

This Document can be made available  
in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **910**

February 12, 2007

Authored by Jaros

The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act  
1.2 relating to human services; providing for respite care in relative custody  
1.3 assistance cases; amending Minnesota Statutes 2006, sections 256J.21,  
1.4 subdivision 2; 257.85, subdivision 5; repealing Minnesota Statutes 2006, section  
1.5 256J.37, subdivision 3b.

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

1.7 Section 1. Minnesota Statutes 2006, section 256J.21, subdivision 2, is amended to read:

1.8 Subd. 2. **Income exclusions.** The following must be excluded in determining a  
1.9 family's available income:

1.10 (1) payments for basic care, difficulty of care, and clothing allowances received for  
1.11 providing family foster care to children or adults under Minnesota Rules, parts 9555.5050  
1.12 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0655, and payments received and used  
1.13 for care and maintenance of a third-party beneficiary who is not a household member;

1.14 (2) reimbursements for employment training received through the Workforce  
1.15 Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

1.16 (3) reimbursement for out-of-pocket expenses incurred while performing volunteer  
1.17 services, jury duty, employment, or informal carpooling arrangements directly related to  
1.18 employment;

1.19 (4) all educational assistance, except the county agency must count graduate student  
1.20 teaching assistantships, fellowships, and other similar paid work as earned income and,  
1.21 after allowing deductions for any unmet and necessary educational expenses, shall  
1.22 count scholarships or grants awarded to graduate students that do not require teaching  
1.23 or research as unearned income;

1.24 (5) loans, regardless of purpose, from public or private lending institutions,  
1.25 governmental lending institutions, or governmental agencies;

- 2.1 (6) loans from private individuals, regardless of purpose, provided an applicant or  
2.2 participant documents that the lender expects repayment;
- 2.3 (7)(i) state income tax refunds; and  
2.4 (ii) federal income tax refunds;
- 2.5 (8)(i) federal earned income credits;  
2.6 (ii) Minnesota working family credits;  
2.7 (iii) state homeowners and renters credits under chapter 290A; and  
2.8 (iv) federal or state tax rebates;
- 2.9 (9) funds received for reimbursement, replacement, or rebate of personal or real  
2.10 property when these payments are made by public agencies, awarded by a court, solicited  
2.11 through public appeal, or made as a grant by a federal agency, state or local government,  
2.12 or disaster assistance organizations, subsequent to a presidential declaration of disaster;
- 2.13 (10) the portion of an insurance settlement that is used to pay medical, funeral, and  
2.14 burial expenses, or to repair or replace insured property;
- 2.15 (11) reimbursements for medical expenses that cannot be paid by medical assistance;
- 2.16 (12) payments by a vocational rehabilitation program administered by the state  
2.17 under chapter 268A, except those payments that are for current living expenses;
- 2.18 (13) in-kind income, including any payments directly made by a third party to a  
2.19 provider of goods and services;
- 2.20 (14) assistance payments to correct underpayments, but only for the month in which  
2.21 the payment is received;
- 2.22 (15) payments for short-term emergency needs under section 256J.626, subdivision  
2.23 2;
- 2.24 (16) funeral and cemetery payments as provided by section 256.935;
- 2.25 (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in  
2.26 a calendar month;
- 2.27 (18) any form of energy assistance payment made through Public Law 97-35,  
2.28 Low-Income Home Energy Assistance Act of 1981, payments made directly to energy  
2.29 providers by other public and private agencies, and any form of credit or rebate payment  
2.30 issued by energy providers;
- 2.31 (19) Supplemental Security Income (SSI), including retroactive SSI payments and  
2.32 other income of an SSI recipient, ~~except as described in section 256J.37, subdivision 3b;~~
- 2.33 (20) Minnesota supplemental aid, including retroactive payments;
- 2.34 (21) proceeds from the sale of real or personal property;
- 2.35 (22) state adoption assistance payments under section 259.67, and up to an equal  
2.36 amount of county adoption assistance payments;

- 3.1 (23) state-funded family subsidy program payments made under section 252.32  
3.2 to help families care for children with developmental disabilities, consumer support  
3.3 grant funds under section 256.476, and resources and services for a disabled household  
3.4 member under one of the home and community-based waiver services programs under  
3.5 chapter 256B;
- 3.6 (24) interest payments and dividends from property that is not excluded from and  
3.7 that does not exceed the asset limit;
- 3.8 (25) rent rebates;
- 3.9 (26) income earned by a minor caregiver, minor child through age 6, or a minor  
3.10 child who is at least a half-time student in an approved elementary or secondary education  
3.11 program;
- 3.12 (27) income earned by a caregiver under age 20 who is at least a half-time student in  
3.13 an approved elementary or secondary education program;
- 3.14 (28) MFIP child care payments under section 119B.05;
- 3.15 (29) all other payments made through MFIP to support a caregiver's pursuit of  
3.16 greater economic stability;
- 3.17 (30) income a participant receives related to shared living expenses;
- 3.18 (31) reverse mortgages;
- 3.19 (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title  
3.20 42, chapter 13A, sections 1771 to 1790;
- 3.21 (33) benefits provided by the women, infants, and children (WIC) nutrition program,  
3.22 United States Code, title 42, chapter 13A, section 1786;
- 3.23 (34) benefits from the National School Lunch Act, United States Code, title 42,  
3.24 chapter 13, sections 1751 to 1769e;
- 3.25 (35) relocation assistance for displaced persons under the Uniform Relocation  
3.26 Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title  
3.27 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States  
3.28 Code, title 12, chapter 13, sections 1701 to 1750jj;
- 3.29 (36) benefits from the Trade Act of 1974, United States Code, title 19, chapter  
3.30 12, part 2, sections 2271 to 2322;
- 3.31 (37) war reparations payments to Japanese Americans and Aleuts under United  
3.32 States Code, title 50, sections 1989 to 1989d;
- 3.33 (38) payments to veterans or their dependents as a result of legal settlements  
3.34 regarding Agent Orange or other chemical exposure under Public Law 101-239, section  
3.35 10405, paragraph (a)(2)(E);

4.1 (39) income that is otherwise specifically excluded from MFIP consideration in  
4.2 federal law, state law, or federal regulation;

4.3 (40) security and utility deposit refunds;

4.4 (41) American Indian tribal land settlements excluded under Public Laws 98-123,  
4.5 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech  
4.6 Lake, and Mille Lacs reservations and payments to members of the White Earth Band,  
4.7 under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

4.8 (42) all income of the minor parent's parents and stepparents when determining the  
4.9 grant for the minor parent in households that include a minor parent living with parents or  
4.10 stepparents on MFIP with other children;

4.11 (43) income of the minor parent's parents and stepparents equal to 200 percent of the  
4.12 federal poverty guideline for a family size not including the minor parent and the minor  
4.13 parent's child in households that include a minor parent living with parents or stepparents  
4.14 not on MFIP when determining the grant for the minor parent. The remainder of income is  
4.15 deemed as specified in section 256J.37, subdivision 1b;

4.16 (44) payments made to children eligible for relative custody assistance under section  
4.17 257.85;

4.18 (45) vendor payments for goods and services made on behalf of a client unless the  
4.19 client has the option of receiving the payment in cash; and

4.20 (46) the principal portion of a contract for deed payment.

4.21 Sec. 2. Minnesota Statutes 2006, section 257.85, subdivision 5, is amended to read:

4.22 Subd. 5. **Relative custody assistance agreement.** (a) A relative custody assistance  
4.23 agreement will not be effective, unless it is signed by the local agency and the relative  
4.24 custodian no later than 30 days after the date of the order establishing permanent legal and  
4.25 physical custody, except that a local agency may enter into a relative custody assistance  
4.26 agreement with a relative custodian more than 30 days after the date of the order if it  
4.27 certifies that the delay in entering the agreement was through no fault of the relative  
4.28 custodian. There must be a separate agreement for each child for whom the relative  
4.29 custodian is receiving relative custody assistance.

4.30 (b) Regardless of when the relative custody assistance agreement is signed by the  
4.31 local agency and relative custodian, the effective date of the agreement shall be the date of  
4.32 the order establishing permanent legal and physical custody.

4.33 (c) If MFIP is not the applicable program for a child at the time that a relative  
4.34 custody assistance agreement is entered on behalf of the child, when MFIP becomes  
4.35 the applicable program, if the relative custodian had been receiving custody assistance

5.1 payments calculated based upon a different program, the amount of relative custody  
5.2 assistance payment under subdivision 7 shall be recalculated under the Minnesota family  
5.3 investment program.

5.4 (d) The relative custody assistance agreement shall be in a form specified by the  
5.5 commissioner and shall include provisions relating to the following:

5.6 (1) the responsibilities of all parties to the agreement;

5.7 (2) the payment terms, including the financial circumstances of the relative  
5.8 custodian, the needs of the child, the amount and calculation of the relative custody  
5.9 assistance payments, and that the amount of the payments shall be reevaluated annually;

5.10 (3) the effective date of the agreement, which shall also be the anniversary date for  
5.11 the purpose of submitting the annual affidavit under subdivision 8;

5.12 (4) that failure to submit the affidavit as required by subdivision 8 will be grounds  
5.13 for terminating the agreement;

5.14 (5) the agreement's expected duration, which shall not extend beyond the child's  
5.15 eighteenth birthday;

5.16 (6) any specific known circumstances that could cause the agreement or payments  
5.17 to be modified, reduced, or terminated and the relative custodian's appeal rights under  
5.18 subdivision 9;

5.19 (7) that the relative custodian must notify the local agency within 30 days of any of  
5.20 the following:

5.21 (i) a change in the child's status;

5.22 (ii) a change in the relationship between the relative custodian and the child;

5.23 (iii) a change in composition or level of income of the relative custodian's family;

5.24 (iv) a change in eligibility or receipt of benefits under MFIP, or other assistance  
5.25 program; and

5.26 (v) any other change that could affect eligibility for or amount of relative custody  
5.27 assistance;

5.28 (8) that failure to provide notice of a change as required by clause (7) will be  
5.29 grounds for terminating the agreement;

5.30 (9) that the amount of relative custody assistance is subject to the availability of state  
5.31 funds to reimburse the local agency making the payments;

5.32 (10) that the relative custodian may choose to temporarily stop receiving payments  
5.33 under the agreement at any time by providing 30 days' notice to the local agency and may  
5.34 choose to begin receiving payments again by providing the same notice but any payments  
5.35 the relative custodian chooses not to receive are forfeit; ~~and~~

6.1 (11) that the local agency will continue to be responsible for making relative custody  
6.2 assistance payments under the agreement regardless of the relative custodian's place  
6.3 of residence;; and

6.4 (12) that no more than five days of respite care is provided during each one-year  
6.5 term of the agreement.

6.6 Sec. 3. **REPEALER.**

6.7 Minnesota Statutes 2006, section 256J.37, subdivision 3b, is repealed.