)

PAGE 3 OF 4

JANUARY, 1984

	STAFF SALARIES	CLIENT WAGES	EMPLOYEE BENEFITS	PAYROLL TAXES	PROD SUPPLIES	OCCUPANCY	DEPREC	OTHER	TOTAL DIRECT	G & A	OTHER INDIRECT	TOTAL
ABC	68884	38797	7392	3759	82130	9538	18754	13986	248240	91744	1458	341442
BDAC	69414	15230	2756	6793	375	4546	9219	42499	150832	18293		169125
CVRC								0				0
CER'L PAL	169310	11665	9144	18262	1994	57793	3619	74782	346569	34740		381309
COURAGE C.								0				0
CWDC	35597	18933	2626	5566	0	4212	3650	4434	75018	13461		88479
FUNCT'N'L	35132	34099	2059	4638	0	9625	9149	36725	131427	24607	27050	183084
GIVE	62777	39238	6228	10512	4488	5216	19100	3132	150691	83036		233727
GOODWILL	137206	35150	7876	23731	11626	21780	23509	21370	282248	124475		406723
HENN CTY	88544	32235	13229	7482	7422	17383	0	20801	187096	46623		233719
IRC	36945	17490	3102	3606	9788	4034	421	2416	77802	28247		106049
JVW								0				0
LRR1	16940	5535	1605	2592	1680	6650	901	8427	44330	21028	310	65668
MRC	74899	78483	3898	14170	3663	38612	5314	17237	236276	65281	80962	382519
MIDWEST	6768	5053	284	1239	1246	3264	3101	4819	25774	22164		47938
MDI	23320	37240	3337	3932	0	32000	0	0	99879	32663	8000	140542
ODC	42565	10754	2796	7145	600	17185	6542	11057	98644	19502	85	118231
ORC	18035	4670	2358	2009	1562	2124	1465	8105	40328	9959		50287
OTC	19092	16853	2714	3496	9678	5263	2146	2241	61483	10658		72141
OP SHOP	553460	98222	55454	56355	4425	228066	35622	240502	1272106	227431	129755	1629292
OWOBOPTE	3996	515	224	305	238	1176	1167	4168	11739	5150		16939
RISE	80676	18879	3488	11043	7507	5562	6439	39020	172614	12411		185025
SERV IND	21579	12492	1821	4298	1545	5462	5400	69	52666	25499	3705	81870
SES								0				0
SPRC								0				0
TASKS								0				0
TAC								0				0
W CENTRAL								0				0
TOTAL WAC	1565139	531533	132391	195983	149967	479491	155518	555790	3765812	916972	251325	4934109
	31.72	10.77	2.68	3.97	3.04	9.72	3.15	11.26	76.32	18.58	5.09	100.00

J-53

WORK ACTIVITY - PAGE 3A

	TOTAL CLT HRS	AVG DAILY ATTEND	AVG HRLY WAGE	AVG YRLY WAGE
ABC	41269	40	0.94	970
BDAC	24367	39	0.63	391
CVRC				
CER'L PAL	21799	66	0.54	177
COURAGE C.				
CWDC	27899	36	0.68	526
FUNCTN'L	44143	42	0.77	812
GIVE	74446	60	0.53	654
GOODWILL	48819	64	0.72	549
HENN CTY	27183	40	1.19	806
IRC	23539	23	0.74	760
JVW				
LRR1	2530	25	2.19	221
MRC	138439	106	0.57	740
MIDWEST	7720	10	0.65	505
MDI	41310	42	0.90	887
ODC	29597	38	0.36	263
ORC	6449	9	0.72	584
OTC	10610	16	1.59	1053
OP SHOP	132922	218	0.74	451
OWOBOPTE	1678	1	0.31	515
RISE	21904	34	0.86	555
SERV IND	17411	15	0.72	833
SES				
SFRC				
TASKS				
TAC				
W CENTRAL				
TOTAL LTSE	744034	923	0.71	576

J-54

EXPENSE DISTRIBUTION - WORK COMPONENT
(EXLDIST)

PAGE 4 OF 4

JANUARY, 1984

	STAFF SALARIES	CLIENT WAGES	EMPLOYEE BEBEFITS	PAYROLL TAXES	PROD SUPPLIES	OCCUPANCY	DEPREC	OTHER	TOTAL DIRECT	G & A	OTHER INDIRECT	TOTAL
ABC	3913	13659	172	1394	3784	0	4935	161	28018	24128	383	52529
BDAC	8134	9205	474	1308	77	1126	1876	9071	31271	3742		35013
CVRC	6220	10668	372	1051	200	0	0	1962	20473	4881		25354
CER'L PAL								0	0			0
COURAGE C.								0	0			0
CWDC	21708	11908	1600	2616	9170	2139	1966	5100	56207	6834		63041
FUNCTN'L	0	1379	0	0	0	0	0	2752	4131	1330	1242	6703
GIVE	0	11965	0	1161	2554	0	4976	343	20999	26133		47132
GOODWILL								0	0			0
HENN CTY								0	0			0
IRC	0	7627	0	601	0	0	0	0	8228	3026		11254
JVW								0	0			0
LRRI	2792	4778	240	456	0	0	0	0	8266	1011		9277
MRC	7695	14506	1033	1384	595	0	289	1114	26616	9819	11272	47707
MIDWEST								0	0			0
MDI								0	0			0
ODC	5008	7464	330	840	0	0	0	470	14112	11666		25778
ORC	1919	1626	680	579	539	579	400	5206	11528	2656		14184
OTC	8799	11681	1254	1998	5294	0	733	1075	30834	6139		36973
OP SHOP								0	0			0
OWOBOPTE	5994	4170	492	687	238	0	1167	4324	17072	10301		27373
RISE	5005	0	217	685	0	0	0	100	6007	841		6848
SERV IND								0	0			0
SES								0	0			0
SPRC								0	0			0
TASKS								0	0			0
TAC	2913	4256	533	808	0	1151	1209	2400	13270	4250		17520
W CENTRAL	15764	16475	420	2398	0	160	0	6258	41475	13357	11588	66420
TOTAL WC	95864	131367	7817	17966	22451	5155	17551	40386	338507	130114	24485	493106
	19.44	26.64	1.59	3.64	4.55	1.05	3.56	8.18	68.65	26.39	4.97	100.00

J-55

WORK COMPONENT - PAGE 4A

	TOTAL CLT HRS	AVG DAILY ATTEND	AVG HRLY WAGE	AVG YRLY WAGE
ABC	21914	55	0.62	248
BDAC	15696	62	0.59	143
CVRC	27214	81	0.39	132
CER'L PAL COURAGE C.				
CWDC	31385	135	0.38	88
FUNCTN'L	3353	53	0.41	26
GIVE	17450	77	0.69	155
GOODWILL HENN CTY IRC	14712	56	0.52	136
JVW				
LRR1	27951	113	0.17	42
MRC	61553	198	0.24	73
MIDWEST MDI				
ODC	11442	40	0.65	187
ORC	1627	15	1.00	108
OTC	24067	150	0.49	78
OP SHOP OWOBOPTE	11442	33	0.36	126
RISE	0	38	ERROR	0
SERV IND SES SPRC TASKS				
TAC	5161	11	0.82	387
W CENTRAL	30509	51	0.54	323
TOTAL WC	305476	1168	0.43	112

Minnesota Department of Economic Security
Division of Vocational Rehabilitation

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Office of Rehabilitation Resources

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REVIEW
OF
WORKSHOP PERSONNEL POLICIES

NOVEMBER 8, 1983

J-57



Vocational Rehabilitation

Disability Determination

Independent Living

Regional Service Centers for Hearing Impaired Persons

Long Term Sheltered Employment

An Equal Opportunity Employer

This is a report resulting from a review of personnel policies for long-term sheltered workers in Minnesota's sheltered workshops.

The data is generally described in terms such as "almost" and "a few" rather than in exact amounts. The reason for this is that the data was not readily quantified. Not only were the benefit packages and policies diverse but also they were not described in a uniform manner across the state. While the resulting report may be less than precise, it is useful in providing an overview of what workshops provide, how they figure the level of provision and what personnel issues are addressed in the policies.

HOLIDAYS

- ° Almost all have at least eight paid days
(range from 5-10 paid days)
- ° Six have an additional 1-2 "floating" paid holidays
- ° Most give Monday or Friday off and paid if holiday falls on the weekend
- ° Seven accept requests for additional religious holidays without pay
- ° Variations on Pay Base
 - Two are based on the individual guaranteed wage
 - Nine are based on individul's average wage during a specified time period prior to holiday
(i.e., previous quarter, at time of holiday, etc.)
 - Others do not specify wage base
- ° Qualifications on Paid Holidays
 - Some require attendance on preceding day in order to receive holiday pay
 - Some have minimum attendance requirements preceding holiday

VACATION

- ° Most have at least five days paid vacation for new employees
(range from 5 - 10 days for new employees)

This is about the only general statement that can be made.

- ° Method for Counting Days Earned

- varies regarding calculation.

X days per total number years employee has worked

X days per month

X hours per month

X hours per number hours worked

- varies regarding increments for longevity

- . Four increase after first year. Others range up to five years for first increment
- . Nine give everyone the same number of days irregardless of seniority
- . a couple give everyone five paid days with 5-10 unpaid
- . a couple close the shop for a period of time during which everyone has vacation

(some indicate benefits are for full-time workers only and define full-time

(a few specify the proportion of days part-time workers may earn)

- ° Qualifications on Earning Vacation

- One indicates that the number of days earned is affected by low attendance
- Seven indicate that individuals must work a certain length of time before they have the right to use vacation
- A few specify whether or not holidays falling during vacation are deducted from number of days used
- One indicates that number of hours earned decreases proportionately when workshop operates on reduced schedule

- ° Accural of Vacation Days

- Almost all require that the days be used within one or two years
- Most indicate that accrued days may be collected/accounted for upon termination (as well how the wage rate is calculated)

° Pay Base

- Eleven specify whether pay is based on piece rate, guaranteed, or average hourly (although some do not indicate whether the average is from the previous quarter or current)

° Requesting Vacation Time

- Almost all describe the method used -- when to request, to whom, whether verbal or written and basis for deciding in case of conflict

° Notification of Available Time

- A couple provide periodic written notice of how much time worker has coming.

SICK LEAVE

- ° Almost all give at least 1/2 day per month with a few giving one day per month.

- ° Method for Counting Time Earned
 - specification varies among:
 - x hours per month or x hours per year
 - x days per month or x days per year
 - 1 hour per every x hours worked

 - In some cases, additional days can be added from vacation, if necessary or from a leave of absence without pay

- ° Qualifications on Paid Sick Leave
 - Almost all require workers to call in daily before a particular time

 - A couple specify that workers must request sick pay upon return

 - One states that payment is contingent upon overall attendance

 - Two indicate when workers' rights to use sick leave begin -- one states it begins after one year of employment

- ° Accrual of Sick Leave Days
 - Varies from 5 days maximum
 - 60 days maximum
 - 90 days (may not collect at termination)
 - no limit

- ° Other Uses for Sick Leave
 - A couple specify leave may be used for illness of immediate family member

 - Eight state whether leave may be used for doctor appointment

- ° Pay Base
 - Seven specify what the wage base is.

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MATERNITY LEAVE

- ° All but four state some policy
 - four treat as an illness and apply sick leave
 - two apply sick leave and add some specific policies
 - one has maternity/paternity leave
- ° Except for those applying sick leave, almost all specify that leave is without pay

- ° Length of Leave Time
 - Almost all allow workers to continue working as long as a doctor approves
 - Almost all extend leave according to a doctor's recommendations -- or up to six months
 - Seven indicate that a worker is assumed terminated if she does not return upon doctor's recommendations or within a specified length of time.

- ° Status Upon Return
 - Nine indicate whether or not worker is reinstated in former job or similar job of equal status, pay, etc.
 - few state policy regarding seniority and benefits

- ° Requesting Maternity Leave
 - Most require a written request for time

FUNERAL/MILITARY/JURY DUTY

- Almost all workshops have policies regarding at least one of these circumstances.
- Nine have policies for all three.
- Ten have policies for two of them.

° Military

- About half do not state a policy.
- Typical policy is for two weeks per year, unpaid.
(one pays the difference between military and workshop wage)
- About a third allow workers to use vacation time.

° Funeral

Generally, those having policies limit leaves to funerals for immediate family
(a couple include close friends)

- five do not state a policy
- four have workers use sick leave for this
- seven specify leaves with pay -- usually up to three days
(a few give additional time through vacation days)

Some describe policy simply with "time off".

° Jury Duty

Almost all state some policy.

- Most pay wages minus the stipend from jury duty.
- Almost all of these specify whether the wage is based on guaranteed or average wage.

MISCELLANEOUS LEAVE

° Typically granted on an individual basis without pay for:

personal emergency or sickness
family emergency or sickness

A few use for:

funerals for family
doctor appointments

Two use for education leaves

(If education benefits the workshop, workers may also apply for tuition assistance and they may receive their regular wage when classes occur during regular work hours)

° Requesting Leave

- A few describe the procedure

INSURANCE

Seven workshops have some policy regarding insurance.

° Medical Insurance

- Six have medical insurance available and at least two workshops pay some proportion of the coverage

(One of these two limits coverage to workers who are not on MA)

- Two of the six clearly state that insurance is at worker's expense

° Life Insurance

- One has a \$2,000 paid life insurance for workers
- Another has life insurance available

November 8, 1983

RETIREMENT

- Only 13 specify retirement policy (12 of these state that it is not required)
- A couple review annually after 65
- One gives option to enroll in Tax Deferred Annuity Program
- One says that it is not required until 70 years of age

RESIGNATION

° About three-fourths of the workshops make at least one statement about this.

Generally, that statement indicates that a 1-2 week notice is required.

(A couple state that failure to do so may result in loss of benefits -- but do not specify what those are)

° Re-Employment

- Several indicate length of time and/or circumstances in which this will be considered without reapplication

DISMISSAL

- ° Typically, policies state that workers may be dismissed after "adequate verbal and written notices" and "appropriate attempts by management to correct"
 - Seven indicate disciplinary action leading to termination as (1) oral warning, (2) written warning, (3) suspension, and (4) termination.
 - One indicates these actions to be (1) warning, (2) job change, (3) suspension, and (4) termination.
 - A couple state how many warning slips will be too many.
 - Some provide a list of work rules, job expectations and safety rules which, if not followed, will be grounds for termination.
- (a few meet with workers to explain reasons for dismissal/benefits entitled to/eligibility for re-employment)

- ° Some name which staff persons have authority to dismiss and whose approval that person must have.

- ° Reasons for Dismissal

- (a) unsatisfactory job performance
- (b) acts detrimental to the workshop or workers
- (c) violations of work and/or safety rules

Some also specifically mention:

- (d) excessive absenteeism
- (e) use of liquor and drugs on the premises or theft, fraud, and fighting (which may result in immediate dismissal)

DISCIPLINE

- ° About half address this separately from dismissal
 - Usually, the steps for disciplinary action are:
 - (a) oral "reprimand"
 - (b) written
 - (c) suspension without pay
 - (d) termination
 - About six list all actions that result in disciplinary action and the type of discipline that each illicits (see also policy on dismissal)
 - One indicates that discipline is dealt with on an individual basis with consideration of individual objectives
- ° Sexual Harrassment
 - One addresses this issue specifically with disciplinary steps of warnings, suspension and discharge
 - (Also, if a supervisor fails to report on obvious case, s/he is subject to the same discipline)

WORK SLOW-DOWN/LAY-OFFS

- ° All specify some policy regarding these

(However, one states only: "by seniority")

- One defines the difference between a lay-off and a slow-down
- One specifies that they lay off a balance of administration/staff/workers
- A couple make available non-productive, non-paid activity (reporting is optional)

- ° Priority on Worker Lay-Off

Generally, this is done by seniority; skills needed to do remaining work; living circumstances and hardship lay-off would cause for worker

- One makes lay-offs on a rotating basis

- ° Notification of Lay-Off/Slowdown

Most specify this is done as soon as possible while some promise a minimum number of days for prior written notice

- One promises a five-day notice and if less than five days, they will give continuation pay to make up the difference
- In most cases, a shorter advance notice is promised for a slowdown

- ° Reporting Pay

13 give reporting pay

- varies from 1 to 4 hours pay. In a few cases where one hour pay is given, transportation costs to and from work are paid by the workshop
- two base pay on "guaranteed wage"
- one states pay is based on "average" wage

- ° Benefits

- One says they are not reduced due to slowdown

WORK ASSIGNMENTS

- ° 16 workshops do not include policy in the personnel policies
- ° About ten state that workers may be transferred at any time including to another branch
(a few indicate this may occur only during work slow-downs)
- ° Other methods include:
 - one gives workers a five-day advance notice of job changes
 - one states that they make changes with workers' approval
 - one "tries" to meet worker requests
 - a couple specify that assignment changes are based upon seniority, skills, etc.
- ° Overtime
 - Approximately 12 state they may ask workers to work overtime
(one specifies that overtime wage is based on hourly or guaranteed -- whichever is higher)
(one allows workers to choose compensatory time)
- ° Probation

Eight indicate they have a probationary period
(most state a three-month period)

JOB PLACEMENT IN COMPETITIVE EMPLOYMENT

Eight do not mention this in the personnel policies.

Several simply note its availability.

° Worker Access to Service

- Several note they encourage it at the time both worker and case manager feel worker is ready
- One bases readiness on attendance, punctuality, productivity, appearance, communication, behavior
(reviews worker every six months)
- One says worker should discuss desire for service with supervisor
- One considers workers for posted, vacant staff positions

° Follow-Up

- Two describe follow-up and on-the-job supervision

° Re-Employment

- Seven allow workers to return to workshop (some the same job) in the event worker loses job within first 30 days
(policies vary in cases where job is lost after first 30 days)

COMMUNICATION/WORKER INPUT

ESTABLISHMENT OF PERSONNEL POLICIES

- 10 stated that the Board of Directors do this

(almost all of these say the board "works cooperatively with workers to develop" the policies. Also, the board may change policies without notice.)

- At one they are established by Board, administration and employee representatives (However, the Board may change them without notice)
- One has the supervisors establish policies
- Three state only that policies are reviewed by the board
- One has a worker committee review policies
- One gives written notice of policy changes

° Interpretation of Policies to Workers

- 10 review personnel policies with workers upon intake or in orientation

- 2 have workers sign "acceptance of personnel policies"

(one makes employment contingent upon accepting the policies and administrative decisions)

° Non-Typical Information Included In Policies

- a couple list safety rules and/or work procedures
- a few provide job descriptions of their various jobs in the personnel policies .
- a few list behaviors and the specific disciplinary actions used to deal with them.

COMMITTEES

° Safety

- Five have these committees
 - consist of some combination of staff and sheltered workers
 - meet "regularly"
 - one states purpose is to "meet regarding OSHA standards" and to report problems and make recommendations
 - Membership
 - one has "selected workers" and shop supervisors
 - one has workers, one board member and the safety officer
 - one provides a safety class which all workers take

° Employee/Management

- Eight describe their committees
- Two mention them in another context
- Regularity of meetings vary from:
 - bi-monthly (one)
 - monthly
 - 3-4 times per year -- most common
 - annually
 - "when warranted"
- Purpose is generally some or all of the following:
 - to make suggestions
 - identify problems
 - give information to and receive concerns from other workers
 - relay information to other workers
 - review personnel policies annually
 - review grievance procedures
 - provide information regarding status of contracts
(one incorporates notion of "learn group and problem solving skills")
(two note that suggestions are approved by administration)
- Notification and feedback:
 - most do not describe a process for this
 - one has verbal mechanism for relaying suggestions to committee members (but does not mention feedback)
 - Two state that advance notice of meetings is given

- Membership:

- Three describe the committee composition

° 6 employees

3 trainees

counselor

non-partisan advocate

° one worker from each supervisory group, workshop vice-president; employment coordinator, representative from board of directors advocacy committee, and open to others

° three workers from each plant meet with "trainer"

- Two are less specific and only refer to the membership

° case managers and groups of workers

° workers meet with supervisor and counselor

- Term:

- Two specify that worker members are elected annually

One says workers are elected for an eight-month term

° Quality circles

- One "meets regularly" regarding quality problems

WRITTEN/ORAL COMMUNICATIONS

° Notices to workers

- 10 notify (some specify written) workers when their guaranteed wage changes (a couple also state reason for change)
- Some provide quarterly progress reviews
- Regarding vacation time available:
 - one indicates the number of days on each check stub
 - one provides quarterly notices
 - one provides semi-annual notices

° Worker input to/control over case file

- One states that worker may submit information to their case files as well as review it
- Two say the workers may challenge their records
- One requires workers to submit a written request to review their files
- One describes who has access to case files
- Many spell out individual rights to privacy and that worker's written consent will be obtained for release of records

° Suggestion box

- A couple provide this -- one states it is for anonymous grievances

LeFevere
Lefler
Kennedy
O'Brien &
Drawz

A Professional
Association

December 16, 1983

HAND DELIVERED

2600 First Bank Place West
Minneapolis
Minnesota 55402

Telephone 612-333-0543

Clayton L. LeFevere
Herbert P. Lefler
James O'Brien
John E. Drawz
David J. Kennedy
John B. Dean
Gordon E. Purdue
Richard J. Schieller
Charles L. LeFevere
Herbert P. Lefler III
Jeffrey J. Strand
Mary J. Bjorklund
John G. Kressel
Gayle Nolan
Gordon L. Lavorato
Michael A. Nash
Edward R. Komarek
Joan N. Ericksen
Elizabeth D. Moran
John F. Rice
Kathleen S. Clugg
James J. Thomson, Jr.

Mr. Robert H. Russo
MARF/McKnight Project Director
1821 University Avenue
St. Paul, MN 55104

Dear Bob:

You have asked me to review a document prepared by Luther Grandquist regarding the grievance procedure which the 1983 session of the legislature mandated that long-term sheltered workshops adopt.

Grievant

Mr. Grandquist first notes that the grievance procedure must define who may bring a grievance. The statute is clear and explicit with respect to this question. It provides:

Long-term sheltered sheltered workshops shall
. . . provide sheltered workers a grievance pro-
cedure. . . .

Laws 1983, Ch. 312, Article 1, Sec. 3, Subd. 5 (copy enclosed). We should resist any effort to expand the list of persons who may bring a grievance. The legislature only mandated that sheltered workers be provided access to a grievance procedure.

Definition of Grievance

The single most important criteria in a grievance procedure is how to define a grievance. Mr. Grandquist's definition of a grievance is overly broad and in my view beyond the scope of legislative intent. We should never agree to a grievance which would include a dispute or disagreement regarding statutes, regulations, government imposed policies, portions of any contract, application for funding, or other documents required by a funding or regulatory agency. If we did, we would then have an obligation to

Mr. Robert H. Russo

Page 2

December 16, 1983

grieve any dispute involving interpretation of any of these documents. It must be remembered that this is final and binding arbitration and that the prevailing party can enter the arbitration award as a court judgment or decree. Minn. Stat. §572.21. In drafting the suggested policy, I limited the definition of grievance to specifically provide that it was only an interpretation or dispute involving application of the personnel policies of the workshop. This seemed to me to be what the legislature had in mind since the legislature told workshops to not only adopt a grievance procedure, but also personnel benefits. The grievance procedure is to be limited to personnel benefits in my view. We do not want to have exposure for arbitrating all disputes involving statutes, rules, regulations or contracts since there is no end to the mischief that could be created by agreeing to arbitrate all disputes involving the foregoing categories of law. In attempting to ascertain what the legislature had in mind, we can look at other legislative schemes. The legislature has provided that every public employee who is not governed by a grievance procedure or by the provisions of a civil service system shall have access to an independent review. Minn. Stat. §179.76 provides:

It shall be the public policy of the state of Minnesota that every public employee should be provided with the right of independent review, by a disinterested person or agency, of any grievance arising out of the interpretation of or adherence to terms and conditions of employment. When such review is not provided under statutory, charter, or ordinance provisions for a civil service or merit system, the governmental agency may provide for such review consistent with the provisions of law or charter. If no other procedure exists for the independent review of such grievances, the employee may present his grievance to the public employment relations panel under procedures established by the board. (Emphasis added).

The Bureau of Mediation Services, pursuant to this statutory directive, developed a grievance procedure. It defines a grievance in a very narrow way, as follows:

Grievance means a dispute or disagreement as to the interpretation or application of any term or terms of . . . [a collective bargaining] contract. . . . (Copy enclosed).

Mr. Robert H. Russo
Page 3
December 16, 1983

If the state had thought that it was a good idea to have an expansive grievance definition for public employees, they would have included such a definition in their own grievance procedure. The fact that they did not include an expansive definition but rather chose a restrictive definition demonstrates the wisdom of our position that grievances must be narrowly defined. As a result, I would suggest that the report recite that the grievance procedure must define grievance as a dispute or disagreement involving interpretation or application of the workshop personnel manuals and that these manuals set out fundamental personnel benefits including paid sick, vacation and holiday leave.

Policy or Standards

Mr. Grandquist's statements on policy or standards contained in paragraph 5 on page 1 of his memorandum are overly broad and should not be adopted. A grievance is a dispute over interpretation or implication of workshop personnel manuals. If a workshop chooses to make accommodation with regard to conditions or practices in the workshop, it can do so in the personnel manuals. That is not to say that in adopting a procedure, we also make far-reaching substantive guarantees. The grievance procedure is only that, a procedure. It should not be used by advocates as a pretext for creating new rights and responsibilities. In addition, if we choose to have work rules, we must have the flexibility to amend those work rules as necessary. Again, the statutory directive does not include any thought or suggestion that we must consult with clients before rules are changed, although that may be something that each workshop could do in some circumstances. Paragraph 5(c) and (d) are acceptable. Paragraph 5(e) should be expanded to include a concept of progressive discipline.

Paragraphs 9, 10, 11 and 12 are beyond the statutory mandate and, again, constitute an attempt to substitute substantive rights under the guides of "procedure". All that the statute requires is that we have a grievance procedure and does not give employees the rights which are detailed in the paragraphs at issue. If the facilities wish to make these accommodations, they should be free to do so, but it should not be mandated in a grievance procedure.

The remainder of the comments are appropriate and in order. I find no objection to the manner of which arbitration expenses shall be shared nor do I object to the procedure for selection of an arbitrator.

Mr. Robert Russo
Page 4
December 16, 1983

If you have any questions, please advise.

Very truly yours,



J. Dennis O'Brien

JDO:kk

Enclosures

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SPONSOR OF ECO-

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Subd. 4. Job Service

\$ 4,634,900 \$ 3,134,900

The commissioner may expend up to one percent of the appropriation for each fiscal year for the department's administrative costs and for program operators' administrative costs.

Of the money appropriated for the summer youth program for fiscal year 1984, \$750,000 is immediately available. If that amount is insufficient for the costs incurred, an additional amount may be transferred upon the advance approval of the commissioner of finance. Any unexpended balance of the immediately available money shall be available for the year in which it is appropriated. Contracts for the calendar year 1983 program shall be written for the entire period of the calendar year 1983 program.

Subd. 5. Vocational Rehabilitation Services

\$15,063,100 \$16,428,300

Money received from workers' compensation carriers for vocational rehabilitation services to injured workers shall be deposited in the general fund.

Long-term sheltered workshops that receive funding through the department of economic security for long-term sheltered work operations shall: (a) provide sheltered workers a grievance procedure having final and binding arbitration before a neutral third party mutually acceptable to the parties involved as the final step; (b) provide long-term sheltered workers with fundamental personnel benefits including, but not limited to, paid sick, vacation, and holiday leave; and (c) provide to workers wages certified pursuant to the sub-minimum wage provisions of the Fair Labor Standards Act, United States Code, title 29, sections 201 to 219, as amended through December 31, 1982, that are proportionately commensurate to prevailing wages in the vicinity for similar jobs. Beginning in

Underlining and strikeouts are as shown in enrolled act
 1929

Ch. 312

73rd LEGISLATURE

Art. 1

January, 1984, the commissioner of economic security shall annually provide a report to the chairs of the house appropriations and senate finance committees on the operation of the long-term sheltered workshops including information on compliance with these requirements.

Subd. 6. Training and Community Services

\$4,587,400 \$5,642,000

If the appropriation for either year of the weatherization program is insufficient, the appropriation from the other year is available for the program.

Subd. 7. Program and Management Support

\$ 550,000

The appropriation for the displaced homemaker program includes money for the purpose of making grants to programs to provide employment, training, and support services to displaced homemakers.

This appropriation includes \$550,000 for article 6, for the biennium. Any unexpended balance remaining in the first year does not cancel, but is available for the second year.

Sec. 4. COMMISSIONER OF CORRECTIONS

Subdivision 1. Total Department Appropriation

78,253,200 79,205,000

The amounts that may be expended from the appropriation for each program and activity are more specifically described in the following subdivisions of this section. Positions and administrative money may be transferred within the department of corrections as deemed necessary by the commissioner, upon the advance approval of the commissioner of finance.

Subd. 2. Management Services

1,865,500 1,888,000

No new positions eligible for county probation reimbursement under this activity shall be added by any county without the

BMS GRIEVANCE PROCEDURE

APPLICATION

This grievance procedure shall be applicable whenever a public employer and the exclusive representative of public employees cannot reach agreement on a grievance procedure as required by Minnesota Statutes § 179.70 subd. 1.

DEFINITIONS

Grievance. "Grievance" means a dispute or disagreement as to the interpretation or application of any term or terms of any contract required under Minnesota Statutes § 179.70 subd. 1.

Days. "Days" mean calendar days excluding Saturday, Sunday, and legal holidays as defined by Minnesota Statutes.

Service. "Service" means personal service or by certified mail.

Reduced to Writing. "Reduced to writing" means a concise statement outlining the nature of the grievance, the provisions(s) of the contract in dispute, and the relief requested.

Small Group of Employees. "Small group of employees" means a group of employees consisting of five (5) or less.

Answer. "Answer" means a concise response outlining the employer's position on the grievance.

STEP I.

Whenever any employee or small group of employees have a grievance, he or they shall meet on an informal basis with the employee's or employees' immediate supervisor in an attempt to resolve the grievance within twenty (20) days after the grievance occurred or twenty (20) days after the employee(s), through the use of reasonable diligence, should have had knowledge of the occurrence that gave rise to the grievance. If the grievance is not resolved within fifteen (15) days of the first informal meeting, the grievance may be reduced to writing by the exclusive representative and served upon the public employer's designate (see Step II). Service must be made within fifteen (15) days of the last informal meeting. The employer shall, within five (5) days of receipt of the written grievance, serve his answer upon the exclusive representative. In the event the exclusive representative refuses to process the grievance, the employee(s) may proceed with the grievance and if he so chooses, may select a designee to represent him.

If the grievance involves and affects more than five (5) employees, the grievance may be reduced to writing by the exclusive representative (or the employees or their designated representative in the event the exclusive representative has declined to proceed with the grievance) and must be served upon the employer within twenty (20) days after the grievance occurred or twenty (20) days after the grievants, through the use of reasonable diligence, should have had knowledge of the occurrence that gave rise to the grievance. The employer shall within five (5) days serve his answer upon the exclusive representative (or in the appropriate case, employee(s) or their designee).

STEP II.

The employer's representative shall meet with the exclusive representative (or in the appropriate case, employee(s) or their designee) within seven (7) days after receipt of the written grievance. The parties shall endeavor to mutually resolve the grievance. If a resolution of the grievance results, the terms of that resolution shall be written on or attached to the grievance and shall be signed by all parties. If no agreement is reached within fifteen (15) days of the first Step II meeting, the exclusive representative (or in the appropriate case, employee(s) or their designee), if he elects to proceed with the grievance, must proceed with Step III by serving a proper notification on the appropriate Step III official(s). The notification shall contain a concise statement indicating the intention of the party to proceed with the grievance, an outline of the grievance, the provision(s) of the contract in dispute, and the relief requested.

STEP III.

The employer, its chief administrator, or its special representative shall meet with the designated official of the exclusive representative (or in the appropriate case, employee(s) or their designee) within ten (10) days after receiving notice of intention to proceed with the grievance pursuant to Step II. If resolution of the grievance results, the parties shall reduce the resolution to writing and sign the memorandum as provided in Step II. If the parties are unable to reach agreement within ten (10) days after the first Step III meeting, either party may request arbitration by serving a written notice on the other party of their intention to proceed with arbitration.

If a grievance procedure is provided by a system of civil service or other such body, the exclusive representative or employee(s) must elect either to process the grievance through this procedure or the civil service's or other such body's procedure, and in no event may a grievant avail himself of both procedures.

STEP IV.

The employer and the employee representative shall endeavor to select a mutually acceptable arbitrator to hear and decide the grievance. If the employer and the employee representative are unable to agree on an arbitrator, they may request from the Director of the Bureau of Mediation Services, state of Minnesota, a list of five (5) names. The list maintained by the Director of the Bureau of Mediation Services shall be made up of qualified arbitrators who have submitted an application to the Bureau. The parties shall alternately strike names from the list of five (5) arbitrators until only one (1) name remains. The remaining arbitrator shall hear and decide the grievance. If the parties are unable to agree on who shall strike the first name, the question shall be decided by a flip of the coin. Each party shall be responsible for equally compensating the arbitrator for his fee and necessary expenses.

The arbitrator shall not have the power to add, to subtract from, or to modify in any way the terms of the existing contract.

The decision of the arbitrator shall be final and binding on all parties to the dispute unless the decision violates any provision of the laws of Minnesota or rules or regulations promulgated thereunder, or municipal charters or ordinances or resolutions enacted pursuant thereto, or which causes a

GRIEVANCE PROCEDURE

STEP IV

penalty to be incurred thereunder. The decision shall be issued to the parties by the arbitrator, and a copy shall be filed with the Bureau of Mediation Services, state of Minnesota.

Processing of all grievances shall be during the normal workday whenever possible, and employees shall not lose wages due to their necessary participation. For purposes of this paragraph, employees entitled to wages during their necessary participation in a grievance proceeding are as follows:

a. The number of employees equal to the number of persons participating in the grievance proceeding on behalf of the public employer; or

b. If the number of persons participating on behalf of the public employer is less than three, three employees may still participate in the proceedings without loss of wages.

The parties, by mutual written agreement, may waive any step and extend any time limits in a grievance procedure. However, failure to adhere to the time limits may result in a forfeit of the grievance, or, in the case of the employer, require mandatory alleviation of the grievance as outlined in the last statement by the exclusive representative or employee.

The provisions of this grievance procedure shall be severable, and if any provision or paragraph thereof or application of any such provision or paragraph under any circumstance is held invalid, it shall not affect any other provision or paragraph of this grievance procedure or the application of any provision or paragraph thereof under different circumstances.

Filed January 22, 1973

Office Memorandum

DEPARTMENT ECONOMIC SECURITY
Vocational Rehabilitation

TO: Marvin O. Spears

DATE: December 30, 1983

FROM: Roger Sorbel *RS*
Legal Technician

PHONE: 297-3754

SUBJECT: APPLICATION OF ERISA TO PREGNANCY

The Employee Retirement Income Security Act (ERISA) covers welfare plans as well as retirement income plans. A "welfare plan" or "employee welfare benefit plan" is defined in ERISA Section 3(1) and includes health insurance and disability programs.

Congress passed P.L. 95-555 effective October 30, 1978, which affected the welfare plan area of ERISA. The 1978 Amendment to the Civil Rights Act of 1964 makes it illegal for employers to exclude pregnancy, childbirth, and related medical conditions from coverage under health insurance and disability programs. Of course, no employer is required to provide health or disability benefits, but if they are provided, pregnancy benefits cannot be excluded.

The 1978 Amendment affected health and disability insurance and did not apply to unpaid maternity leave.

RS: jlm

DEPARTMENT Economic Security
Division of Vocational Rehabilitation

Office Memorandum

TO: Donna Anderson

DATE: 1-9-84

FROM: Roger Sorbel *RS*
Legal Technician

PHONE: 297-3754

SUBJECT: Additional LTSW Personnel Requirements

I have additional comments concerning jury duty and military leave.

Minnesota Statute 593.50 (1982) prohibits an employer from discharging or threatening to discharge an employee who performs jury service. Section 593.50 does not require that an employer grant paid or unpaid leave for jury duty.

Minnesota Statute 192.26 (1982) requires that state and municipal employees be paid while on military duty. Section 192.26 does not apply to LTSW's. Minnesota Statute 192.34 (1982) forbids an employer from discharging an employee because of the employee's membership in the military forces of the United States.

RS:jb

CRITERIA FOR DETERMINING WHETHER
A GRIEVANCE PROCEDURE MEETS THE
REQUIREMENTS OF THE 1983
APPROPRIATIONS RIDER

Subcommittee Report

1. The grievance procedure must define who may bring a grievance. This definition must be consistent with the statutory directive.
2. The grievance procedure must define "grievance" in a manner which is consistent with the statutory directive. That definition may provide that action consistent with a behavior management program undertaken with the consent of the sheltered worker or that person's guardian or conservator is not subject to the grievance process unless the consequence imposed is suspension or termination of employment.
3. The grievance procedure must give the decision-maker at all steps of the process written personnel policies by which the grievance can be decided. The personnel policies must be written in a clear and coherent manner using words with common and everyday meanings and shall be appropriately divided and captioned by its various sections.
4. Provisions of the personnel policies, although they may not be the product of the collective bargaining process, must accommodate the interests of both sheltered workers and the workshop management in a fair and reasonable manner.
5. Personnel policies to be followed in resolving grievances are ones which include the following provisions:
 - a. Management will make reasonable accomodation to sheltered workers' handicapping conditions (including behavior patterns) with regard to conditions and practices in the workshop and in the application of all provisions of the policies.
 - b. Management-created work rules must be fair and reasonable, must not conflict with other provisions of the personnel policies, must be applied and enforced without discrimination, must when necessary be interpreted for sheltered workers, and where possible and appropriate must not be changed or amended except after consultation with affected sheltered workers.
 - c. Policies with respect to wages, overtime, fringe benefit, and other similar employee benefits shall be included. The procedures for requesting benefits (i.e. vacation time) must be specified.
 - d. Fair and reasonable rules must be included regarding layoffs, recall, and job assignment.

- e. All disciplinary procedures which may be used must be listed. (The policies need not enumerate all the consequences which may be imposed as part of behavior management programs undertaken with the consent of the sheltered worker or that person's guardian or conservator.) No disciplinary action may be taken without good cause. Disciplinary procedures must be implemented in such a way as not to embarrass the workers or the public.
- f. Permissible bases for discharge must be specified in the policy.
6. "Grievance" must be defined to include a dispute or disagreement regarding the interpretation or application of the personnel policies of the workshop, which personnel policies must be consistent with Commission on Accreditation of Rehabilitation Facilities, Standards Manual for Facilities Serving People with Disabilities. (1983).
7. The grievance procedure must include a step process for resolution of grievances which
 - a. states clearly the process to be followed at each step,
 - b. specifies the time limits for each party at each step and the consequences for each party if the time limits are not met,
 - c. allows a sheltered worker to make a grievance orally at the initial step,
 - d. facilitates resolution of the grievance as early as possible by involvement of management personnel with the authority to resolve the issues presented,
 - e. requires a written response to written grievances.
8. The workshop must inform sheltered workers of the grievance procedure and take those measures reasonably necessary to assure that sheltered workers have a realistic opportunity to understand the procedure.
9. A sheltered worker shall not leave work or disrupt the regular work routine to discuss a grievance without first requesting permission from his or her immediate supervisor, which permission shall not unreasonably be withheld. The sheltered worker shall be allowed a reasonable period of time during working hours to present and to prosecute his or her grievances.
10. A sheltered worker shall be allowed the assistance of a representative or advocate of that person's choice throughout all steps of the grievance process. If a co-worker is the representative or advocate, that co-worker may also request permission to be released from work to accompany the grievant at all stages of the process, which permission shall not

unreasonably be withheld.

11. The sheltered worker and a co-worker representative or advocate shall receive regular pay when a grievance is processed during working hours in all steps of the grievance process up to binding arbitration.
12. Unless the sheltered worker agrees otherwise, all discussions between the sheltered worker and the workshop during the grievance process shall take place at the workshop during hours the sheltered worker would customarily be at that location.
13. The grievance process shall provide for selection of an arbitrator in the following way:
 - a. by mutual agreement by both the sheltered worker and the workshop, or, if no agreement can be reached,
 - b. by obtaining from the American Arbitration Association or similar organization agreed to by both the sheltered worker and the workshop a list of five persons who have agreed to have their names listed for that specific purpose and allowing the sheltered worker and the workshop to strike names alternatively until one name is left.
14. The arbitrator shall
 - a. have no right to add to, subtract from, or modify the personnel policies,
 - b. consider and decide only the specific issue or issues submitted in writing by the sheltered worker or the workshop,
 - c. have no authority to make a decision on any other issue,
 - d. be without power to make decisions contrary to, inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law,
 - e. provide both parties a written decision including findings of fact and reasons for the decision.
15. Arbitration expenses shall be assessed in the following manner:
 - a. if the arbitrator finds in favor of the workshop, the sheltered worker may be required to pay part of the arbitration expenses; however, in no event shall a sheltered worker be required to pay the expenses of arbitration unless that person's income and resources are such that he or she could reasonably be expected to bear a portion, but not more than 50 percent, of these fees and expenses,
 - b. the workshop shall pay the arbitration costs when the arbitrator finds in favor of the sheltered worker,
 - c. the allocation of fees and expenses shall be made by the arbitrator.