

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-NINTH SESSION**

**S.F. No. 1207**

(SENATE AUTHORS: LOUREY)

DATE	D-PG	OFFICIAL STATUS
02/26/2015	448	Introduction and first reading Referred to Health, Human Services and Housing

A bill for an act

1.1 relating to human services; simplifying the treatment of income for public  
1.2 assistance programs; simplifying requirements for reporting income and changes  
1.3 and for correcting overpayments and underpayments; amending Minnesota  
1.4 Statutes 2014, sections 119B.011, subdivision 15; 119B.025, subdivision 1;  
1.5 119B.035, subdivision 4; 119B.09, subdivision 4; 256D.01, subdivision 1a;  
1.6 256D.02, subdivision 8, by adding a subdivision; 256D.06, subdivision 1;  
1.7 256D.405, subdivision 3; 256I.03, subdivision 7, by adding a subdivision;  
1.8 256I.04, subdivision 1; 256I.06, subdivision 6; 256J.08, subdivisions 26, 86;  
1.9 256J.30, subdivisions 1, 9; 256J.35; 256J.40; 256J.95, subdivision 19; 256P.001;  
1.10 256P.01, subdivision 3, by adding subdivisions; 256P.02, by adding a subdivision;  
1.11 256P.03, subdivision 1; 256P.04, subdivisions 1, 4; 256P.05, subdivision 1;  
1.12 proposing coding for new law in Minnesota Statutes, chapter 256P; repealing  
1.13 Minnesota Statutes 2014, sections 256D.0513; 256J.38; Minnesota Rules, part  
1.14 3400.0170, subparts 5, 6, 12, 13.  
1.15

1.16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.17 Section 1. Minnesota Statutes 2014, section 119B.011, subdivision 15, is amended to  
1.18 read:

1.19 Subd. 15. **Income.** "Income" means earned ~~or unearned~~ income received by all  
1.20 ~~family members, including~~ as defined under section 256P.01, subdivision 3, unearned  
1.21 income as defined under section 256P.01, subdivision 8, and public assistance cash benefits  
1.22 ~~and, including the Minnesota family investment program, diversionary work program,~~  
1.23 work benefit, Minnesota supplemental aid, general assistance, refugee cash assistance,  
1.24 ~~at-home infant child care subsidy payments, unless specifically excluded~~ and child support  
1.25 and maintenance distributed to the family under section 256.741, subdivision 15. The  
1.26 following are ~~excluded~~ deducted from income: funds used to pay for health insurance  
1.27 premiums for family members, ~~Supplemental Security Income, scholarships, work-study~~  
1.28 ~~income, and grants that cover costs or reimbursement for tuition, fees, books, and~~

2.1 ~~educational supplies; student loans for tuition, fees, books, supplies, and living expenses;~~  
2.2 ~~state and federal earned income tax credits; assistance specifically excluded as income by~~  
2.3 ~~law; in-kind income such as food support, energy assistance, foster care assistance, medical~~  
2.4 ~~assistance, child care assistance, and housing subsidies; earned income of full-time or~~  
2.5 ~~part-time students up to the age of 19, who have not earned a high school diploma or GED~~  
2.6 ~~high school equivalency diploma including earnings from summer employment; grant~~  
2.7 ~~awards under the family subsidy program; nonrecurring lump-sum income only to the~~  
2.8 ~~extent that it is earmarked and used for the purpose for which it is paid; and any income~~  
2.9 ~~assigned to the public authority according to section 256.741 and child or spousal support~~  
2.10 ~~paid to or on behalf of a person or persons who live outside of the household. Income~~  
2.11 ~~sources not included in this subdivision and section 256P.06, subdivision 3, are not counted.~~

2.12 Sec. 2. Minnesota Statutes 2014, section 119B.025, subdivision 1, is amended to read:

2.13 Subdivision 1. **Factors which must be verified.** (a) The county shall verify the  
2.14 following at all initial child care applications using the universal application:

2.15 (1) identity of adults;

2.16 (2) presence of the minor child in the home, if questionable;

2.17 (3) relationship of minor child to the parent, stepparent, legal guardian, eligible  
2.18 relative caretaker, or the spouses of any of the foregoing;

2.19 (4) age;

2.20 (5) immigration status, if related to eligibility;

2.21 (6) Social Security number, if given;

2.22 (7) income;

2.23 (8) spousal support and child support payments made to persons outside the  
2.24 household;

2.25 (9) residence; and

2.26 (10) inconsistent information, if related to eligibility.

2.27 (b) If a family did not use the universal application or child care addendum to apply  
2.28 for child care assistance, the family must complete the universal application or child care  
2.29 addendum at its next eligibility redetermination and the county must verify the factors  
2.30 listed in paragraph (a) as part of that redetermination. Once a family has completed a  
2.31 universal application or child care addendum, the county shall use the redetermination  
2.32 form described in paragraph (c) for that family's subsequent redeterminations. Eligibility  
2.33 must be redetermined at least every six months. A family is considered to have met the  
2.34 eligibility redetermination requirement if a complete redetermination form and all required  
2.35 verifications are received within 30 days after the date the form was due. Assistance shall

3.1 be payable retroactively from the redetermination due date. For a family where at least  
3.2 one parent is under the age of 21, does not have a high school or general equivalency  
3.3 diploma, and is a student in a school district or another similar program that provides or  
3.4 arranges for child care, as well as parenting, social services, career and employment  
3.5 supports, and academic support to achieve high school graduation, the redetermination of  
3.6 eligibility shall be deferred beyond six months, but not to exceed 12 months, to the end of  
3.7 the student's school year. If a family reports a change in an eligibility factor before the  
3.8 family's next regularly scheduled redetermination, the county must recalculate eligibility  
3.9 without requiring verification of any eligibility factor that did not change. Changes must  
3.10 be reported as required by section 256P.07. A change in income occurs on the day the  
3.11 participant received the first payment reflecting the change in income.

3.12 (c) The commissioner shall develop a redetermination form to redetermine eligibility  
3.13 and a change report form to report changes that minimize paperwork for the county and  
3.14 the participant.

3.15 Sec. 3. Minnesota Statutes 2014, section 119B.035, subdivision 4, is amended to read:

3.16 Subd. 4. **Assistance.** (a) A family is limited to a lifetime total of 12 months of  
3.17 assistance under subdivision 2. The maximum rate of assistance is equal to 68 percent  
3.18 of the rate established under section 119B.13 for care of infants in licensed family child  
3.19 care in the applicant's county of residence.

3.20 (b) A participating family must report income and other family changes as specified in  
3.21 sections 256P.06 and 256P.07, and the county's plan under section 119B.08, subdivision 3.

3.22 (c) Persons who are admitted to the at-home infant child care program retain their  
3.23 position in any basic sliding fee program. Persons leaving the at-home infant child care  
3.24 program reenter the basic sliding fee program at the position they would have occupied.

3.25 (d) Assistance under this section does not establish an employer-employee  
3.26 relationship between any member of the assisted family and the county or state.

3.27 Sec. 4. Minnesota Statutes 2014, section 119B.09, subdivision 4, is amended to read:

3.28 Subd. 4. **Eligibility; annual income; calculation.** Annual income of the applicant  
3.29 family is the current monthly income of the family multiplied by 12 or the income for  
3.30 the 12-month period immediately preceding the date of application, or income calculated  
3.31 by the method which provides the most accurate assessment of income available to the  
3.32 family. Self-employment income must be calculated based on gross receipts less operating  
3.33 expenses. Income must be recalculated when the family's income changes, but no less often  
3.34 than every six months. For a family where at least one parent is under the age of 21, does

4.1 not have a high school or general equivalency diploma, and is a student in a school district  
4.2 or another similar program that provides or arranges for child care, as well as parenting,  
4.3 social services, career and employment supports, and academic support to achieve high  
4.4 school graduation, income must be recalculated when the family's income changes, but  
4.5 otherwise shall be deferred beyond six months, but not to exceed 12 months, to the end of  
4.6 the student's school year. Nonrecurring lump sums must be annualized over 12 months.  
4.7 Income must be verified with documentary evidence. If the applicant does not have  
4.8 sufficient evidence of income, verification must be obtained from the source of the income.

4.9 Sec. 5. Minnesota Statutes 2014, section 256D.01, subdivision 1a, is amended to read:

4.10 Subd. 1a. **Standards.** (a) A principal objective in providing general assistance is  
4.11 to provide for single adults, childless couples, or children as defined in section 256D.02,  
4.12 subdivision 6, ineligible for federal programs who are unable to provide for themselves.  
4.13 The minimum standard of assistance determines the total amount of the general assistance  
4.14 grant without separate standards for shelter, utilities, or other needs.

4.15 (b) The commissioner shall set the standard of assistance for an assistance unit  
4.16 consisting of an adult recipient who is childless and unmarried or living apart from  
4.17 children and spouse and who does not live with a parent or parents or a legal custodian.  
4.18 When the other standards specified in this subdivision increase, this standard must also be  
4.19 increased by the same percentage.

4.20 (c) For an assistance unit consisting of a single adult who lives with a parent or  
4.21 parents, the general assistance standard of assistance is the amount that the aid to families  
4.22 with dependent children standard of assistance, in effect on July 16, 1996, would increase  
4.23 if the recipient were added as an additional minor child to an assistance unit consisting  
4.24 of the recipient's parent and all of that parent's family members, except that the standard  
4.25 may not exceed the standard for a general assistance recipient living alone. Benefits  
4.26 received by a responsible relative of the assistance unit under the Supplemental Security  
4.27 Income program, a workers' compensation program, the Minnesota supplemental aid  
4.28 program, or any other program based on the responsible relative's disability, and any  
4.29 benefits received by a responsible relative of the assistance unit under the Social Security  
4.30 retirement program, may not be counted in the determination of eligibility or benefit  
4.31 level for the assistance unit. Except as provided below, the assistance unit is ineligible  
4.32 for general assistance if the available resources or the countable income of the assistance  
4.33 unit and the parent or parents with whom the assistance unit lives are such that a family  
4.34 consisting of the assistance unit's parent or parents, the parent or parents' other family  
4.35 members and the assistance unit as the only or additional minor child would be financially

5.1 ineligible for general assistance. For the purposes of calculating the countable income  
 5.2 of the assistance unit's parent or parents, the calculation methods, ~~income deductions,~~  
 5.3 ~~exclusions, and disregards used when calculating the countable income for a single adult~~  
 5.4 ~~or childless couple must be used~~ follow the provisions under section 256P.06.

5.5 (d) For an assistance unit consisting of a childless couple, the standards of assistance  
 5.6 are the same as the first and second adult standards of the aid to families with dependent  
 5.7 children program in effect on July 16, 1996. If one member of the couple is not included  
 5.8 in the general assistance grant, the standard of assistance for the other is the second adult  
 5.9 standard of the aid to families with dependent children program as of July 16, 1996.

5.10 Sec. 6. Minnesota Statutes 2014, section 256D.02, is amended by adding a subdivision  
 5.11 to read:

5.12 Subd. 1a. **Assistance unit.** "Assistance unit" means an individual or an eligible  
 5.13 married couple who live together who are applying for or receiving benefits under this  
 5.14 chapter.

5.15 Sec. 7. Minnesota Statutes 2014, section 256D.02, subdivision 8, is amended to read:

5.16 Subd. 8. **Income.** "Income" means ~~any form of income, including remuneration~~  
 5.17 ~~for services performed as an employee and earned income from rental income and~~  
 5.18 ~~self-employment earnings as described under section 256P.05~~ earned income as defined  
 5.19 under section 256P.01, subdivision 3, and unearned income as defined under section  
 5.20 256P.01, subdivision 8.

5.21 ~~Income includes any payments received as an annuity, retirement, or disability~~  
 5.22 ~~benefit, including veteran's or workers' compensation; old age, survivors, and disability~~  
 5.23 ~~insurance; railroad retirement benefits; unemployment benefits; and benefits under any~~  
 5.24 ~~federally aided categorical assistance program, supplementary security income, or other~~  
 5.25 ~~assistance program; rents, dividends, interest and royalties; and support and maintenance~~  
 5.26 ~~payments. Such payments may not be considered as available to meet the needs of any~~  
 5.27 ~~person other than the person for whose benefit they are received, unless that person is~~  
 5.28 ~~a family member or a spouse and the income is not excluded under section 256D.01,~~  
 5.29 ~~subdivision 1a. Goods and services provided in lieu of cash payment shall be excluded~~  
 5.30 ~~from the definition of income, except that payments made for room, board, tuition or~~  
 5.31 ~~fees by a parent, on behalf of a child enrolled as a full-time student in a postsecondary~~  
 5.32 ~~institution, and payments made on behalf of an applicant or participant which the applicant~~  
 5.33 ~~or participant could legally demand to receive personally in cash, must be included as~~  
 5.34 ~~income. Benefits of an applicant or participant, such as those administered by the Social~~

6.1 ~~Security Administration, that are paid to a representative payee, and are spent on behalf of~~  
6.2 ~~the applicant or participant, are considered available income of the applicant or participant.~~

6.3 Sec. 8. Minnesota Statutes 2014, section 256D.06, subdivision 1, is amended to read:

6.4 Subdivision 1. **Eligibility; amount of assistance.** General assistance shall be  
6.5 granted in an amount that when added to the ~~nonexempt~~ countable income as determined  
6.6 to be actually available to the assistance unit under section 256P.06, the total amount  
6.7 equals the applicable standard of assistance for general assistance. In determining  
6.8 eligibility for and the amount of assistance for an individual or married couple, the agency  
6.9 shall apply the earned income disregard as determined in section 256P.03.

6.10 Sec. 9. Minnesota Statutes 2014, section 256D.405, subdivision 3, is amended to read:

6.11 Subd. 3. **Reports.** Participants must report changes in circumstances according to  
6.12 section 256P.07 that affect eligibility or assistance payment amounts within ten days of the  
6.13 change. Participants who do not receive SSI because of excess income must complete a  
6.14 monthly report form if they have earned income, if they have income deemed to them  
6.15 from a financially responsible relative with whom the participant resides, or if they have  
6.16 income deemed to them by a sponsor. If the report form is not received before the end of  
6.17 the month in which it is due, the county agency must terminate assistance. The termination  
6.18 shall be effective on the first day of the month following the month in which the report  
6.19 was due. If a complete report is received within the month the assistance was terminated,  
6.20 the assistance unit is considered to have continued its application for assistance, effective  
6.21 the first day of the month the assistance was terminated.

6.22 Sec. 10. Minnesota Statutes 2014, section 256I.03, is amended by adding a subdivision  
6.23 to read:

6.24 Subd. 1b. **Assistance unit.** "Assistance unit" means an individual who is applying  
6.25 for or receiving benefits under this chapter.

6.26 Sec. 11. Minnesota Statutes 2014, section 256I.03, subdivision 7, is amended to read:

6.27 Subd. 7. **Countable income.** "Countable income" means all income received by an  
6.28 applicant or recipient as described under section 256P.06, less any applicable exclusions  
6.29 or disregards. For a recipient of any cash benefit from the SSI program, countable income  
6.30 means the SSI benefit limit in effect at the time the person is in a GRH, less the medical  
6.31 assistance personal needs allowance. If the SSI limit has been reduced for a person due to

7.1 events occurring prior to the persons entering the GRH setting, countable income means  
7.2 actual income less any applicable exclusions and disregards.

7.3 Sec. 12. Minnesota Statutes 2014, section 256I.04, subdivision 1, is amended to read:

7.4 Subdivision 1. **Individual eligibility requirements.** An individual is eligible for  
7.5 and entitled to a group residential housing payment to be made on the individual's behalf  
7.6 if the agency has approved the individual's residence in a group residential housing setting  
7.7 and the individual meets the requirements in paragraph (a) or (b).

7.8 (a) The individual is aged, blind, or is over 18 years of age and disabled as  
7.9 determined under the criteria used by the title II program of the Social Security Act, and  
7.10 meets the resource restrictions and standards of section 256P.02, and the individual's  
7.11 countable income after deducting the (1) exclusions and disregards of the SSI program,  
7.12 (2) the medical assistance personal needs allowance under section 256B.35, and (3) an  
7.13 amount equal to the income actually made available to a community spouse by an elderly  
7.14 waiver participant under the provisions of sections 256B.0575, paragraph (a), clause  
7.15 (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the agency's  
7.16 agreement with the provider of group residential housing in which the individual resides.

7.17 (b) The individual meets a category of eligibility under section 256D.05, subdivision  
7.18 1, paragraph (a), and the individual's resources are less than the standards specified by  
7.19 section 256P.02, and the individual's countable income as determined under ~~sections~~  
7.20 ~~256D.01 to 256D.21~~ section 256P.06, less the medical assistance personal needs allowance  
7.21 under section 256B.35 is less than the monthly rate specified in the agency's agreement  
7.22 with the provider of group residential housing in which the individual resides.

7.23 Sec. 13. Minnesota Statutes 2014, section 256I.06, subdivision 6, is amended to read:

7.24 Subd. 6. **Reports.** Recipients must report changes in circumstances according  
7.25 to section 256P.07 that affect eligibility or group residential housing payment amounts  
7.26 within ten days of the change. Recipients with countable earned income must complete  
7.27 a monthly household report form. If the report form is not received before the end of  
7.28 the month in which it is due, the county agency must terminate eligibility for group  
7.29 residential housing payments. The termination shall be effective on the first day of the  
7.30 month following the month in which the report was due. If a complete report is received  
7.31 within the month eligibility was terminated, the individual is considered to have continued  
7.32 an application for group residential housing payment effective the first day of the month  
7.33 the eligibility was terminated.

8.1 Sec. 14. Minnesota Statutes 2014, section 256J.08, subdivision 26, is amended to read:

8.2 Subd. 26. **Earned income.** "Earned income" means ~~cash or in-kind income earned~~  
8.3 ~~through the receipt of wages, salary, commissions, profit from employment activities, net~~  
8.4 ~~profit from self-employment activities, payments made by an employer for regularly~~  
8.5 ~~accrued vacation or sick leave, and any other profit from activity earned through effort or~~  
8.6 ~~labor. The income must be in return for, or as a result of, legal activity~~ has the meaning  
8.7 given in section 256P.01, subdivision 3.

8.8 Sec. 15. Minnesota Statutes 2014, section 256J.08, subdivision 86, is amended to read:

8.9 Subd. 86. **Unearned income.** "Unearned income" means ~~income received by~~  
8.10 ~~a person that does not meet the definition of earned income. Unearned income includes~~  
8.11 ~~income from a contract for deed, interest, dividends, unemployment benefits, disability~~  
8.12 ~~insurance payments, veterans benefits, pension payments, return on capital investment,~~  
8.13 ~~insurance payments or settlements, severance payments, child support and maintenance~~  
8.14 ~~payments, and payments for illness or disability whether the premium payments are~~  
8.15 ~~made in whole or in part by an employer or participant~~ has the meaning given in section  
8.16 256P.01, subdivision 8.

8.17 Sec. 16. Minnesota Statutes 2014, section 256J.30, subdivision 1, is amended to read:

8.18 Subdivision 1. **Applicant reporting requirements.** An applicant must provide  
8.19 information on an application form and supplemental forms about the applicant's  
8.20 circumstances ~~which affect MFIP eligibility or the assistance payment. An applicant must~~  
8.21 ~~report changes identified in subdivision 9 while the application is pending. When an~~  
8.22 ~~applicant does not accurately report information on an application, both an overpayment~~  
8.23 ~~and a referral for a fraud investigation may result. When an applicant does not provide~~  
8.24 ~~information or documentation, the receipt of the assistance payment may be delayed or the~~  
8.25 ~~application may be denied depending on the type of information required and its effect on~~  
8.26 ~~eligibility~~ according to section 256P.07.

8.27 Sec. 17. Minnesota Statutes 2014, section 256J.30, subdivision 9, is amended to read:

8.28 Subd. 9. **Changes that must be reported.** A caregiver must report ~~the changes or~~  
8.29 ~~anticipated changes specified in clauses (1) to (15) within ten days of the date they occur,~~  
8.30 ~~at the time of the periodic recertification of eligibility under section 256P.04, subdivisions~~  
8.31 ~~8 and 9, or within eight calendar days of a reporting period as in subdivision 5, whichever~~  
8.32 ~~occurs first. A caregiver must report other changes at the time of the periodic recertification~~  
8.33 ~~of eligibility under section 256P.04, subdivisions 8 and 9, or at the end of a reporting period~~



9.1 under subdivision 5, as applicable. A caregiver must make these reports in writing to the  
 9.2 agency. When an agency could have reduced or terminated assistance for one or more  
 9.3 payment months if a delay in reporting a change specified under clauses (1) to (14) had  
 9.4 not occurred, the agency must determine whether a timely notice under section 256J.31,  
 9.5 subdivision 4, could have been issued on the day that the change occurred. When a timely  
 9.6 notice could have been issued, each month's overpayment subsequent to that notice must be  
 9.7 considered a client error overpayment under section 256J.38. Calculation of overpayments  
 9.8 for late reporting under clause (15) is specified in section 256J.09, subdivision 9. Changes  
 9.9 in circumstances which must be reported within ten days must also be reported on the  
 9.10 MFIP household report form for the reporting period in which those changes occurred.  
 9.11 Within ten days, a caregiver must report: changes as specified under section 256P.07.

- 9.12 (1) a change in initial employment;
- 9.13 (2) a change in initial receipt of unearned income;
- 9.14 (3) a recurring change in unearned income;
- 9.15 (4) a nonrecurring change of unearned income that exceeds \$30;
- 9.16 (5) the receipt of a lump sum;
- 9.17 (6) an increase in assets that may cause the assistance unit to exceed asset limits;
- 9.18 (7) a change in the physical or mental status of an incapacitated member of the  
 9.19 assistance unit if the physical or mental status is the basis for reducing the hourly  
 9.20 participation requirements under section 256J.55, subdivision 1, or the type of activities  
 9.21 included in an employment plan under section 256J.521, subdivision 2;
- 9.22 (8) a change in employment status;
- 9.23 (9) the marriage or divorce of an assistance unit member;
- 9.24 (10) the death of a parent, minor child, or financially responsible person;
- 9.25 (11) a change in address or living quarters of the assistance unit;
- 9.26 (12) the sale, purchase, or other transfer of property;
- 9.27 (13) a change in school attendance of a caregiver under age 20 or an employed child;
- 9.28 (14) filing a lawsuit, a workers' compensation claim, or a monetary claim against a  
 9.29 third party; and
- 9.30 (15) a change in household composition, including births, returns to and departures  
 9.31 from the home of assistance unit members and financially responsible persons, or a change  
 9.32 in the custody of a minor child.

9.33 Sec. 18. Minnesota Statutes 2014, section 256J.35, is amended to read:

9.34 **256J.35 AMOUNT OF ASSISTANCE PAYMENT.**

10.1 Except as provided in paragraphs (a) to (d), the amount of an assistance payment is  
 10.2 equal to the difference between the MFIP standard of need or the Minnesota family wage  
 10.3 level in section 256J.24 and countable income.

10.4 (a) Beginning July 1, 2015, MFIP assistance units are eligible for an MFIP housing  
 10.5 assistance grant of \$110 per month, unless:

10.6 (1) the housing assistance unit is currently receiving public and assisted rental  
 10.7 subsidies provided through the Department of Housing and Urban Development (HUD)  
 10.8 and is subject to section 256J.37, subdivision 3a; or

10.9 (2) the assistance unit is a child-only case under section 256J.88.

10.10 (b) When MFIP eligibility exists for the month of application, the amount of the  
 10.11 assistance payment for the month of application must be prorated from the date of  
 10.12 application or the date all other eligibility factors are met for that applicant, whichever is  
 10.13 later. This provision applies when an applicant loses at least one day of MFIP eligibility.

10.14 (c) MFIP overpayments to an assistance unit must be recouped according to section  
 10.15 ~~256J.38, subdivision 4~~ 256P.08, subdivision 5.

10.16 (d) An initial assistance payment must not be made to an applicant who is not  
 10.17 eligible on the date payment is made.

10.18 Sec. 19. Minnesota Statutes 2014, section 256J.40, is amended to read:

10.19 **256J.40 FAIR HEARINGS.**

10.20 Caregivers receiving a notice of intent to sanction or a notice of adverse action that  
 10.21 includes a sanction, reduction in benefits, suspension of benefits, denial of benefits, or  
 10.22 termination of benefits may request a fair hearing. A request for a fair hearing must be  
 10.23 submitted in writing to the county agency or to the commissioner and must be mailed  
 10.24 within 30 days after a participant or former participant receives written notice of the  
 10.25 agency's action or within 90 days when a participant or former participant shows good  
 10.26 cause for not submitting the request within 30 days. A former participant who receives a  
 10.27 notice of adverse action due to an overpayment may appeal the adverse action according  
 10.28 to the requirements in this section. Issues that may be appealed are:

10.29 (1) the amount of the assistance payment;

10.30 (2) a suspension, reduction, denial, or termination of assistance;

10.31 (3) the basis for an overpayment, the calculated amount of an overpayment, and  
 10.32 the level of recoupment;

10.33 (4) the eligibility for an assistance payment; and

10.34 (5) the use of protective or vendor payments under section 256J.39, subdivision 2,  
 10.35 clauses (1) to (3).

11.1 Except for benefits issued under section 256J.95, a county agency must not reduce,  
11.2 suspend, or terminate payment when an aggrieved participant requests a fair hearing  
11.3 prior to the effective date of the adverse action or within ten days of the mailing of the  
11.4 notice of adverse action, whichever is later, unless the participant requests in writing not  
11.5 to receive continued assistance pending a hearing decision. An appeal request cannot  
11.6 extend benefits for the diversionary work program under section 256J.95 beyond the  
11.7 four-month time limit. Assistance issued pending a fair hearing is subject to recovery  
11.8 under section ~~256J.38~~ 256P.08 when as a result of the fair hearing decision the participant  
11.9 is determined ineligible for assistance or the amount of the assistance received. A county  
11.10 agency may increase or reduce an assistance payment while an appeal is pending when the  
11.11 circumstances of the participant change and are not related to the issue on appeal. The  
11.12 commissioner's order is binding on a county agency. No additional notice is required to  
11.13 enforce the commissioner's order.

11.14 A county agency shall reimburse appellants for reasonable and necessary expenses  
11.15 of attendance at the hearing, such as child care and transportation costs and for the  
11.16 transportation expenses of the appellant's witnesses and representatives to and from the  
11.17 hearing. Reasonable and necessary expenses do not include legal fees. Fair hearings  
11.18 must be conducted at a reasonable time and date by an impartial human services judge  
11.19 employed by the department. The hearing may be conducted by telephone or at a site that  
11.20 is readily accessible to persons with disabilities.

11.21 The appellant may introduce new or additional evidence relevant to the issues on  
11.22 appeal. Recommendations of the human services judge and decisions of the commissioner  
11.23 must be based on evidence in the hearing record and are not limited to a review of the  
11.24 county agency action.

11.25 Sec. 20. Minnesota Statutes 2014, section 256J.95, subdivision 19, is amended to read:

11.26 Subd. 19. **DWP overpayments and underpayments.** DWP benefits are subject  
11.27 to overpayments and underpayments. Anytime an overpayment or an underpayment is  
11.28 determined for DWP, the correction shall be calculated using prospective budgeting.  
11.29 Corrections shall be determined based on the policy in section 256J.34, subdivision 1,  
11.30 paragraphs (a), (b), and (c). ATM errors must be recovered as specified in section ~~256J.38,~~  
11.31 ~~subdivision 5~~ 256P.08, subdivision 6. Cross program recoupment of overpayments cannot  
11.32 be assigned to or from DWP.

11.33 Sec. 21. Minnesota Statutes 2014, section 256P.001, is amended to read:

11.34 **256P.001 APPLICABILITY.**

12.1 General assistance and Minnesota supplemental aid under chapter 256D, child care  
12.2 assistance programs under chapter 119B, and programs governed by chapter 256I or 256J  
12.3 are subject to the requirements of this chapter, unless otherwise specified or exempted.

12.4 Sec. 22. Minnesota Statutes 2014, section 256P.01, is amended by adding a subdivision  
12.5 to read:

12.6 Subd. 2a. **Assistance unit.** "Assistance unit" is defined by program area under  
12.7 sections 119B.011, subdivision 13; 256D.02, subdivision 1a; 256D.35, subdivision 3a;  
12.8 256I.03, subdivision 1b; and 256J.08, subdivision 7.

12.9 Sec. 23. Minnesota Statutes 2014, section 256P.01, subdivision 3, is amended to read:

12.10 Subd. 3. **Earned income.** "Earned income" means cash or in-kind income earned  
12.11 through the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from  
12.12 employment activities, net profit from self-employment activities, payments made by  
12.13 an employer for regularly accrued vacation or sick leave, ~~and any~~ severance pay based  
12.14 on accrued leave time, payments from training programs at a rate at or greater than the  
12.15 state's minimum wage, royalties, honoraria, or other profit from activity ~~earned through~~  
12.16 ~~effort~~ that results from the client's work, service, effort, or labor. The income must be in  
12.17 return for, or as a result of, legal activity.

12.18 Sec. 24. Minnesota Statutes 2014, section 256P.01, is amended by adding a subdivision  
12.19 to read:

12.20 Subd. 8. **Unearned income.** "Unearned income" has the meaning given in section  
12.21 256P.06, subdivision 3, clause (2).

12.22 Sec. 25. Minnesota Statutes 2014, section 256P.02, is amended by adding a subdivision  
12.23 to read:

12.24 Subd. 1a. **Exemption.** Participants who qualify for child care assistance programs  
12.25 under chapter 119B are exempt from this section.

12.26 **EFFECTIVE DATE.** This section is effective June 1, 2016.

12.27 Sec. 26. Minnesota Statutes 2014, section 256P.03, subdivision 1, is amended to read:

12.28 Subdivision 1. **Exempted programs.** Participants who qualify for child care  
12.29 assistance programs under chapter 119B, Minnesota supplemental aid under chapter  
12.30 256D<sub>2</sub> and for group residential housing under chapter 256I on the basis of eligibility for  
12.31 Supplemental Security Income are exempt from this section.

13.1 **EFFECTIVE DATE.** This section is effective October 1, 2015.

13.2 Sec. 27. Minnesota Statutes 2014, section 256P.04, subdivision 1, is amended to read:

13.3 Subdivision 1. **Exemption.** Participants who receive Minnesota supplemental aid  
13.4 and who maintain Supplemental Security Income eligibility under chapters 256D and 256I  
13.5 are exempt from the reporting requirements of this section, except that the policies and  
13.6 procedures for transfers of assets are those used by the medical assistance program under  
13.7 section 256B.0595. Participants who receive child care assistance under chapter 119B are  
13.8 exempt from the reporting requirements of this section.

13.9 Sec. 28. Minnesota Statutes 2014, section 256P.04, subdivision 4, is amended to read:

13.10 Subd. 4. **Factors to be verified.** (a) The agency shall verify the following at  
13.11 application:

13.12 (1) identity of adults;

13.13 (2) age, if necessary to determine eligibility;

13.14 (3) immigration status;

13.15 (4) income;

13.16 (5) spousal support and child support payments made to persons outside the  
13.17 household;

13.18 (6) vehicles;

13.19 (7) checking and savings accounts;

13.20 (8) inconsistent information, if related to eligibility;

13.21 (9) residence; ~~and~~

13.22 (10) Social Security number; and

13.23 (11) use of nonrecurring income under section 256P.06, subdivision 3, clause (2),  
13.24 item (ix), for the intended purpose in which it was given and received.

13.25 (b) Applicants who are qualified noncitizens and victims of domestic violence as  
13.26 defined under section 256J.08, subdivision 73, clause (7), are not required to verify the  
13.27 information in paragraph (a), clause (10). When a Social Security number is not provided  
13.28 to the agency for verification, this requirement is satisfied when each member of the  
13.29 assistance unit cooperates with the procedures for verification of Social Security numbers,  
13.30 issuance of duplicate cards, and issuance of new numbers which have been established  
13.31 jointly between the Social Security Administration and the commissioner.

13.32 Sec. 29. Minnesota Statutes 2014, section 256P.05, subdivision 1, is amended to read:

14.1 Subdivision 1. **Exempted programs.** Participants who qualify for child care  
 14.2 assistance programs under chapter 119B, Minnesota supplemental aid under chapter  
 14.3 256D<sub>2</sub> and for group residential housing under chapter 256I on the basis of eligibility for  
 14.4 Supplemental Security Income are exempt from this section.

14.5 Sec. 30. **[256P.06] INCOME CALCULATIONS.**

14.6 Subdivision 1. **Reporting of income.** To determine eligibility, the county agency  
 14.7 must evaluate income received by members of the assistance unit, or by other persons  
 14.8 whose income is considered available to the assistance unit, and only count income that  
 14.9 is available to the assistance unit. Income is available if the individual has legal access  
 14.10 to the income.

14.11 Subd. 2. **Exempted individuals.** The following members of an assistance unit  
 14.12 under chapters 119B and 256J are exempt from having their earned income count towards  
 14.13 the income of an assistance unit:

- 14.14 (1) children under six years old;  
 14.15 (2) caregivers under 20 years of age enrolled at least half-time in school; and  
 14.16 (3) minors enrolled in school full time.

14.17 Subd. 3. **Income inclusions.** The following must be included in determining the  
 14.18 income of an assistance unit:

- 14.19 (1) earned income; and  
 14.20 (2) unearned income, which includes:  
 14.21 (i) interest and dividends from investments and savings;  
 14.22 (ii) capital gains as defined by the Internal Revenue Service from any sale of real  
 14.23 property;  
 14.24 (iii) proceeds from rent and contract for deed payments in excess of the principal  
 14.25 and interest portion owed on property;  
 14.26 (iv) income from trusts, excluding special needs and supplemental needs trusts;  
 14.27 (v) interest income from loans made by the participant or household;  
 14.28 (vi) cash prizes and winnings;  
 14.29 (vii) unemployment insurance income;  
 14.30 (viii) retirement, survivors, and disability insurance payments;  
 14.31 (ix) nonrecurring income over \$60 per quarter unless earmarked and used for the  
 14.32 purpose for which it is intended. Income and use of this income is subject to verification  
 14.33 requirements under section 256P.04;  
 14.34 (x) retirement benefits;

15.1 (xi) cash assistance benefits, as defined by each program in chapters 119B, 256D,  
 15.2 256I, and 256J;

15.3 (xii) tribal per capita payments unless excluded by federal and state law;

15.4 (xiii) income and payments from service and rehabilitation programs that meet  
 15.5 or exceed the state's minimum wage rate;

15.6 (xiv) income from members of the United States armed forces unless excluded from  
 15.7 income taxes according to federal or state law; and

15.8 (xv) child and spousal support.

15.9 Sec. 31. **[256P.07] REPORTING OF INCOME AND CHANGES.**

15.10 Subdivision 1. **Exempted programs.** Participants who qualify for Minnesota  
 15.11 supplemental aid under chapter 256D and for group residential housing under chapter 256I  
 15.12 on the basis of eligibility for Supplemental Security Income are exempt from this section.

15.13 Subd. 2. **Reporting requirements.** An applicant or participant must provide  
 15.14 information on an application and any subsequent reporting forms about the assistance  
 15.15 unit's circumstances that affect eligibility or benefits. An applicant or assistance unit must  
 15.16 report changes identified in subdivision 3. When information is not accurately reported,  
 15.17 both an overpayment and a referral for a fraud investigation may result. When information  
 15.18 or documentation is not provided, the receipt of any benefit may be delayed or denied,  
 15.19 depending on the type of information required and its effect on eligibility.

15.20 Subd. 3. **Changes that must be reported.** An assistance unit must report the  
 15.21 changes or anticipated changes specified in clauses (1) to (12) within ten days of the date  
 15.22 they occur, at the time of recertification of eligibility under section 256P.04, subdivisions  
 15.23 8 and 9, or within eight calendar days of a reporting period, whichever occurs first. An  
 15.24 assistance unit must report other changes at the time of recertification of eligibility under  
 15.25 section 256P.04, subdivisions 8 and 9, or at the end of a reporting period, as applicable.  
 15.26 When an agency could have reduced or terminated assistance for one or more payment  
 15.27 months if a delay in reporting a change specified under clauses (1) to (12) had not  
 15.28 occurred, the agency must determine whether a timely notice could have been issued  
 15.29 on the day that the change occurred. When a timely notice could have been issued,  
 15.30 each month's overpayment subsequent to that notice must be considered a client error  
 15.31 overpayment under section 119B.11, subdivision 2a; 256D.09, subdivision 6; 256D.49,  
 15.32 subdivision 3; 256J.38; or 256P.08. Changes in circumstances that must be reported within  
 15.33 ten days must also be reported for the reporting period in which those changes occurred.

15.34 Within ten days, an assistance unit must report a:

15.35 (1) change in earned income of \$100 per month or greater;

- 16.1 (2) change in unearned income of \$50 per month or greater;  
 16.2 (3) change in employment status and hours;  
 16.3 (4) change in address or residence;  
 16.4 (5) change in household composition with the exception of programs under chapter  
 16.5 256I;  
 16.6 (6) receipt of a lump-sum payment;  
 16.7 (7) increase in assets if over \$9,000 with the exception of programs under chapter  
 16.8 119B;  
 16.9 (8) change in citizenship or immigration status;  
 16.10 (9) change in family status with the exception of programs under chapter 256I;  
 16.11 (10) change in disability status of a unit member;  
 16.12 (11) new rent subsidy or a change in rent subsidy; and  
 16.13 (12) sale, purchase, or transfer of real property.

16.14 Subd. 4. **MFIP-specific reporting.** In addition to subdivision 3, an assistance unit  
 16.15 under chapter 256J, within ten days of the change, must report:

- 16.16 (1) a pregnancy not resulting in birth when there are no other minor children;  
 16.17 (2) a change in a noncustodial parent's address; and  
 16.18 (3) a change in school attendance of a parent under 20 years of age or of an  
 16.19 employed child.

16.20 Subd. 5. **DWP-specific reporting.** In addition to subdivisions 3 and 4, an assistance  
 16.21 unit participating in the diversionary work program under section 256J.95 must report  
 16.22 on an application:

- 16.23 (1) shelter expenses; and  
 16.24 (2) utility expenses.

16.25 Subd. 6. **Child care assistance programs-specific reporting.** In addition to  
 16.26 subdivision 3, an assistance unit under chapter 119B, within ten days of the change, must  
 16.27 report a:

- 16.28 (1) change in a parentally responsible individual's visitation schedule or custody  
 16.29 arrangement for any child receiving child care assistance program benefits; and  
 16.30 (2) change in authorized activity status.

16.31 Subd. 7. **MSA-specific reporting.** In addition to subdivision 3, an assistance  
 16.32 unit participating in the Minnesota supplemental aid program under section 256D.44,  
 16.33 subdivision 5, paragraph (f), within ten days of the change, must report shelter expenses.

16.34 Sec. 32. **[256P.08] CORRECTION OF OVERPAYMENTS AND**  
 16.35 **UNDERPAYMENTS.**



17.1 Subdivision 1. **Exempted programs.** Participants who qualify for child care  
17.2 assistance programs under chapter 119B are exempt from this section.

17.3 Subd. 2. **Scope of overpayment.** (a) When a participant or former participant  
17.4 receives an overpayment due to agency, client, or ATM error, or due to assistance received  
17.5 while an appeal is pending and the participant or former participant is determined  
17.6 ineligible for assistance or for less assistance than was received, the county agency must  
17.7 recoup or recover the overpayment using the following methods:

17.8 (1) reconstruct each affected budget month and corresponding payment month;

17.9 (2) use the policies and procedures that were in effect for the payment month; and

17.10 (3) do not allow employment disregards in section 256J.21, subdivision 3 or 4, in the  
17.11 calculation of the overpayment when the unit has not reported within two calendar months  
17.12 following the end of the month in which the income was received.

17.13 (b) Establishment of an overpayment is limited to 12 months prior to the month of  
17.14 discovery due to agency error. Establishment of an overpayment is limited to six years  
17.15 prior to the month of discovery due to client error or an intentional program violation  
17.16 determined under section 256.046.

17.17 Subd. 3. **Notice of overpayment.** When a county agency discovers that a participant  
17.18 or former participant has received an overpayment for one or more months, the county  
17.19 agency must notify the participant or former participant of the overpayment in writing.  
17.20 A notice of overpayment must specify the reason for the overpayment, the authority for  
17.21 citing the overpayment, the time period in which the overpayment occurred, the amount of  
17.22 the overpayment, and the participant's or former participant's right to appeal. No limit  
17.23 applies to the period in which the county agency is required to recoup or recover an  
17.24 overpayment according to subdivisions 4 and 5.

17.25 Subd. 4. **Recovering overpayments.** A county agency must initiate efforts to  
17.26 recover overpayments paid to a former participant or caregiver. Caregivers, both parental  
17.27 and nonparental, and minor caregivers of an assistance unit at the time an overpayment  
17.28 occurs, whether receiving assistance or not, are jointly and individually liable for repayment  
17.29 of the overpayment. The county agency must request repayment from the former  
17.30 participants and caregivers. When an agreement for repayment is not completed within six  
17.31 months of the date of discovery or when there is a default on an agreement for repayment  
17.32 after six months, the county agency must initiate recovery consistent with chapter 270A or  
17.33 section 541.05. When a person has been convicted of fraud under section 256.98, recovery  
17.34 must be sought regardless of the amount of overpayment. When an overpayment is less  
17.35 than \$35, and is not the result of a fraud conviction under section 256.98, the county agency  
17.36 must not seek recovery under this subdivision. The county agency must retain information

18.1 about all overpayments regardless of the amount. When an adult, adult caregiver, or minor  
18.2 caregiver reapplies for assistance, the overpayment must be recouped under subdivision 5.

18.3 Subd. 5. **Recouping overpayments from participants.** A participant may  
18.4 voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this  
18.5 subdivision, until the total amount of the overpayment is repaid. When an overpayment  
18.6 occurs due to fraud, the county agency must recover from the overpaid assistance unit,  
18.7 including child-only cases, ten percent of the applicable standard or the amount of the  
18.8 monthly assistance payment, whichever is less. When a nonfraud overpayment occurs,  
18.9 the county agency must recover from the overpaid assistance unit, including child-only  
18.10 cases, three percent of the MFIP standard of need or the amount of the monthly assistance  
18.11 payment, whichever is less.

18.12 Subd. 6. **Recovering automatic teller machine errors.** For recipients receiving  
18.13 benefits by electronic benefit transfer, if the overpayment is a result of an ATM dispensing  
18.14 funds in error to the recipient, the agency may recover the ATM error by immediately  
18.15 withdrawing funds from the recipient's electronic benefit transfer account, up to the  
18.16 amount of the error.

18.17 Subd. 7. **Scope of underpayments.** A county agency must issue a corrective  
18.18 payment for underpayments made to a participant or to a person who would be a  
18.19 participant if an agency or client error causing the underpayment had not occurred.  
18.20 Corrective payments are limited to 12 months prior to the month of discovery. The county  
18.21 agency must issue the corrective payment according to subdivision 9.

18.22 Subd. 8. **Identifying the underpayment.** An underpayment may be identified by  
18.23 a county agency, participant, former participant, or person who would be a participant  
18.24 except for agency or client error.

18.25 Subd. 9. **Issuing corrective payments.** A county agency must correct an  
18.26 underpayment within seven calendar days after the underpayment has been identified,  
18.27 by adding the corrective payment amount to the monthly assistance payment of the  
18.28 participant, issuing a separate payment to a participant or former participant, or reducing  
18.29 an existing overpayment balance. When an underpayment occurs in a payment month and  
18.30 is not identified until the next payment month or later, the county agency must first subtract  
18.31 the underpayment from any overpayment balance before issuing the corrective payment.  
18.32 The county agency must not apply an underpayment in a current payment month against an  
18.33 overpayment balance. When an underpayment in the current payment month is identified,  
18.34 the corrective payment must be issued within seven calendar days after the underpayment  
18.35 is identified. The county agency must correct underpayments using the following methods:  
18.36 (1) reconstruct each affected budget month and corresponding payment month; and

19.1 (2) use the policies and procedures that were in effect for the payment month.

19.2 Subd. 10. **Appeals.** A participant may appeal an underpayment, an overpayment,  
19.3 and a reduction in an assistance payment made to recoup the overpayment under  
19.4 subdivision 5. The participant's appeal of each issue must be timely under section  
19.5 256.045. When an appeal based on the notice issued under subdivision 3 is not timely, the  
19.6 fact or the amount of that overpayment must not be considered as a part of a later appeal,  
19.7 including an appeal of a reduction in an assistance payment to recoup that overpayment.

19.8 **Sec. 33. REPEALER.**

19.9 (a) Minnesota Statutes 2014, sections 256D.0513; and 256J.38, are repealed.

19.10 (b) Minnesota Rules, part 3400.0170, subparts 5, 6, 12, and 13, are repealed.

**256D.0513 BUDGETING LUMP SUMS.**

Effective January 1, 1998, nonrecurring lump-sum income received by a recipient of general assistance must be budgeted in the normal retrospective cycle.

**256J.38 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS.**

Subdivision 1. **Scope of overpayment.** (a) When a participant or former participant receives an overpayment due to agency, client, or ATM error, or due to assistance received while an appeal is pending and the participant or former participant is determined ineligible for assistance or for less assistance than was received, the county agency must recoup or recover the overpayment using the following methods:

(1) reconstruct each affected budget month and corresponding payment month;  
(2) use the policies and procedures that were in effect for the payment month; and  
(3) do not allow employment disregards in section 256J.21, subdivision 3 or 4, in the calculation of the overpayment when the unit has not reported within two calendar months following the end of the month in which the income was received.

(b) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to agency error. Establishment of an overpayment is limited to six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

Subd. 2. **Notice of overpayment.** When a county agency discovers that a participant or former participant has received an overpayment for one or more months, the county agency must notify the participant or former participant of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the authority for citing the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the participant's or former participant's right to appeal. No limit applies to the period in which the county agency is required to recoup or recover an overpayment according to subdivisions 3 and 4.

Subd. 3. **Recovering overpayments.** A county agency must initiate efforts to recover overpayments paid to a former participant or caregiver. Caregivers, both parental and nonparental, and minor caregivers of an assistance unit at the time an overpayment occurs, whether receiving assistance or not, are jointly and individually liable for repayment of the overpayment. The county agency must request repayment from the former participants and caregivers. When an agreement for repayment is not completed within six months of the date of discovery or when there is a default on an agreement for repayment after six months, the county agency must initiate recovery consistent with chapter 270A, or section 541.05. When a person has been convicted of fraud under section 256.98, recovery must be sought regardless of the amount of overpayment. When an overpayment is less than \$35, and is not the result of a fraud conviction under section 256.98, the county agency must not seek recovery under this subdivision. The county agency must retain information about all overpayments regardless of the amount. When an adult, adult caregiver, or minor caregiver reapplies for assistance, the overpayment must be recouped under subdivision 4.

Subd. 4. **Recouping overpayments from participants.** A participant may voluntarily repay, in part or in full, an overpayment even if assistance is reduced under this subdivision, until the total amount of the overpayment is repaid. When an overpayment occurs due to fraud, the county agency must recover from the overpaid assistance unit, including child only cases, ten percent of the applicable standard or the amount of the monthly assistance payment, whichever is less. When a nonfraud overpayment occurs, the county agency must recover from the overpaid assistance unit, including child only cases, three percent of the MFIP standard of need or the amount of the monthly assistance payment, whichever is less.

Subd. 5. **Recovering automatic teller machine errors.** For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an ATM dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

Subd. 6. **Scope of underpayments.** A county agency must issue a corrective payment for underpayments made to a participant or to a person who would be a participant if an agency or client error causing the underpayment had not occurred. Corrective payments are limited to 12 months prior to the month of discovery. The county agency must issue the corrective payment according to subdivision 8.

Subd. 7. **Identifying the underpayment.** An underpayment may be identified by a county agency, by a participant, by a former participant, or by a person who would be a participant except for agency or client error.

## APPENDIX

### Repealed Minnesota Statutes: 15-2949

Subd. 8. **Issuing corrective payments.** A county agency must correct an underpayment within seven calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment of the participant or by issuing a separate payment to a participant or former participant, or by reducing an existing overpayment balance. When an underpayment occurs in a payment month and is not identified until the next payment month or later, the county agency must first subtract the underpayment from any overpayment balance before issuing the corrective payment. The county agency must not apply an underpayment in a current payment month against an overpayment balance. When an underpayment in the current payment month is identified, the corrective payment must be issued within seven calendar days after the underpayment is identified.

Subd. 9. **Appeals.** A participant may appeal an underpayment, an overpayment, and a reduction in an assistance payment made to recoup the overpayment under subdivision 4. The participant's appeal of each issue must be timely under section 256.045. When an appeal based on the notice issued under subdivision 2 is not timely, the fact or the amount of that overpayment must not be considered as a part of a later appeal, including an appeal of a reduction in an assistance payment to recoup that overpayment.

**3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

Subp. 5. **Earned income of wage and salary employees.** Earned income means earned income from employment before mandatory and voluntary payroll deductions. Earned income includes, but is not limited to, salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, payment for jury duty, and profits from other activity earned by an individual's effort or labor. Earned income includes uniform, mileage, and meal allowances if federal income tax is deducted from the allowance. Earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash. Earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time. When housing is provided as part of the total work compensation, the fair market value of such housing shall be considered as if it were paid in cash.

**3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

Subp. 6. **Excluded income.** The administering agency shall exclude items A to H from annual income:

- A. scholarships, work-study income, and grants that cover costs or reimburse for tuition, fees, books, and educational supplies;
- B. student loans for tuition, fees, books, supplies, and living expenses;
- C. state and federal earned income tax credits, in-kind noncash public assistance income such as food stamps or food support, energy assistance, foster care assistance, child care assistance, medical assistance, and housing subsidies;
- D. earned income of full-time or part-time students up to the age of 19 who have not earned a high school diploma or GED high school equivalency diploma, including earnings from summer employment;
- E. grant awards under the family subsidy program;
- F. nonrecurring lump sum income that is earmarked and used for the purpose for which it is paid;
- G. supplemental security income; and
- H. income assigned to the public authority under Minnesota Statutes, section 256.741.

**3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

Subp. 12. **Determination of unearned income.** Unearned income includes, but is not limited to, the cash portion of MFIP or DWP; adoption assistance; relative custody assistance received under Minnesota Statutes, section 257.85; interest; dividends; unemployment compensation; disability insurance payments; veteran benefits; pension payments; child support and spousal support received or anticipated to be received by a family including child support and maintenance distributed to the family under Minnesota Statutes, section 256.741, subdivision 15; insurance payments or settlements; retirement; survivor's and disability insurance (RSDI) payment; and severance payments. Expenditures necessary to secure payment of unearned income are deducted from unearned income. Payments for illness or disability, except for those payments described as earned income in subpart 5, are considered unearned income whether the premium payments are made wholly or in part by an employer or by a recipient.

**3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

Subp. 13. **Treatment of lump-sum payments.** Lump-sum payments received by a family must be considered earned income under subparts 7 to 11 or unearned income according to subpart 12. Nonrecurring lump sums that are earmarked and used for the purpose for which they are paid are not to be included in the determination of income. All other lump sums are to be annualized over 12 months. The sale of property including, but not limited to, a residence is not considered income up to the amount of the original purchase price plus improvements.